

Leave of Absence

Tuesday, August 29, 2000

SENATE

Tuesday, August 29, 2000

The Senate met at 10.00 a.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Members, leave of absence from sittings of the Senate has been granted to Sen. The Hon. Lindsay Gillette with effect from August 24 and continuing.

SENATORS' APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson
President.

TO: MR. VINCENT CABRERA

WHEREAS Senator Lindsay Gillette is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, VINCENT CABRERA, to be temporarily a member of the Senate, with effect from 29th August, 2000 and continuing during the absence from Trinidad and Tobago of the said Senator Lindsay Gillette.

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 28th day of August, 2000.”

Leave of Absence

Tuesday, August 29, 2000

OATH OF ALLEGIANCE

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

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements, the Special Account Statement and the Statement of Expenditure (Disbursements) of the Restructuring Support Unit, Ministry of Finance, Planning and Development in respect of the Business Expansion and Industrial Restructuring Project for the period 1998 January 01 to 1998 September 30 as required by section 4:01 (b) (i) and (c) (iv) of Loan Agreement No. 3432-TR between the Government of the Republic of Trinidad and Tobago and the International Bank for Reconstruction and Development (IBRD) [*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 Financial Statements, the Special Account Statement and the Statement of Expenditure (Disbursements) of the Restructuring Support Unit, Ministry of Finance, Planning and Development in respect of the Business Expansion and Industrial Restructuring Project for the year ended 1999 September 30 as required by section 4:01 (b) (i) and (c) (iv) of Loan Agreement No. 3432-TR between the Government of the Republic of Trinidad and Tobago and the International Bank for Reconstruction and Development (IBRD). [*Sen. The Hon. W. Mark*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Public Utilities Commission for the year ended 1999 December 31. [*Sen. The Hon. W. Mark*]
4. Report of the activities and financial statements of the University of the West Indies Students Guarantee Loan Fund for the year ended December 31, 1999. [*Sen. The Hon. W. Mark*]
5. Draft Estimates of Expenditure for the year 2001. [*Sen. The Hon. W. Mark*]
6. Draft Estimates—Details of Estimates of Recurrent Expenditure for the year 2001. [*Sen. The Hon. W. Mark*]
7. Draft Estimates of Revenue and Expenditure of the Statutory Boards and Similar Bodies and of the Tobago House of Assembly for the year 2001. [*Sen. The Hon. W. Mark*]

8. Draft Estimates of Development Programme 2001. [*Sen. The Hon. W. Mark*]
9. Public Sector Investment Programme—2001. [*Sen. The Hon. W. Mark*]
10. The Medium Term Policy Framework: 2001—2003. [*Sen. The Hon. W. Mark*]
11. Review of the Economy—2000. [*Sen. The Hon. W. Mark*]

**WORKING PAPER ON THE REFORM OF
THE MANAGEMENT STRUCTURE OF THE PARLIAMENT
OF THE REPUBLIC OF TRINIDAD AND TOBAGO**

Presentation

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. President, I wish to present the following report:

Report of the Joint Select Committee of Parliament appointed to consider and report on the Working Paper on the Reform of the Management Structure of the Parliament of Trinidad and Tobago.

**SUMMARY OFFENCES (AMDT.) BILL AND
PRAEDIAL LARCENY PREVENTION (AMDT.) BILL**

Presentation

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

Report of the Special Select Committee of the Senate appointed to consider and report on the Summary Offences (Amdt.) Bill, 2000 and the Praedial Larceny Prevention (Amdt.) Bill, 2000.

PROCEDURAL MOTION

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

Question put and agreed to.

REPRESENTATION OF THE PEOPLE (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,

Representation of the People (Amdt.) Bill
[HON. R. L. MAHARAJ]

Tuesday, August 29, 2000

That a Bill entitled, “An Act to amend the Representation of the People Act, Chap. 2:01” be now read a second time.

Mr. President, the Bill before us contains the recommendations of the Elections and Boundaries Commission in respect of amending the Representation of the People Act. This Bill has been prepared by the Law Commission, after consultation with the Elections and Boundaries Commission, in order to ensure that the Bill contains the recommendations of the Elections and Boundaries Commission. The exercise involves the Law Commission having to incorporate all the amendments which have been made to the Representation of the People Act and the connected legislation and regulations and submitting them to the Elections and Boundaries Commission. It was a very extensive exercise and the officer, if I may mention his name, Mr. Bhagowtee, has been involved in that process.

I mention this to give hon. Senators an idea that, apart from this particular piece of legislation, there are three sets of rules and regulations that have also been drafted which would, in effect, be brought after the principal legislation is passed; so that it took some time. Mr. President, when this matter was raised in the other place, the Opposition asked for time to consult with the Elections and Boundaries Commission. That consultation took place and a letter was put on record to the Opposition in which the Elections and Boundaries Commission also explained in writing some of the major provisions of the Bill. I am happy to put on record also that when debate on the Bill resumed the other place it received the full support of the Opposition.

I must first say that the main objective of the Bill is to bring the Act in conformity with the changes in the commission’s operation, as a result of computerization and the implied amendments made to the Act by the Municipal Corporations Act of 1990—that is No. 21 of 1990—which as we all know, Mr. President, altered the structure of local government. The second objective of the amendment Bill is to delete the existing provisions of the Act that are no longer applicable. The third objective is to clarify ambiguities in the existing provisions of the Act; and the fourth is to increase the fees and fines and some other financial ceilings in order to accord with the changes that have taken place in the value of money since 1967 when the Act came into operation.

As I said, when these amendments were recommended, the Law Commission first had to consolidate the Act by incorporating all the amendments which had been made to that Act since its law revision nearly 20 years ago. This exercise entailed having to examine about 50 pieces of legislation, mostly Rules, which the

Elections and Boundaries Commission in one of its letters described as multitudinous. Additionally, the Elections and Boundaries Commission submitted recommendations to amend the Registration Rules, the Election Rules and the Prescribed Form Rules. These recommendations had to be examined in order to ensure that they fell within the rule-making powers as contained in the Act. The exercise was a formidable and time-consuming one. It involved quite a lot of meetings between the Elections and Boundaries Commission and the Law Commission in order to ensure that the amendments contained in the Bill were those which had been recommended by the commission.

Mr. President, I think it is important for us to heed the words of the Chairman of the Elections and Boundaries Commission in the 1996 Report. In the preamble to that Report at paragraph three, page 8, I quote:

“In formulating its recommendations, however, the Commission exercises independent judgment. It brooks no interference or directions whatsoever, from any other person or authority. The same is to be asserted for the discharge of the functions vested in it exclusively, for the registration of voters and the conduct of elections. In performing these functions, the Commission is not ‘subject to the direction or control of any other person or authority’. Section 71 of the Constitution, a deeply entrenched provision thereof, proclaims this independence in the clearest terms. All persons therefore, who are infected with perceptions to the contrary, or with the notion that the Commission, in the discharge of its functions, is a ‘servant of the Centurion’, as it were, should disabuse their minds of these discordant maladies and move on.”

I say that because I think it is important, in debating this measure, for us to recognize that under the Constitution of Trinidad and Tobago the Elections and Boundaries Commission is charged with the duties of, *inter alia*, the registration of voters and the conduct of elections. This provision is enforced in section 3 of the Representation of the People Act which provides that in the exercise of its functions under section 71 of the Constitution the Elections and Boundaries Commission shall exercise general direction and supervision over the conduct of the elections.

So that in the discharge of those functions, if the commission requests from Government amendment of the laws in order to have whatever it considers necessary to make its process more efficient, it is the duty of Government to do the amendments and bring them to Parliament. I would say with the greatest

respect, Mr. President, in my view it is the duty of the Parliament to accede to the request of the commission, unless obviously it can be shown that the commission's recommendations should not be accepted and then there could be a debate on that. But, Mr. President, we have taken the position that the commission's proposals should be complied with and we have drafted the amendments, we took them in the other place, supported by the Opposition and we have brought them here.

Mr. President, I think the best way for me to deal with this matter, because I must presume that Senators have read the Bill, is to put on record some of the views of the Elections and Boundaries Commission in respect of the major parts of the Bill. These are contained in a letter written by the Elections and Boundaries Commission, signed by the Chief Election Officer of the Elections and Boundaries Commission addressed to Mr. Martin Joseph, the General Secretary of the People's National Movement on June 21, 2000. There were some difficulties in understanding what was in this Bill, and I think if I read this letter to Senators and put it on record it will become clearer what is the effect of some of these amendments. It starts:

“Re:—Clarification on Specific Areas of the Representation of the People Act (Amendment) Bill, 2000 viz. Clause 3, Clauses 8 and 9 and Clause 15.

With reference to our recent conversation in which you raised the matter of your concerns regarding specific clauses of the Representation of the People (Amendment) Bill, 2000, I wish to take this opportunity to provide some brief clarifications as to the intent and purpose of the recommended amendments. The following I trust will be helpful to you in your deliberations.

Clause 3—REGISTRATION RECORD

1. Clause 3 would amend various sections of the Act to replace the term registration record card with the more generic registration record. It is not the intention as seems to be thought to do away with the registration record card, since that is the source document from which the Commission's electoral records are derived. The registration record card would always constitute the principal electoral document in the unit register (or binder) and lodged at polling stations for use on polling day.

This, together with the list of electors, (essentially a summary of all the registration record cards contained in those unit registers), will continue to constitute that essential entitlement to vote as provided for in Election Rule 36 which states as follows:

No person shall be entitled to vote at a polling station for any polling division unless his registration record card appears in the unit register or his name appears on the revised list of electors for that polling division.

The purpose, therefore, of using the term registration record is to include within that term the Commission's computerized Data Base. It follows that the term registration record would refer not only to the registration record card but also to the electronic data base which stores the information on the registration record card, and from which the electoral list is printed.

Your concern therefore that Registration Record Cards might or would become obsolete in our system is not well founded. Please note that the present system has been in use since the computerisation of our records in 1985."

Then they explain clauses 8 and 9, which are the two clauses that were causing difficulties:

"Clauses 8 and 9 amend sections 12 and 13 respectively of the Act to require or put the onus on a person seeking to qualify as an elector, whether it be for a Parliamentary or Local Government election, to produce the necessary documents needed to support his application for registration as an elector. The intention of the words has nothing to do with the burden of proof required under the criminal law to establish criminal conduct. The intention of the words is to make certain that the applicant understands this very clearly before submitting his application under sections 12 & 13 of the Representation of the People Act the necessary documents the applicant is required to produce.

FOR NATIONALS

- (a) Birth certificate and copy.
- (b) Accompanying affidavit and copy (if name does not correspond with that on the birth certificate).

- (c) A marriage certificate and copy (if a married woman wishing to change her name).
- (d) A deed poll (if names being used differ from those on Birth Certificate).

FOR NON-NATIONALS

- (e) As for nationals in respect of (a) to (d) above, plus appropriate documents from the Immigration Department.”

The Elections and Boundaries Commission continued by saying in the letter, Mr. President:

“Moreover, this is the situation as it exists in practice, and this amendment is only a formalization of that practice, at least since 1985.”

So, Mr. President, you would recall I said that one of the objectives of the amendments is to put in a formal way in practice the interpretation which has been had of these matters. The letter continues:

“Clause 15 amends Section 30 of the Representation of the People Act to allow registration to be conducted at the area registration offices which control the polling division for which the registration is done. Registration takes place continuously during the year and is conducted at our registration area offices. The registration area office is the accustomed and, indeed, the logical venue for persons attending for registration matters throughout the year and persons are more familiar with its location than with the temporary centres established for 9-days in the electoral district, no matter how well advertised the latter are. The amendment is clearly intended for the convenience of the public.”

So, Mr. President, I think in these amendments, clause 3, clauses 8 and 9 and clause 15 had caused some, I would not say concerns, but the Opposition needed some clarification and those were clarified.

There is a document which I just read and in fairness, Mr. President, to the Opposition, the Elections and Boundaries Commission decided to recommend that there be an amendment to make it absolutely clear about the registration card.

I would therefore refer to another letter which was written by the Elections and Boundaries Commission to Mr. Martin Joseph in which he was informed that a copy was being sent to me. It is dated June 28, 2000 re clarification of clause 3:

“The Elections and Boundaries Commission at a meeting held yesterday considered the terms of my letter to you dated June 21, 2000, a copy of which was sent to the Honourable, the Attorney General, and decided that for greater clarity and to remove any possible ambiguity, the third sentence of the paragraph under the rubric Registration Record, should read as follows:

The ‘registration record card’ would now be included in the term ‘registration record’ and would always constitute the principal electoral document in the unit register (or binder) and lodged at polling stations for use on polling day.”

The letter was signed by the Chief Election Officer. So, Mr. President, I mentioned these to show that there has been no dispute, at least in the other place, as to the legislation we have before us. I think I still want to just go through very quickly the clauses to give Senators an idea of what the Act is doing.

Clause 3 amends various sections of the Act and, as I said, would not do away with the registration record card since these will always constitute the record. I think I have dealt with that. Clause 4 amends section 2 of the Act by deleting the definition of “counting agents” since this officer has now been replaced by an officer to be designated “special polling agent”. Clause 5 amends section 3 of the Act by inserting two new subsections to that section which would create the post of deputy chief election officer and make provisions for this officer to act as chief election officer if this position becomes vacant or if the chief election officer is absent.

Clause 6 amends section 4 by making it discretionary for the chief election officer to assign assistant registration officers to one or more polling stations. This clause also amends subsection (3)(b) by deleting the words “establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defects” and replacing these words with the term “psychiatric facility”, since this term is a more apt expression for the deleted words. Clause 7 amends section 6 by implementing a training course which a returning officer may be required to complete in relation to his office. This clause further implies that the approval of the commission be obtained in all circumstances where a returning officer seeks to establish an office.

This clause also repeals subsection (2) of 6 and replaces it with more or less identical words; the only change being that the advertisement shall be with respect to the address of his office rather than the place at which he has established his office. In other words, the only change which has been made by this amendment is to substitute the words, “the place at which he has established his office” with the words, “the address of his office”. Clause 8 amends section 12 by deleting paragraph (c) which contained the words, “has resided in that electoral district for a period of at least two months preceding the qualifying date” and transposing those words at the opening paragraph of section 12 in order to qualify paragraphs (a) and (b).

Clause 9, Mr. President, amends section 13 of the Act by placing the burden of proof upon a Commonwealth citizen to qualify as an elector in Trinidad and Tobago, that is proof that he has resided in Trinidad and Tobago for a period of one year and preceding that date has been resident in Trinidad and Tobago within the meaning of section 5(1) of the Immigration Act. Well I have dealt with that, Mr. President, in my explanation. Clauses 8 and 9 amend sections 12 and 13 to put the onus on a person seeking to qualify as an elector. We have dealt with that, I have gone through it and we have heard what the Elections and Boundaries Commission has said about that.

Clause 10 amends section 18 by including the computerized database as an official means of keeping the registration record. Clause 11 amends section 25 by creating the post of authorized registration officer and granting to that officer the authority to object or to allow the registration of any person as an elector. Clause 12 amends section 26 and complements clause 11 which amends section 25 by making it the responsibility of the chief election officer and not the registration officer to handle the appeal of any person seeking to be registered as an elector. Clause 14 amends section 29 by deleting subsections (6) and (6A) since these provisions were made for municipal and county council elections in 1980 and also the Tobago House of Assembly elections in 1980. These provisions are spent and this amendment is just one of the many tidying up processes recommended by the commission.

Clause 15 amends section 30 by no longer restricting electoral registration to the district in which the election is to be held by substituting for the words “conducted in” the words “conducted for”. The reason for this amendment is

documented in the letter which I read from the Elections and Boundaries Commission. This was further amended on a recommendation of the Opposition to get some further clarification in order to make it quite clear, and the amendments are before the Senate.

Clause 17 amends section 33 by deleting in subsection (2) the words, “the same day for the nomination of candidates and the day for taking of the poll” and substituting for those words, “the date for the nomination of candidates and the date for the taking of the poll”. In other words, the amendment to section 33 no longer requires the same day for the nomination of the candidate and the same day for the taking of the poll. There is also going to be an increase in the number of days required for the nomination of candidates from not less than seven days to not less than 14 days after the issue of the writ. Subsection (3)(b) is amended to increase the number of days for the poll from not less than seven days to not less than 21 days after the day of nomination. That would have some effect because it would mean that the Elections and Boundaries Commission would have a longer period of time in which to prepare for elections as from the date when the election has to be called.

10.30 a.m.

Clause 18 amends section 40 by establishing a five-day time limit for the naming of a candidate's election agent. Clauses 19 to 25 amend sections 45, 47, 48, 55, 59, 62 and 63 by substituting a tenfold increase in election expenses contained within the sections. The reason for this amendment is that the Elections and Boundaries Commission has based such calculation in the increase in the value of money since the passing of the Act in 1967.

Clause 26 amends section 64 by removing the word “special” in terms of “special ballot box”, since, Mr. President, you will recall that when clause 4 was discussed, I stated that special ballot papers are no longer applicable, since ballot papers for ordinary electors and special electors are the same. This clause also proposes a tenfold increase for anyone failing to comply with the requirements of section 64.

Clauses 27 to 44 are amended to increase the fees and the fines in these sections tenfold. However, clause 28(b) which amends section 67(3) and (4), includes an authorized registering officer among the officers listed in these subsections who make a statement upon oath or any solemn affirmation that he knows or has reasonable cause to believe to be false and does not believe to be

true. It should be noted that the increased fees and fines in these clauses are for election related offences, other offences and also in the cost of legal proceedings and disputed vacancies.

Mr. President, these are basically the amendments. I think that I have tried my best to explain these amendments. It is not easy to decipher. When one reads it against the Act, one sometimes has to read it twice and three times to understand it. I think I would be correct in saying that the amendments do not, in any way, alter the structure or make any fundamental alteration to the machinery or the structure of the conduct of elections or registering elections. What the amendments really do is tidy up and formalize what has been happening in respect of elections, with the only exception, obviously, being where there is the increase in the financial amounts, and also where there is the increase in the time limits in respect of nomination and other matters.

Mr. President, I beg to move.

Sen. Muhammad Shabazz: Mr. President, this Bill is the wish, as the hon. Attorney General said, of the Elections and Boundaries Commission. The Attorney General read a letter that went to the General Secretary of the People's National Movement and in that letter, indeed, as he said, there were certain concerns by the People's National Movement.

Normally, when anything comes to this House, we obviously will have concerns. We have had concerns. We have spoken with the EBC and we would like to say here on this side that we are very proud that the EBC is one of the bodies that this Government has not been able to touch and to interfere with. It is, indeed, still a very independent body, unlike all the other organizations in this country with which they have interfered, like the Law Commission. All these other things they have attempted to, and probably at times, have succeeded in doing. We are indeed proud that they have not interfered with the Elections and Boundaries Commission. They were not able.

The Elections and Boundaries Commission, we would like to put on the record, is one institution of which we are indeed proud. The reason we ought to be proud is that we have seen where when the Elections and Boundaries Commission is no longer an independent organization in all countries of the world, we have had very serious problems for the population and for that country as a whole. It has not happened and we can safely say that it will not happen, because they are afraid and their fear makes them tell the people that this is not the time to go back, because they are seeing the people going back. We know that

when the people go back, the Elections and Boundaries Commission and all these other places will be strong and positive under the People's National Movement. Hats off to the EBC! [*Desk thumping*] They are frightened about who is going back. [*Laughter*] They are scared. It is the scariest battle cry I have heard in a long time. They cannot stop it.

Mr. President, this Elections and Boundaries Commission Act is indeed a very serious Act—we know what it has always sought to do. It has always sought to ensure that we have had free and fair elections in Trinidad and Tobago. Over the last 45 years, we have had free and fair elections in Trinidad and Tobago. There is only one time in the history of this country when the elections looked as though there could be problems and it was at the rate this Government was going, but we have slowed them down. The momentum of the people has slowed them down and they cannot do all the things they want to do. It seems that we will have free, nice, fair elections at which the People's National Movement will win again. [*Desk thumping*] That battle cry is a weak one and they will see the difference that the people are indeed going back.

Whether they are going up or down, the people are going forward again. Back to the future under the PNM! No set of promises, no set of mamaguy and no fear will stop them from going back to the future with the PNM! In Rastafari language, they are really going forward. Back is a term they use to beg the people.

We have indeed seen, Mr. President, a number of things here like protection of the people. We have seen in the Bill where fines have been raised for people who have been caught doing wrong things at election time. People who are working and trying to change the direction or try to not make the elections free and fair. We think that it is a good recommendation. Maybe some of the fines could have been bigger, but it is a start in the right direction.

We have also looked at section 47 where the amount of money a candidate should be allowed to spend has been increased to \$50,000 and \$25,000 respectively. We think that it is a good move. Probably, a candidate should have more money than that, but it is a good move and a good recommendation. We are very happy about that.

Mr. President, with elections in the air, there are so many things happening. Elections is really a very serious time in our country. It is where brother comes up against sister, friend against cousin, all sorts of things happen, but with the

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guarantee of the EBC, we are seeing that whatever the intrigues in the politics, the fears of the politicians as to who will go up and who will not, the fight among them—what we know is that elections in this country will be free and fair.

Many people tend to feel that it is just a simple thing. It is something that has happened for 45 years. This is something we should be really proud about. People talk as though nothing happened in this country unless it happened in the last four years. Like Trinidad and Tobago began in 1996 and it started to grow from there. That is not true.

The history of Trinidad and Tobago is one we must be proud of and say it did not begin in 1996. [*Desk thumping*] From Columbus right down to Eric Williams, it is one of the greatest countries in the developing Third World nations, this Trinidad and Tobago. One of the greatest countries that we have seen as far as education, as far as all other things, peacefulness; everything has been from Eric Williams to now. It did not start in 1996. We want the nation to know that.

Mr. President, the record of the PNM is like runs made already. We batted an inning and we made sure there were certain institutions in this country that were safe, sound, solid and positive. This is not a promissory note as to how we will make it and as to how it will be. This is not a record that says if they vote for us, next year we will give them nice things. This is a record that has already been established.

Mr. President, let me again put on the record that we in Trinidad and Tobago must be proud of what has happened throughout our voting pattern, through all things. A simple thing, Mr. President, just to move a little, football in November, when we lost at the Oval and the behaviour of the people is what Trinidad and Tobago has always been about. No government before has gotten people vexed or annoyed to do stupidity. The only time we saw that looking like it could happen is under this administration, but it has not and we are proud of what is happening in Trinidad and Tobago.

I would like to go on record on this side and say that we proudly accept the recommendations of the EBC. We have looked at it, studied it, we have had discussions with them and we have found them to be very fair and a body that has stood up to the principles and the ideals of the Constitution and what Trinidad and Tobago is all about.

We would like again to say hats off to the EBC and we on this side would support their recommendations, feeling proud that we have kept institutions and there are still institutions in the country that have not been interfered and tampered with or afraid of this regime. We look quickly to seeing their backs and we will remind them that the people are indeed coming back to the PNM.

Thank you very much, Mr. President.

Sen. Rev. Daniel Teelucksingh: Mr. President, a pleasant good morning to you and to the Senate. I want to share with you a few concerns arising out of the Representation of the People (Amdt.) Act, 2000. Firstly, with respect to clause 7(b),

“make provision for a returning officer” to establish an office in his electoral district...and shall cause an advertisement of the address of that office to be placed in at least one daily newspaper in circulation in Trinidad and Tobago.”

Mr. President, I want to respectfully suggest an amendment to read “all daily newspapers in Trinidad and Tobago”. I feel this is necessary because there are many persons in our country who can afford only one daily newspaper, and it may just be that is not the one purchased with the advertisement of the returning officer, as indicated in clause 7.

Not many persons will have access to all daily newspapers at a school, an office or the home, which will include that special advertisement, that one advertisement with the said electoral information shared. I think it is imperative that our electoral system must not interfere with a person's franchise and we cannot deny and should not deny any elector the right to be properly informed as to electoral procedures.

Did anyone see in all the newspapers, a public notice from a Government office entitled “Vending of intoxicating liquor during Independence Day”, big and bold, shared and brought to the notice of everyone. How much more important, I may ask, that electoral notices be published in all the newspapers?

Secondly, another concern I want to share, an observation that I am sure we all would have noticed in the study of the Bill is those increased fines and penalties from clauses 19 to 44. Fines increase from \$2,500 to \$25,000—these are just examples—from \$3,000 to \$30,000; penalties from \$8,500 to \$85,000.

10.45 a.m.

There are so many clauses dealing with penalties for irregularities, electoral fraud, electoral dishonesty and any corrupt or electoral practices. What shall we make of these clauses? Mr. President, I personally support them because we are sending out unmistakable signals against electoral fraud. It took 20 years to make such a statement, that as a nation we mean business in the campaign for free and fair elections.

Such legislation as the one before us, particularly in so many clauses, 19 to 44, along with our own political maturity and good democratic record—I know Sen. Shabazz touched on that—persuades me then to be against any call for international observers for our national election. I am against it. I think we have done very well and maybe this piece of legislation is underscoring that for us. With such electoral laws and our commitment to transparency in the electoral process, let us give the electorate a chance to choose its government for the next term and succeeding years. We have a record for some measure of political stability.

Finally, Mr. President, this is an election Bill and already there are signs of an intense struggle among contesting parties for political supremacy in Trinidad and Tobago. I join with all our citizens—the electors mentioned in the Bill—to prayerfully appeal to keep the contest clean and to particularly keep race and tribalism out of the campaign platform.

The three main parties so far bear in their names the word "national" and that is significant. We need these parties and others that may spring up in the future, to introduce a new political culture, especially at election time, which will appreciate all the people of Trinidad and Tobago as belonging to one common community. So far, we have made small gains in the evolution of a one people/one nation society and this must never, ever be sacrificed by any of the political parties, individuals or their supporters, in any struggle for political power.

Mr. President, I thank you very much.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Thank you very much, Mr. President. I am sorry I was not in my seat when the hon. Senator sat down but I was just behind the Chair.

In respect of the comments made by Sen. Rev. Daniel Teelucksingh, I take what he has said and I do not know if it would satisfy him that those concerns would be considered but probably for another occasion when these matters are to

be looked at, because this is a process which will have to go back to the commission and since the Elections and Boundaries Commission has considered these matters, has had extensive discussions—it has had discussions with the Opposition—and has looked at this Bill, and the Opposition has stated in the other place that it was very happy with it, I do not think I could agree to have it amended here unless a full process again goes through and I would not want to undertake that on this occasion. What the amendment said is that at least one daily newspaper—it does not mean to say they cannot do it on three—

Sen. Rev. Teelucksingh: Thank you very much, Mr. President. Thank you for giving way. I would be very happy if you say the Bill must remain as is, possibly in the interest of time. I do not know. I would be very happy if you give us the undertaking that maybe instructions can be given for these advertisements to be placed. Can that be done?

Hon. R. L. Maharaj: No Government could give instructions to the Elections and Boundaries Commission. You have heard Sen. Shabazz talk about the independence of the commission and, therefore, I understand what he is saying, but having regard to the process, if, for example, the Parliament even attempted to give instructions, it could mean we were trying to interfere with them.

Sen. Rev. Teelucksingh: You could counsel.

Hon. R. L. Maharaj: For this to happen, this thing will have to go back and come back and I do not think at this—

Sen. Dr. St. Cyr: But we are the law-making body.

Hon. R. L. Maharaj: Well, then the Government cannot really accede to that amendment. I want to be clear. At this stage, the Government cannot accede to that.

Sen. Rev. Teelucksingh: I have no problem with that.

Hon. R. L. Maharaj: Especially when it has gone through a process in which the Bill started in the House, there was full discussion with the Opposition. The Opposition came back to the elected House and said this is what it would be happy with. What I will be prepared to do is to take a note of it and make representations to the commission so that it will have it on file and the next time the Act has to be amended—it is not an ordinary Bill; it has to deal with a very sensitive issue.

Sen. Rev. Teelucksingh: Thank you very much. I know my amendment is possibly being typed. In the light of the explanation, I will withdraw the amendment and inform the Clerk.

Hon. R. L. Maharaj: I must thank you very much, Senator. I want to say that I understand the concern you have raised and it is a concern which I will ask to be transmitted to the Elections and Boundaries Commission, that the Independent Senator has raised this matter so that it can be kept on file. The Law Commission will also keep it on file so that when the matter has to be done again, we can deal with it.

Mr. President, I think that everybody will understand that according to the law, the Parliament comes to an end at a certain time in November and, therefore, if this process has to come and go back, *et cetera*, it may be that we may be frustrating the whole process by this amendment.

In respect of the so-called concerns raised by Sen. Shabazz, I cannot but get the impression that he is really suffering this morning from political jittery or "gi-gi-ree", because I cannot understand how he is just saying, "No turning back; no turning back; no turning back." [*Laughter*] It seems as though he has got the message, too, and he also decided that there should be no turning back. [*Desk thumping*] [*Laughter*] Because, Mr. President, for him to come this morning on such an important Bill and the majority of the words he used in his contribution were, "No turning back; no turning back", it meant that the message has gotten through to him and he would therefore go and preach the message in Laventille that there must be no turning back. I would like to congratulate him for adopting the message and I want to assure him that he will have our prayers and best wishes so that he would be able to convert his followers to follow him for no turning back. [*Laughter*]

Mr. President, I would also like to give him a piece of advice if he would not mind—through you, obviously, Mr. President. An election is not won by merely saying, "We will win; we will win; we will win." An election is won when a government or a party in Opposition puts forward policies which are appealable to people and for the benefit of people.

Sen. Mohammed: Did you all win an election?

Hon. R. L. Maharaj: An election is won with action and translation of words into action, so when there are records—there is a record of one political party in office and there is a record of another political party in office—and you see on one side of the political scale, inaction, incompetence, inefficiency, talk; but, on the other side, you see action, benefit and people's improvement and performance. That is what elections are won on.

Mr. President, Sen. Shabazz could come here and talk from morning to noon to night about, "We will win election; we will win election." That is trying to give himself confidence. I could understand how he feels because he is seeing that the people of Laventille are not turning back and he wants to give himself confidence. Here it is that he has adopted our message of "no turning back".

What he has said, really, about interference in the commission, he knows that is not correct. He knows that no government could interfere with the Elections and Boundaries Commission. He knows that even under the PNM there were accusations that the PNM interfered and he knew that was not correct. He knew it because no independent commission would allow any government to try to interfere. As a matter of fact, one would have seen by what the Chairman of the Elections and Boundaries Commission said, warning everybody, even warning Parliament that this is their function, so he knows there is no interference. He also knows that the Law Commission is different from the Elections and Boundaries Commission. He knows that the Elections and Boundaries Commission is an independent commission but the Law Commission is under a ministry, so he knows they are different. Why did he make that comparison?

I could not help it but what has happened to him is, here it is, he got up. He recognized that his party had concerns about some of the matters in the Bill. He also recognized that the Government acted in the greatest traditions of democracy, by adjourning the debate, allowing his party to have consultations. The matter came back; the Government accepted everything that the Opposition wanted with respect to the Bill. It even took about five or six weeks and, here it is, the Government in the highest traditions of the Parliament came and told the Parliament exactly what was the position, so he had no answer to this debate.

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Therefore, I agree with him. Even in respect of this measure, I am sure he would agree that he would not want to go different to what his party voted in the House; no turning back.

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

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

11.00 a.m.

Mr. Chairman: Hon. Senators, this is a Bill which contains 46 clauses. Apparently there are no proposed amendments to be made. With your consent, perhaps, we can do the Bill in tranches of 10. Do I have your agreement?

Hon. Senators: Assent indicated.

Clauses 1 to 46 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.

BAILIFFS 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 provide for licensing of bailiffs and for other related matters be now read a second time.

Mr. President, the purpose of this Bill is rather simple. It seeks to rationalize the operations of bailiffs by establishing a regulatory framework to govern the licensing of bailiffs in Trinidad and Tobago. As well, the Bill outlines their functions and duties in an effort to settle, once and for all, what functions may be carried out by bailiffs.

Mr. President, this piece of legislation would serve to put the law with respect to bailiffs on par with the law in other jurisdictions, which have reformed their laws to standardize the licensing and operations of bailiffs.

Perhaps, I can just tell Senators a bit about the genesis of this Bill. In 1996, following complaints over the years from members of the public concerning the conduct of bailiffs, the Law Commission conducted an examination of the law governing bailiffs. In consequence of that request, the Law Commission prepared the working paper entitled *The Law Governing the Conduct of Bailiffs, a Case for Reform*. The analysis undertaken by the Law Commission revealed that the problems in this area stemmed directly from the failure of the law to provide proper regulation and control over the activities of bailiffs. Moreover, the present law is disjointed and complex and creates an environment which allows bailiffs—in particular, private bailiffs—to carry out their functions in an unregulated manner.

Mr. President, the paper recommended the enactment of legislation to govern all bailiffs: private and court bailiffs alike. It was proposed that the legislation should seek to regularize their appointment and make provisions with respect to their functions and duties. In particular, it was recommended that the proposed legislation should make provision for:

- the establishment of a code of conduct to regulate bailiffs in the execution of their functions;
- the establishment of a more realistic schedule of fees for the services rendered by bailiffs;
- the creation of an offence for operating as a bailiff without a licence;
- the issuance of identification cards to bailiffs; and
- the provision of training for bailiffs to ensure an understanding of their functions and duties within the law.

Before going on to the provisions of the Bill, there is one point I would wish to clarify: bailiffs operating within this jurisdiction are governed by two separate pieces of legislation:

- (i) The Landlord and Tenant Ordinance; and
- (ii) The Petty Civil Courts Act.

Those bailiffs who are certified under the Landlord and Tenant Ordinance are referred to as “Certified Private Bailiffs” and are charged with the responsibility of assisting landlords in levying distress for arrears of rent; that is to say they can put out people and sell their goods, because they do not pay rent.

On the other hand, those bailiffs who find their authority in the Petty Civil Courts Act, operate as functionaries of the court, serving documents and assisting in the execution of judgments. These are referred to as “Court Bailiffs” and are members of the public service.

The result is that there are two categories of bailiffs operating in Trinidad and Tobago and whilst there are guidelines to define the conduct of court bailiffs who are subject to the authority of the court, there is no similar provision with respect to private bailiffs.

Essentially, the problem experienced with private bailiffs goes back to the lack of regulation and supervision of their activities. Unfortunately the lack of control has led to several allegations: that there has been abuse and misuse of power by private bailiffs, and some of our citizens have complained that they have suffered great injustice. There have also been court cases in which people were taken to court to challenge the illegal action of bailiffs. There are court judgements which show some of these private bailiffs acted outside of the law.

It is in an effort to provide a uniform system with respect to bailiffs and to provide safeguards in the execution of their functions that this Bill has been brought to Parliament. Bailiffs—whether they find their authority in the Landlord and Tenant Ordinance or the Petty Civil Court Act—will in the future, under this law, have to comply with the requirements of the proposed legislation.

The Bill is a fairly short piece of legislation, containing only 16 clauses. I would want to go through the Bill clause by clause.

Clauses 1, 2 and 3 are self-explanatory. We can move right on to the remaining clauses. Clauses 4—8 address the registration and licences of bailiffs. Clause 4 would impose upon the registrar of the Supreme Court; the responsibility of keeping a register of bailiffs which would be accessible to members of the public during working hours. There is to be no cost attached to the inspection of the register which would provide separate listing for public service bailiffs and private bailiffs.

All persons operating as bailiffs would be required to be registered with the Registrar of the Supreme Court, and this requirement can be found in clause 5.

11.10 a.m.

In order to qualify for registration, a person would have to prove that he is of good character or has been employed as a bailiff or has been offered a contract to operate as a bailiff.

Clauses 6 and 7 deal with the issuance of a licence subsequent to registration and with the suspension or cancellation of a licence respectively. Clause 6 would provide for the issuance of a licence to persons whose names are entered in the registrar of bailiffs upon the payment of prescribed fees and the provision of the necessary security. This licence would facilitate the verification of the identification of persons claiming to be bailiffs. I am sure, Mr. President, members of the public would find this useful. Licences issued by the registrar would be valid for two years, unless of course for some reason, they have been suspended or cancelled.

Additionally, in an effort to bring the names of licensed bailiffs to the notice of members of the public, clause 6 imposes an obligation on the registrar to publish twice a year, a list of persons holding a valid licence. The list would be published not only in the *Gazette*, but also in two daily newspapers. This is probably an amendment I can consider.

Mr. President, whenever the power to grant a licence is conferred, an authority or power is also given to suspend or cancel that licence, and clause 7 would confer that power upon the registrar. In respect of a public service bailiff, the registrar would exercise that power on the advice of the Public Service Commission, and as to free agents, the registrar would exercise the power after conducting an inquiry into allegations of misconduct including incompetence and irresponsibility.

Mr. President, where necessary, the registrar may suspend the licence of a bailiff pending the outcome of an inquiry. Should a person purport to carry out the functions of a bailiff without a valid licence, that person would find that he has committed an offence under clause 8—an offence punishable on summary conviction by a fine and imprisonment.

Clause 9 sets out definitely the functions and duties of bailiffs for the benefit of both the bailiffs and members of the public. A bailiff may carry out these functions and only these functions. A bailiff may levy execution in accordance with a judgment of a judge of the Petty Civil Court; serve documents from a court of summary jurisdiction; levy tenant's goods for arrears of rent as provided for under the Landlord and Tenant Ordinance; and repossess goods under hire

purchase in accordance with the Hire Purchase Act. In addition, clause 9 imposes several responsibilities on bailiffs, for example, they are required to maintain financial records and to have them audited annually. The registrar may require the bailiff to furnish him with a financial statement and these provisions are designed to impose upon bailiffs a degree of financial propriety.

It is inevitable that bailiffs gain access to premises whether private dwellings or business premises to carry out their functions. There have been complaints that citizens cannot be sure that the person seeking to enter their premises are in fact who they claim to be. Clause 10 attempts to deal with that by requiring a bailiff to identify himself by showing his licence to the owner or occupier of the premises. The clause also requires the bailiff to furnish the owner or occupier with a form which gives information about the bailiff and the name of the owner or occupier of the premises which the bailiff is visiting. This requirement may be useful as sometimes the bailiff may be at the wrong premises and once that has been pointed out much embarrassment could be avoided.

Clause 11 deals with the situation where a bailiff loses or has his licence stolen. This clause empowers the registrar in those circumstances to issue a temporary licence to allow the bailiff to continue to operate.

Clause 12 is rather important and it provides a mechanism for dealing with complaints against bailiffs. Complaints against bailiffs would be made to a judge of the Petty Civil Court who would investigate the complaint and forward his findings to the Public Service Commission in the case of the public service bailiffs or to the registrar in the case of the private bailiffs.

Clause 13 is a necessary consequence of clause 12 and would allow a bailiff who is dissatisfied with a decision made under clause 12 to apply for a judicial review of the decision of the registrar. Appeals to the Court of Appeal are also provided and these provisions are necessary to protect the right of the individual with respect to the administrative decisions.

Mr. President, one of the complaints levelled at bailiffs is that they are unaware of their functions and the manner in which those functions should be performed. That issue is addressed in clause 14 which would require bailiffs to attend training programmes within the first year of being licensed and thereafter, at least once every five years. Failure to comply could result in suspension of licences.

Clauses 15 and 16 provide for the making of regulation and consequential amendments respectively. In clause 15 we find some of the recommendations of the Law Commission which were highlighted earlier. The clause empowers the President to make regulations prescribing *inter alia* a code of conduct for bailiffs, the maximum fee chargeable, the security required from the bailiff.

Clause 16 would repeal those sections of the Landlord and Tenant Ordinance which speak to bailiffs together with the Bailiff Rules made under that Ordinance.

Mr. President, it is anticipated that these provisions would define the functions and responsibilities of bailiffs for the benefit of both members of the public and the bailiff himself and that this new regime would benefit the members of the public in the execution of duties by bailiffs.

I think I should mention that after the Law Commission's paper was studied, there was a committee which comprised the Registry of the Supreme Court, the Director of Public Prosecutions Office and other members of the state service to look at the Bill to ensure that they are in harmony with what can be worked out within the state service and the Bill has received the blessing of that committee.

Mr. President, I beg to move.

Question proposed.

Sen. Mahadeo Jagmohan: Mr. President, and hon. Senators, I am glad to be afforded the opportunity to say a few words on the Bill before the Senate.

Before I proceed, and with your permission, Sir, I observe that the public gallery is empty. If we had eyes to recognize the minutest thing, we may not see a fly there and this tells a story. The Parliament of the country and indeed the Upper House is a place of significant importance and the hon. Attorney General of Trinidad and Tobago is presenting Bills and nobody from the public has come to pay attention, and I do have a concern with that.

I wish to comment on the Bill. On the first page, the Explanatory Note which comments on clause 5 says:

“Clause 5 would provide for the registration of Bailiffs. To be eligible for registration, a person would have to satisfy the Registrar that he is of good character and that he is employed, or has been offered a contract of employment, as a Bailiff.”

Bailiffs Bill

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This is confusing. Employed where? Perhaps later on in the Bill an explanation will be given. At the outset, we of the People's National Movement have examined this Bill and have no objections. This is a Bill for good order in the society. It is meant to establish good order and regulate a certain kind of business operation, therefore, we would not oppose this Bill, but there is something across the board in this Bill that bailiffs must be of good character and must have a certificate of good character from the police.

All my life, I have been a champion of the police and security services in this country and worldwide because of the work they do over and above the call of duty, and especially the dangers they face in their work. The question stares me in the face: are they remunerated adequately for the work they do? I do not want to answer the question myself, but I see in this Bill that persons intending to be bailiffs must have a police certificate of good character. That is desirable, that is good, and maybe it should come from one other person. It is time we in Trinidad and Tobago give recognition to the churches. Why can the leader of the church not recommend a bailiff or applicant if he belongs to that church? If we continuously play down the church in some of these matters, we may have problems later on.

I wish to refer to the refusal of the registrar to register a bailiff. I did not recognize any mechanisms in this Bill for reapplication for a given period or at a later date for consideration. I feel the Bill is lacking in that regard. Then I have a feeling that the job of a bailiff is of a delicate, technical nature and a youthful person who just turned 18 really does not have real life experience in dealing with people. To me some consideration should have been given for an upward age limit for persons to become bailiffs. Just look at an 18-year-old who has to confront homes, families, companies, and dangerous situations. While some 18-year-olds are quite mature, some need more time to mature and advance themselves.

Bailiffs from the private sector or non-government bailiffs. I did not pick it up in the Bill, but they would have certain areas of operation, either a company hires them, or a number of companies have them on their register as one of the bailiffs to do the kind of work a bailiff does, but can the private bailiff do freelancing, or can he go anywhere to work? Would they be allowed to do this?

Then clause 9(b) says:

“(b) serve documents from a court of summary jurisdiction;”

Clause 9(1) says:

“The functions of a Bailiff under this Act are to—

“(a) levy execution in accordance with a judgment of a Judge of the Petty Civil Court;”

The question can be asked: can private bailiffs serve court documents? On the basis of this Bill will they be allowed to serve court documents in case there is a need to do this?

Then further down, clause 9(4) would a private bailiff have to sign the same bond that the court bailiff would have to sign or would there be some difference?

11.25 a.m.

There is a requirement here under clauses 5 and 6 that the bailiff must have books and papers audited or checked by an accountant. This did not say whether it should be an accountant in the public service or an accountant, generally in the country, who may also be employed in the private sector. If they say it must be a chartered accountant or a certified accountant—whatever they are saying—it places us in an awkward position.

In all government departments there are accountants who come through the system and some of them are accounting assistants, accountant I or II, and there are accounts executives, and so forth. There are people who possess first degrees from a university with a major in accounting and they, too, can do some of this work. Are they precluded from auditing the books of the bailiff? This has to be explained.

Clause 10 on page 9 is extremely important. If it has been overlooked, we can look at it now. With your permission I want to read the whole of clause 10(1) so the point will be made very effectively. It reads thus:

“No Bailiff shall enter any premises for the purposes of carrying out any of his functions unless he shows his licence and gives a signed copy of the form as set out in the Schedule to the occupier of, or other responsible person on, the premises.”

Mr. President, a person can be responsible, very responsible at that, but he may not be authorized to oversee certain functions or carry out certain duties, and I wish to draw to the attention of the Attorney General and the Government—I

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have not submitted an amendment—but will the Attorney General be gracious enough to consider changing a few words here and make it an authorized person? So only those authorized can deal with bailiffs entering premises.

I refer to page 11 now, Sir, at clause 14(1). Again, I read:

“Every Bailiff shall attend, within the first year of being licensed under this Act and thereafter at least once in every five years, a training programme organised by the Ministry designed to—(a), (b), and (c).”

I get the impression from this that once in the first five years, the bailiff attends a seminar, a training programme or whatever, after that there does not seem to be anything for him to do.

I am suggesting, Sir—at least we here suggest—that bailiffs should have a refresher course or a seminar annually. All bailiffs. Those in the private service as well as those in the public service. This would help, because things are changing so rapidly—laws, regulations, state of the art, mode of operations are changing so rapidly—I get the impression that once in five years will not do.

Mr. President, like the Attorney General, we are not going to waste parliamentary time on this Bill. We need to get through it quickly. On the Schedule, Sir, there is a caption here “Form to be given by Bailiff to owner, occupier of premises visited”. This should have a different format. Visited for what purpose? To serve a document, to repossess items or whatever have you. I feel this should have a better explanation as to the purpose of the visit. What I am saying, Mr. President, is that this caption should be considered for change during the committee stage.

With these words, Mr. President, I have taken up a position that is the party's position, the position of the People's National Movement.

I thank you very much.

Sen. Prof. Kenneth Ramchand: Mr. President, I welcome this piece of legislation concerning bailiffs, especially as it applies to private bailiffs. There is a branch of our literature called “the literature of the yard” covering the 1930s, the 1940s, and the 1950s, consisting of short stories and novels by Mr. RAC du Boissiere, who wrote a book called *The Crown Jewel*; by CLR James, a novel called *The Minty Alley* and among the short stories, one called *Triumph*; by the late Alfred Mendez, a novel called *Black Fawns*, and among the short stories, one called *Sweet Man*, and another, *Afternoon in Trinidad*; and Miss Kathleen Archibald with a short story called *Beyond the Horizon*.

In these short stories and novels, the bailiff is a figure of terror, the private bailiff. He comes at all hours of the day and night, he breaks down doors, he seizes furniture and furnishings which he is going to sell in lieu of rent, and usually, his action is directed against single mothers in penurious circumstances, and in the stories, very often against the young daughters, and he is very menacing sexually. The evil we are talking about is the way in which private bailiffs operate, the unregulated manner and the ambiguity they seem to have. Nobody knows whether they are representatives of the law or whether they are thugs who belong to a gang who have been employed by somebody to collect their money.

The legislation is very welcome as an attempt to clear up this kind of ambiguity and this source of terror. We know that in the modern period, people calling themselves bailiffs come to enforce hire purchase agreements and they even come to collect loans and debts. That status of calling themselves bailiffs without having any licence or without being subject to any authority, that evil still continues in a modern-day form.

As I said, I welcome the legislation, but Mr. President, I agree with Sen. Jagmohan that there are some problems with the legislation. First of all, with the registration. The registration process, as described, seems to me to be too easy. It refers to:

“...every person who—

- (a) immediately before the commencement of this Act was employed as a Bailiff;”

Employed by whom? Was he employed by some disgruntled landlord who wants to get a tenant out? I think we need to be clearer about employed by whom. By what authority can such and such a person employ me as a bailiff? Can a man who owns two houses call me up and employ me as a bailiff? Does that, therefore, entitle me to registration? “The every person who” sentence goes on:

“(b) on or after the commencement of this Act, becomes employed, or is offered a contract of employment, as a Bailiff.”

The same question. Offered a contract by whom?

When we go to the qualifications required:

“The Registrar may refuse to register a person...unless the Registrar is satisfied that the person has complied with section 6(1) and—

- (a) is of good character;

- (b) is a person over the age of eighteen years; and
- (c) was or is employed, or offered a contract..."

Mr. President, I feel that the qualifications that lead him to be registered need to be tightened up. When we look at clause 9 which speaks about the functions of a bailiff, we see that to be a bailiff one has to have certain technical qualifications. He is going to levy execution in accordance with a judgment of a judge of the Petty Civil Court. He is going to serve documents from a court. He is going to levy tenants' goods for arrears of rent. He ought to know how the courts operate. He ought to know about these pieces of legislation and to be up-to-date with whatever changes and revisions are being made to this legislation.

Mr. President, I would not just ask for them to get a refresher. I would say that there ought to be a qualification for being granted the licence; that one should demonstrate either by extended interview or by written examination, or both, a familiarity with these pieces of legislation and with the procedures of the court so that one has the technical qualifications necessary to carry out the functions described. Mr. President, I feel if we do not do that, the ambiguity would remain and we would still have thugs operating as bailiffs.

As long as that thug does not have a previous conviction, he is going to get a reference from the police saying he has no previous conviction. The police is not going to say this is a thug and they have not caught him yet. All they have to say is that he does not have a conviction. I believe that apart from the character references, we need built into this, some kind of requirement that an applicant to be a bailiff should demonstrate familiarity with all the technical legislation in which he is going to be involved. They should be trained before they are granted the licences.

I do not know how to frame an amendment to that effect, but I would certainly like the Attorney General to address this question in his winding-up.

I thank you, Mr. President.

Sen. Dr. Eastlyn McKenzie: Mr. President, I just want to ask the Attorney General whether on the forms that one will be allowed to inspect, there would be a picture of the bailiff and, in addition, whether his licence has his picture. Publishing the name in the newspapers probably does not mean anything. There could be several Eastlyn McKenzies, but when I go to the register, the office, wherever it is, I could see the picture of the person and say, "Oh, that is the person". As well, he or she would have a picture on himself or herself when coming to my premises. Probably these are things which could come on the forms and in the registration procedure.

I want to agree with Sen. Prof. Ramchand that the training should be done before. They should have a training programme for would-be bailiffs and, having gone through the training and satisfying certain requirements, then one could apply for registration or licence to become a bailiff. In that training programme, one would have familiarity with all these Acts we are talking about: the levying and the procedures of when a court gives an order, the Petty Civil Court. How does one go about it and that type of thing? Because I think that is where the training should come in. Then we could probably have a refresher every three years. That is how I would suggest it.

Thank you very much, Mr. President.

11.40 a.m.

Sen. Rev. Daniel Teelucksingh: Mr. President, I read in the *Sunday Mirror* of Sunday, August 20, 2000, a headline, "Bailiffs move to end 'badjohn' image". In fact, it was that kind of article that caused me to look at the Bill.

There is a newly formed Bailiffs Association of Trinidad and Tobago and the article in the *Sunday Mirror* of August 20 said that for this association it is recognized that:

"It is no secret that the public perception of bailiffs is mainly one of 'badjohns' and 'hooliganism'."

I do not believe it is a problem they are going to address and, possibly, eliminate from the minds of the public. That perception is not going to change in a short space of time. How are they going to remove that "bad John" image? Because of the bailiffs' interaction with the public with respect to debt collection and the seizure of property, I believe that this requires a certain measure of maturity and good judgment. I want to associate with the observation of Sen. Jagmohan on clause 4 about the registering of persons over the age of 18 years as bailiffs.

I am not comfortable, really, with exposing young people who are just out of school to this kind of employment. I feel very uncomfortable and would suggest, most respectfully, if the hon. Attorney General would consider amending clause 4 to maybe 21 or 25 years of age instead. I would go along with that. I do not think we need a group of 18-year-old thugs and hooligans, or at least the perception out there. They are going to be tarnished anyhow.

I want to raise another concern with the hon. Attorney General. I do not know. I need to be apprised of this. Mr. President, do you know that there are debt collection agencies in Trinidad and Tobago dealing with the public? I am

concerned. I have heard members of the public express great concern over these private debt collection agencies. There are some people who are literally afraid of them. They use terror tactics on the public. They are bailiffs—another kind of bailiff, the private ones—these little companies, individuals, organizations and institutions, call them what you may. The people see them as debt collection agencies—a different kind of bailiff—but their tactics on the public is one of real terror. I feel the public should be protected and I ask the hon. Minister, if the Government is considering any kind of regulation, any kind of legislation, any kind of investigation into the proliferation of these debt collection agencies in this country.

I thank you very much, Sir.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. President, I think we all recognize that there has been a problem with bailiffs and if the legislation needs to be further strengthened, I am all for it and, probably at the committee stage, we will look at some of these clauses in greater detail. I take the point that we have to be very careful that we do not have people outside there with the authority, or even the expressed authority now, to perform the functions under clause 9 and, yet, there are not sufficient safeguards to prevent the abuse of power. If there is any way that we can tighten this legislation, I will be happy to do it.

I will ask hon. Senators to bear in mind, however, that there would be regulations which will have greater details on some of the matters which we agree upon, but if we want to put in the primary legislation some matters which we want to highlight, I do not have a problem with it.

I take the point of Sen. Mc Kenzie that there should be some form, not only the name in the register when the person's name is being registered for inspection, because the public ought not to only look at a name, the public ought to be looking at a photograph. What has happened with some of these areas of administration is that they need some administrative reforms, apart from legislative reforms.

For example, speaking of two areas at the Ministry, when I became Attorney General: the Justices of the Peace and Commissioners of Affidavits. What we did there was, we decided to have an exam and we had a handbook for Justices of the Peace so persons who had to be considered to be a Justice of the Peace, since 1996, had to study this handbook which had all the material parts of the law, then they had a written exam apart from an interview so that, at least, there was this

safeguard to ensure that the person appreciated what his or her functions were. We have done the same thing, to some extent, with the Commissioners of Affidavits.

It may be that in respect of bailiffs what we can—bearing in mind that we have under the Bill, bailiffs who would have been employed in the public service so that in respect of public service bailiffs, they have a position and we cannot take away that position from them. So, it may be that what we can do is put a procedure for them to be trained, but in respect of the bailiffs who are coming from outside who would have a contract to collect debts, *et cetera*, these duties are very limited and they are expressly stated because some bailiffs, under the guise of being a bailiff, exceed their powers so that the duties—and they relate only to the petty civil court, the summary court, levy execution of the judgment of the judge of the petty civil court. So that if a judge orders money to be paid, his duty is to levy on that, but in levying, he would have certain duties to perform as stated in clause 9(1) of the Bill:

"(b) serve documents from a court of summary jurisdiction;"

That is the Magistrates' Court.

"(c) levy tenant's goods for arrears of rent as provided for under the Landlord and Tenant Ordinance; and"

Well, that is something in which one must not abuse one's powers because one would have to keep one's accounts; one would have to be able to inspect those accounts. The other matter is:

"(d) repossess goods on...the Hire Purchase Act."

Mr. President, I think the point must be taken that you have to put safeguards and if there is any way that we can strengthen it, I would be prepared to strengthen it.

I think Sen. Rev. Daniel Teelucksingh raised a very important point, apart from the point that even the bailiffs recognize that they have a "bad John" perception; the perception of the public is they are "bad Johns"; they fight their way in and disregard all courtesies and procedures in some cases. These safeguards that we are putting in place would try to help that. It would not eliminate them completely and there will be training programmes but we have a complaints machinery under the Bill so that now the public would be able to complain to a court and there will be investigation, so that would help.

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The other point he has raised is debt collecting agencies. There have been many complaints about debt collecting agencies and some debt collecting agencies, obviously, use terror tactics. Right now, they are actually breaking the law, if, for example, they use terror tactics on people to intimidate them, *et cetera*. It may be that people are afraid sometimes to report these matters. It may be that the time has come to regulate these agencies. What has happened is one had to fight with the fact that you do not want to regulate too many things because then they say that government is trying to control. It is not control; it is regulating and it may be that we should look into that. I will enquire of the Law Commission if it is looking into that. If it is not looking into that, I will give those instructions because the debt collecting agencies and the exercise of their powers should really be looked at.

I must confess that as the Senator spoke, I remembered in my days at the Bar, in private practise, there were many complaints about debt collecting agencies abusing their powers, but I want hon. Senators to understand that there were such large areas of law and administration which were not really addressed or looked at; there have been many of these areas being looked at and the Law Commission and these agencies are really overworked at this time, but that is no excuse as to why some of these matters should not be started and I would like to give that undertaking.

Mr. President, Sen. Jagmohan raised a point which I think it is my duty to address. He mentioned the apparent absence of persons from the public gallery but this is not a problem that the Parliament of Trinidad and Tobago alone is having. As a matter of fact, throughout the Commonwealth, it is found that the public, more and more, have become less interested in what is happening in the Parliament and what has happened is that some parliaments and governments have taken the position that steps must be taken in order to promote interest in what happens in Parliament. One of the ways of doing that is to make the parliamentary process a little more meaningful for people to become involved in it. One of the ways in which that has happened in several countries of the Commonwealth—as a matter of fact, I remember when I was serving in the Opposition, I went to visit the Canadian Parliament and I was told they would have debates there and nobody would come and that it was very embarrassing. What they decided to do was find ways and means of getting the public involved and that is why in Canada they have a more aggressive committee system. There are committee hearings so that at least people became interested to hear what was happening.

Mr. President, we have to understand that the system we are using now is a system, basically, where on the floor of the House, really, you just have statements and debates, but in respect of actual matters being related to the public and to what the public would like to know about, there is no existing functioning machinery for the public to see or become involved in what is happening.

The other thing is—[*Sen. Prof. Spence attempts to rise*]

I know what Sen. Prof. Spence is going to ask about and I was going to deal with it. I have an idea, at least, what he is going to ask about, so if I am not dealing with him—

The other matter in which parliaments have ensured that is, they try to allow the proceedings of parliament to be televised, so that people would have an opportunity of seeing what is happening in parliament and, if not the entire proceedings being televised initially, that at least some part of the proceedings are televised. I am in support of a separate channel to be given for televising the proceedings of Parliament but, as you know, that is a matter in which not only the Government has to make a decision, that is a matter in which the Speaker, the President and the Parliament would have to make a decision, but I see no reason why the proceedings of Parliament should not be televised, and I want to put on record that I do not think that this Government would want to object to having a separate channel for the televising of proceedings.

I want to say that we are on record. As a matter of fact, laid on the table today is a Report of a Select Committee for modernizing the Parliament.

11.55 a.m.

Whatever criticisms we may have or may have had, the fact of the matter is that, when one looks at the record as to what this administration has done—as a matter of fact I do not want to enumerate them, any report from the Parliament would show that in respect of the structure of Parliament and what has happened in the Parliament: we have had a situation in which steps were taken to modernize the Parliament.

Having said that, however, I am not saying that there is no room for improvement. I take the point, it is a very important point, that we must take steps to ensure that the public becomes involved in the process of Parliament: whether it is committee, a separate channel to have the proceedings of Parliament seen by members of the public, or whether it means that there should be a separate programme of Parliament. I want to say there is always dissatisfaction when there

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is a summary of proceedings of Parliament because one side seems to always believe that there is a little bias in the proceedings. Therefore, it may be that the greatest argument to have a channel in which people can see what is happening in Parliament is for people to actually see and hear what people have said; bearing in mind, if that has to be done Members of Parliament would, obviously, have to adhere to Standing Orders and would have to make sure that the Standing Orders are not abused or misused.

Mr. President, I decided to talk about it because it has—*[Interruption]*

Sen. Prof. Spence: Mr. President, there is another point that I would like to remind the Attorney General of. I am asking for his assurance that before the elections are called, he will get the Standing Orders of the House changed so that our committees can function. For all my life in Parliament I have been in support of the committee system, let us get them working.

Hon. R. L. Maharaj: I am glad for the point the Senator Professor has raised. As a matter of fact, there is a Cabinet decision to implement that. The first decision which has been taken is that the staff has to be increased, because if you are going to have a committee system you have to increase the staff and the different kinds of staff. Cabinet has already taken that decision and steps are being taken, administratively, to do that.

There are Standing Orders drafted to implement this new system. Those Standing Orders are now before the Legislative Parliamentary Committee of the Cabinet. Obviously there is a process for that after the committee has gone into it. It is my intention to have that done before the session ends. When we came to the Parliament with that, we did say passing this law is not sufficient, it is the implementation of it. I know Sen. Prof. Spence who is a very experienced person in life in Trinidad and Tobago supported the principle that if we had this, it would not only mean greater accountability, but it would obviously be of greater interest to the public as to what is happening in the Parliament.

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

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

Clause 4.

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

Sen. Dr. Mc Kenzie: Would this be the place where the registrar shall keep a register to be known as the Register of Bailiffs, in which he shall enter the names and photographs of all the persons, or will that come in the rules?

Mr. Maharaj: I was thinking that we will put it in the regulations because of the names and other particulars.

Sen. Dr. Mc Kenzie: Okay.

Mr. Maharaj: But if you want we can put it—

Sen. Dr. Mc. Kenzie: No, once it will be somewhere.

Mr. Maharaj: I think I would want to put it here. I will put it here.

Sen. Dr. Mc. Kenzie: I was saying that because in clause 4(2) that the same clause—that is the same register which the public would be entitled to look at. That is why I think it should be name and identity.

12.05 p.m.

Mr. Chairman: The proposed amendment to clause 4(3) reads as follows:

“4(3) the register shall be divided into three parts and the Registrar shall cause to be entered in Part 1 of the register the names of public service bailiffs, in Part 11 of the register, the names of the other bailiffs and in Part III of the Register, the photographs and other material information of each bailiff.”

Question put and agreed to.

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

Clause 5.

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

Mr. Maharaj: This is the clause that Senators have expressed some concerns about and before the drafting is done, I wanted to know if this would satisfy Senators. In respect of the public service bailiffs who are public officers, if we can make it clear that they would have to undergo a training programme. Obviously it

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would be a programme which would be provided for them, but we cannot remove them from their offices, so for the existing public bailiffs a training programme will be provided and that would be an administrative act.

In respect of the new public service bailiffs, they would have to take an examination and in respect of all private bailiffs, they too would have to sit an exam.

Sen. Prof. Ramchand: Does this apply to persons immediately before the commencement?

Mr. Maharaj: Yes. In other words, the only persons who would continue to be bailiffs without sitting an examination would be those in the public service because there was some regulation over them before, but in respect of the new, or the existing private service bailiffs, they would have to undergo an examination to show that they are familiar with the law and when they do that examination, they would then be registered.

Sen. Jagmohan: For private persons who wish to write the exam, would the Government offer some kind of training before they are required to write the examination?

Mr. Maharaj: They would have to write the examination based on a handbook in which are all the relevant materials. They would study the handbook and then do the examination. Administratively, that is what we do with Justices of the Peace now and the registrar will be conducting that. So if we agree with that policy, I can get them to draft it in the meantime as we go ahead with the other provisions.

Sen. Jagmohan: Mr. Chairman, the minimum age limit which you indicated under clause 5, has any thought been given to that? Is anything being done?

Mr. Maharaj: I did not get the views of other Senators, perhaps we could discuss that. The point raised by Sen. Rev. Teelucksingh is that the minimum age should not be 18 years, it should be 21 or 25 years bearing in mind that some of the persons who are alleged thugs are persons who are older than 18 years. I do not know whether the age would make a difference. It may be, the fact that you are going to have training and an examination would mean that you will be having a selection done on the basis of a criteria which would have been satisfied and whether we should discriminate against persons between 18 and 25 years, or we should not give them the opportunity if they show, bearing in mind the way the

thing is being regulated. They would now be accountable to the court and also there would be a complaints mechanism by which their appointment can be revoked and they can even be suspended.

Sen. Rev. Teelucksingh: Mr. Chairman, what do you foresee as the duration of training? It cannot be a one-week period giving them a handbook like a driver's permit booklet? There should be a period. If you are beginning at 18 years, and you are having a period of training and probation before registration, maybe that would take you beyond 18 years. It cannot be a crash course, it should not be, it is a very serious matter.

Mr. Maharaj: It is a serious matter, but it is not a very wide area because if you look at the duties in clause 9, these are duties where they have to serve documents, levy tenant's goods, repossess goods and their jurisdiction is limited, and there would be a code of conduct under the Act and they would have to be familiar with all that. It is not something where they have a training programme for a month or two. The fact of the matter is that they would be given a booklet in which they have all these matters, they would know that it is the guide.

As we do it now with the Justices of the Peace, they have to write their answers and they also have to have an interview, but for administrative purposes the registrar would have to be entrusted in choosing the persons he or she considers to be the best person in the light of what has happened and the way it works is that they normally have a committee, an interviewing panel and things like that.

Sen. Jagmohan: Mr. Chairman, we also wish to suggest that the minimum age limit to enter the field of bailiff be 21 years.

Hon. Senator: Why?

Sen. Jagmohan: Most people leave school say at 17, 18 years and those who are repeating CXC go on to 18 years and a two-year period where they might be doing something else or remain unemployed, but an 18-year-old does not look good for this kind of work.

Mr. Maharaj: You are not reflecting much confidence in our young people.

Sen. Prof. Ramchand: Mr. Chairman, I do not think that it says if one is 18 years that he will be registered. It just says that if you are not 18 years, we will refuse to even consider registering you. So as it stands there, you are not guaranteed if you are 18 years that you will be registered. All you are told is that you will not be even considered for registration. So I would think there is enough

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here to leave 18 years. Knowing that we have the training programme, there may be somebody who is just 18 years who may turn out to be a very good person. They are not automatically in, they have lots of other hurdles to cross before they become registered.

Sen. Dr. Mc Kenzie: Mr. Chairman, I am totally against discriminating against anybody because of their age as long as the person is an adult. I think we are getting carried away by the image of the “bad John” bailiff who had to be strong, fat, tough, muscular and able to beat up people and we are thinking of probably what I looked like at 18 years. Sen. Job has an 18-year-old who is bigger than everybody in here, so I think we should leave it as it is and more important than that is the fact that I would like to know that in the regulations we have some sort of publication to state where one can obtain a handbook if they want to become a bailiff. It can state how often examinations would be held and state where that information could be obtained. That to me is more important. I say to leave the 18-year-olds. If I am an 18-year-old and I feel that is a job I could do, and do it well, I do not think that I should be debarred from it because I am a puny 18-year-old who knows the law, who could pass the exam and do an effective and efficient job. I am against raising the age limit or saying that because one is 18 years, one cannot or should not be allowed to do what he thinks he could aspire to or what he thinks he could do very well.

Sen. Mark: Mr. Chairman, in fact, great minds do think alike and I want to fully endorse Sen. Dr. Mc Kenzie’s point of view.

Mr. Maharaj: As a matter of fact, Mr. Chairman, the Prime Minister of this country could be a person 18 years of age. I think if the law permits an 18-year-old to be an adult and to be able to vote, and to enter into legal contractual relationships, it would be a retrograde step if we send this signal. I know the intention is honourable and laudable, but I think it might be regarded as a vote of no-confidence against young people and might be regarded as discriminatory. I do not know if you can ask Sen. Rev. Teelucksingh and Sen. Jagmohan to reconsider.

Sen. Jagmohan: Mr. Chairman, I am not taking up a position where I am fighting this, but there is great merit in the argument advanced by my colleague, Sen. Dr. Mc Kenzie, no one could argue that. If anyone has championed the cause of young persons in this country, I could claim to be one of those persons. [*Desk thumping*] At age 18 I was a public relations officer for the parent youth organization in Trinidad. I am not talking about anything political.

Mr. President, this is a type of discipline, a type of employment. All Members here are actually mentioning that a bailiff is looked at with suspicion and a “bad John” kind of attitude and so forth. Perhaps if we said 21 years, you would start correcting it and a 30-year-old seasoned “bad John” would not want to come in. I am not making out our citizenry as having “bad Johns” all over the place, but no matter how much we want to polish this thing up, there will be situations.

12.20 p.m.

An argument is being advanced that we are supporting young people. Very well, we are supporting young people, let it go to the bailiff with 18 years and three months of age coming to seize. That is all right. *[Laughter]* The argument, Mr. Chairman, is exhausted and there is agreement.

Mr. Maharaj: At clause 5 there was also the threatened argument about the advertisement in two daily newspapers. Do we want to make it three, all or can we leave it at two?

Sen. Rev. Teelucksingh: I would prefer all.

Sen. Jagmohan: Mr. Chairman, there was sound argument that some people purchase this one because they cannot purchase the other, and it could turn out that the one the person did not purchase has the advertisement.

Mr. Maharaj: All the daily newspapers.

Sen. Prof. Ramchand: Mr. Chairman, in the forthcoming amendment to clause 5, please remember clause 5(3) needs to be modified. We will have to say “5(1)” as well.

Sen. Daly: Mr. Chairman, may I say that while I support very vigorously, the revenue earning activities of the newspapers, are we not going a little overboard here, saddling the state with the expense of doing this? What is wrong with one daily newspaper? The trademarks are advertised in one daily newspaper. As I understand it, the newspapers bid for the work and the state awards the work of advertising to the lowest bidder. I am speaking against certain interests I represent. Why do we want to saddle the state with the expense of noncompetitive price in three daily newspapers?

Mr. Maharaj: I think, Mr. Chairman, the argument for this one is that having regard to the fact that the public ought to know who these bailiffs are, and there has been such a bad perception of the bailiff, that in this particular case, in starting it off, maybe we should put it in all three, and maybe later down the road, we might have to amend it if the situation improves. I do not know. We had two.

Sen. Dr. Mc Kenzie: Mr. Chairman, I think we have “at least two”. My interpretation tells me that if one says “at least two”, it could be three. All it says is that we do not put it in one. That is as far as my interpretation goes.

Mr. Maharaj: According to what we have here in clause 5, where a person applies for a licence under this Act, the Registrar shall cause to be published, notice of the application in two daily newspapers.

Sen. Dr. Mc Kenzie: I was at clause 6(5) where it says at least two.

Mr. Maharaj: When people apply, other people may want to object to this person being a bailiff because of X, Y or Z. I am talking about clause 5(5).

Sen. Rev. Teelucksingh: Mr. Chairman, this is a very serious matter in clause 5 about the suspension or cancellation of a licence, and the public needs to know this. I said earlier on that there are people in Trinidad and Tobago who can only afford one newspaper and this is very important information that should be shared with the public.

Mr. Maharaj: Mr. Chairman, I think that although Sen. Daly's argument is very forceful, I think that in the light of the fact that people may want to object to these people, I would not mind going along with the three, but if I have a consensus from the Independent Senators that they want to have at least two, I will go with it.

Clause 5 deferred.

Clauses 6 to 13 ordered to stand part of the Bill.

Clause 14.

Question proposed, That clause 14 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, in the light of what we are going to do to amend clause 5, we will also have to look at clause 14, so could you defer that also?

Clause 14 deferred.

Clauses 15 and 16 ordered to stand part of the Bill.

Clause 10 Recommitted.

Sen. Jagmohan: Mr. Chairman, can I have your kind permission to go back to clause 10. The last line of clause 10 said “occupier of or other responsible person on the premises”. I had said in my contribution that I am interested in the Bill reading “occupier of or an authorized person on the premises”.

A person could be a very responsible person but they are not authorized to do anything like facilitating a bailiff to seize or repossess. If an authorized person is there, they might be able to permit.

Mr. Maharaj: What we can do to tighten it is set out in the Schedule, “to the owner, occupier or any person authorized by him”.

Sen. Dr. Mc Kenzie: Mr. Chairman, how do we know a person is authorized? I think what was intended is to get away from those people who, when one goes to serve or to repossess something, they say, “Okay, I am not the owner and I do not know anything about that”, and a sort of dodging tactic. It does not make any difference now if the person you find at home—I could see if you say the person is not someone who resides there because of the fact that I may have a guest and I am away from home. The bailiff comes when my guest is at home and my guest does not have that authority.

If the person lives there, whether I am the owner, the occupier or I am authorized, I think they could serve the person even if one has to return, but somebody knows that the bailiff is going to be there or the bailiff has been there. I think we have to look at it from both sides. It is for those people who try to dodge and we never will find the owner or occupier or responsible person at home. I think we have to be careful as to the word we are putting there, whether we are talking about authorized person. Who would authorize me as a 21-year-old person in the house?

Mr. Maharaj: I think we could just leave it to the occupier of the premises. If the owner is occupying, then it is covered.

Sen. Dr. Mc Kenzie: Once you reside, you occupy the premises.

Sen. Prof. Spence: Mr. Chairman, but there could be more than one occupier. I really think that anybody who resides in the house should be given the papers, because otherwise, the person one wants to get at could just avoid being there. This happens, and the wife will not take it.

Mr. Maharaj: Set out in the Schedule.

Sen. Prof. Spence: Anybody who is residing. Any adult.

Mr. Maharaj: Could we not say, “to an adult occupier of the premises”? We could define occupier as a person who is residing at the premises.

Sen. Daly: I do not understand this soft egg thing! By the time the bailiff goes there, the person has not paid the debt, he is going there to seize the goods to satisfy the debt. What is wrong with occupier or other adult person on the premises? What does it matter if he gives it to the gardener or the man in the plum tree? What difference does it make? Otherwise there will be a continuing dance as to who is the occupier of the premises.

What is this soft egg thing? Bailiffs go to take things off premises when people have not paid their legitimate debts. It is just a formality to ensure that he has a paper and he serves it on somebody before he goes in. Why do we want to put occupier? It does not matter what it is called. By the time they get to the bailiff, he has good reason for being there. What is wrong with occupier or other adult person? Otherwise you will get him to say, "I am not really the occupier. I am just minding the child." or "I am just here to sweep out the house and iron the clothes" and the bailiff will never get to do his work.

I mean, we are behaving as though we are living in England. This is the real world with which we are dealing.

12.35 p.m.

Mr. Maharaj: Okay.

"...to the occupier of, or other adult person on, the premises".

Sen. Prof. Spence: I think it should be an adult resident.

Sen. Daly: Then we might as well not have bailiffs at all.

Sen. Prof. Ramchand: Mr. Chairman, I wonder if the Minister could clarify for me. The paper that this bailiff is bearing in his hand, does it say that this person is authorized to enter the premises for the purpose of?

Mr. Maharaj: Yes.

Sen. Prof. Ramchand: Well, then an adult.

Mr. Maharaj: Sen. Prof. Spence, are you happy?

Sen. Prof. Spence: Yes.

Mr. Maharaj: Okay. We will go ahead with that.

Question put and agreed to.

Clause 10, as amended, ordered to stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I wonder whether I could suggest that we suspend the committee stage, do the Patents (Amdt.) Bill which is a very short Bill and come back to do this.

Sen. Daly: It is lunch time.

Sen. Mark: Agreement.

Sen. Daly: Sen. Prof. Spence, you agreed to that?

Sen. Mark: In your absence, Sir.

Mr. Chairman: Hon. Senators, the question is that we suspend committee stage of this Bill until a later stage of the proceedings.

Question put and agreed to.

Senate resumed.

PATENTS (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 Patents Act be now read a second time.

The aim of the Bill which is before the Senate is to amend the Patents Act, 1996 which was passed in 1996 and proclaimed on December 1, 1997. With the proclamation of this Act, the old Act, namely the Patents and Designs Act, Chap. 82:83, ceased to exist. Under the old Act, the provision was made for the registration of three types of patents for invention.

The first type was a patent under international conventions granted to applicants who had filed applications in another country which was party to the Paris Convention. The application had to be made within one year of filing in the foreign country and the patent was granted in Trinidad and Tobago regardless of whether the patent was granted in a foreign country. The period of protection in Trinidad and Tobago was 14 years from the date of filing in the foreign country.

The second type of patent was a confirmed United Kingdom patent which was a patent which had been granted in the United Kingdom and had been re-registered or confirmed in Trinidad and Tobago within three years of grant in the United Kingdom. The term of this patent coincided with that of the parent patent of the United Kingdom and would continue in force only as long as the patent remained in force in the United Kingdom.

The third type of patent was a local patent and the term of protection was for 14 years from the date of filing in Trinidad and Tobago.

The old Act catered for a simple registration system and patents were granted without search and examination once they fulfilled the documentary requirements of the law. With the entry into force of the Patents Act of 1996, the new law, the simple registration system was changed to a full search and examination system and worldwide novelty was now one of the criteria required for the grant of a patent. Worldwide novelty meant that the inventor of the invention which was the subject of the patent or patent application would have to satisfy the local patent office that the invention was not known, obvious to or anticipated or used by any other applicant for a patent anywhere else in the world.

Mr. President, under section 91(1) of the Patents Act, 1996, while all three types of patents were expressly repealed, local and international convention patents were reintroduced or saved, thus international convention patents can still be filed within one year of filing in the foreign country. Local patents can also still be filed but would now be subject of a full search and examination and would have to satisfy the criterion of novelty.

By contrast, however, confirmed United Kingdom patents can no longer be filed since section 91(1) of the Patents Act of 1996 merely repealed Part 1 of the old Act, thereby repealing those sections, sections 15 to 19 of the old Act which dealt with the United Kingdom patents and failed to make any new provision for such patents.

Section 91(1) of the Patents Act, 1996, reads as follows:

"Subject to the provisions of this section, Part 1 of the Patents and Designs Act (hereinafter referred to as 'the former Act') is repealed, and section 2 and Part IV thereof insofar as they relate to patents shall not apply."

Therefore, of the three types of patents mentioned in what I have just stated, the Patents Act of 1996 omitted to make provision in respect of one only, namely, confirmed United Kingdom patents. The consequence of that omission is that United Kingdom patentees and applicants seeking to have their United Kingdom patents re-registered or confirmed and, therefore, protected in Trinidad and Tobago, no longer have that right or benefit. Furthermore, they may have been effectively deprived of an alternative remedy or system of local protection. This omission was unfortunate, was an oversight and it is possible that it can be claimed they have a legitimate expectation to have this done.

Mr. President, what we have done, we have sought to overcome this error by presenting this amendment to Parliament and the Bill is very short, consisting of three clauses. Clauses 1 and 2 of the Bill are self-explanatory. Clause 3 of the Bill attempts to correct or cure the mischief or defect just explained. Thus, clause 3 of the Bill seeks to amend section 91 of the Patents Act, 1996, firstly, to reinstate the right to make applications for the re-registration or confirmation of the following United Kingdom patents and patent applications:

Patents granted within the three-year period immediately preceding December 1, 1997—that was the date of the proclamation of the Patents Act of 1996;

All the European patents which have been granted in or which designate the United Kingdom;

Three United Kingdom patent applications which have not yet been granted but which were still pending; and

The international applications which designate the United Kingdom and which are also pending.

Secondly, to get around the novelty hurdle—this novelty hurdle is cured by the requirement in the proposed subsection (7) that an application for re-registration or confirmation be treated as if the application had been made under the old or former Act but thereafter be treated as if made under the Patents Act of 1996. This would enable the applicant to utilize the simple registration system of filing and thus file only documentary evidence of the invention at the application stage and not have the application subjected to the full search and examination of the novelty criterion.

I know that this is very technical stuff. It can be considered to be very boring no matter how one tries to make it non-boring, but I have great pleasure in moving that this Bill be read a second time.

Question proposed.

Sen. Nafeesa Mohammed: Mr. President, it is the first time I have heard the hon. Attorney General refer to a bill or a piece of legislation as being boring. I find it very strange indeed, because if we were to go back to 1996 when the Patents Act was being debated here, we would remember his predecessor in the office of the Ministry of Legal Affairs at the time was very excited and enthused by the passage of the whole package of intellectual property legislation. We remember when the then Minister of Legal Affairs, Kamla Persad-Bissessar, was

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jetting off frequently to Geneva and other parts of the world, taking credit for enacting legislation which was deemed to be model legislation in the Caribbean and taking praise and credit for work for which, really and truly, we in the People's National Movement should be given credit. Because for several years before the enactment of that Patents Act in 1996, it was the PNM that had started the groundwork to bring this legislation.

I say that, because when this package of intellectual property legislation was brought here, there were several pieces. There was the Copyright Act on which we had some extensive debate, then we went on to the Patents Act and I agree it is very technical legislation indeed. It is no wonder that today the Attorney General acknowledges that it was an omission made then in terms of that Bill that was enacted in 1996 because there was a certain measure of haste at that time. I remember that was when we were in the cubby hole, and in the tea room the roof was leaking at the time and for some other reason, we were forced to meet in the Members' lounge at the time as the Senate Chamber, but we did not mind. We got on with the business of the people at the time and so it was that the Patents Bill was passed in the Parliament and, eventually, became law.

Mr. President, since that time when this package was brought before the Parliament, we had raised certain concerns and I would certainly appreciate if the hon. Attorney General in his winding up would be able to give us a little update on some of the concerns raised then in terms of the new registry that was established then to deal with this whole package of intellectual property legislation of which the Patents Act formed an integral part.

We know that at that time the registry was located where the Companies Registry was located at the Singer Building on Frederick Street in Port of Spain. We know, too, that sometime ago, that particular registry was relocated to the infamous Huggins Building, where we know there is a vault that is supposed to be constructed and we would not get into the details now of that registry, the vault and where things stand with those. In terms of the relocation of that Intellectual Property Registry—I hope I am using the correct description for the registry—I am concerned to find out, in terms of the computerization of that registry, for example, to what extent they were able to bring it up-to-date and in line with the new requirements under the Patents Act of 1996.

12.50 p.m.

We had expressed concerns too, at that time, about the level of training of the staff that is required to operate the registry. I am sure some advances would have been made. Just for purposes of updating us on the status of things at that registry, we certainly would like to know how far things have gotten. This whole package of intellectual property legislation: the thrust then was in keeping with our policy direction of making Trinidad and Tobago the business and financial capital, not just of the Caribbean region but, certainly, of Latin America and the thrust we had then was in terms of improving our trade relations with other countries in the hemisphere.

I have not been hearing this Government talking about this kind of focus. I remember in those days, for example, Trinidad and Tobago was chosen as the headquarters for the Association of Caribbean States (ACS) building. What is happening with that? We are now hearing about a waterfront project but we had a certain vision in keeping with our foreign-relations thrust and in terms of improving our trade relations. This was the impetus for improving our laws as it related to intellectual property. So it was from way back in the 1990s.

I recall when technical people attached to the Ministry of Legal Affairs and the Office of the Attorney General were being trained. They were involved in this whole process of coming up with the correct, legal framework to have an efficient intellectual property registry system operating in our country, because we are moving towards improving our trade relations with other countries in the world. This is why I am asking the question now: since that time to now, how have things been progressing at that registry in terms of staffing. I feel certain that some improvements have been made. They were able to get the correct level of trained staff; the computer system is up-to-date to deal with the applications that would be forthcoming. It is from a practical point that I am asking the hon. Attorney General to give us a little update on what is happening. I know recently he has been caught up with the whole registration of births and what have you, and certain things seem to be exciting him. *[Laughter]* I wish this aspect of legal affairs would cause him to be as excited as other aspects of the law so that we would know that progress is being made.

I have not personally visited the Intellectual Property Registry. Since it has been relocated, I have been to the Companies Registry but I am hoping that the facilities have, in fact, improved. I know one of the concerns had been, for

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example, a simple thing like seating accommodation in the building; that has been an issue. I am hoping that we would be able to get a better idea of what is happening.

Mr. President, by and large, in terms of the proposed amendment before us today, we on this side have no real difficulties with the attempt at rectifying the omission that the hon. Attorney General acknowledged existed since the passage of the 1996 Act and, certainly, we would support the Bill that is before us.

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

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. President, I think I would be correct to say I do not have anything to reply to. *[Laughter]* Inasmuch as the hon. Senator has raised some inaccuracies, I think it is my duty just to put, very briefly, on record that she misconceived certain matters.

Firstly, when the last administration undertook a bilateral agreement with the United States of America to put a framework into place for intellectual property laws and machinery, all that it did was sign the agreement and access part of the loan but did nothing else. As a matter of fact, the records will reflect that the PNM administration did not do anything. As a matter of fact, when this administration took office, with the assistance of an *ad hoc* committee, the Law Commission prepared the legislation. That is a fact! No amount of “gallery” in this Senate could change it. That is a fact! *[Desk thumping]* Mr. President, I think if the hon. Senator is making a statement she should verify her facts. I can understand why she probably does not have time to read what happens in this Parliament: she was preoccupied with getting a seat. Now, probably, she would take time to read.

Mr. President, there was laid in this Parliament a report on the Intellectual Property Office; by statute it was laid, and every year it is laid. The parliamentary record will show that. All the questions she has asked to be answered with respect to what has happened with the Intellectual Property Office are in those reports. I will just briefly say that the Intellectual Property Office is manned at the head by three persons who have received international recognition. They are Miss Mazina Kadir, Miss Omed Joseph and Mr. Malcolm John Spence: persons who have been considered by the international community to have excelled in the world, the region and the Caribbean. Trinidad and Tobago has taken the lead. *[Desk thumping]* The Intellectual Property Office with respect to technology and automation has made strides. If I come here today and say that this amendment is very boring, I do not see what that has to do with the fact that strides have been

made with respect to the Intellectual Property Office. You cannot get away from the fact that intellectual property laws are considered by lawyers and parliamentarians to be boring. The fact that they are boring does not mean that they do not have to be done and are not important.

Mr. President, I recall the last time when I introduced some amendment measures, some Members on the other side said “This is a very boring topic.” But they are very important for the world. I do not understand why it is that we had all this debate from the Senator in respect of this matter. Mr. President, I know it is election time and there is no turning back. *[Laughter]*

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

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

1.00 p.m.

Clauses 1 to 3 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.

BAILIFFS BILL

The committee of the whole Senate resumed its deliberations on the Bill.

[Chairman: Sen. Ramdial]

Clause 5 reintroduced.

Mr. Maharaj: Mr. Chairman, I will read it out very slowly. I am very sorry, but because of the time factor it could not be typed out and circulated.

Mr. Chairman, I beg to move that clause 5 be amended as follows:

5 “Insert after the words “as a” the word “public service bailiff”.

Insert a new sub-paragraph (d) in subclause (3)

“In the case of a person who is not a public service bailiff, has passed a written examination which would be conducted by the ministry,”

Sen. Prof. Ramchand: Mr. Chairman, I had written something as an alternative to “has passed a written examination...” which says:

“Has satisfied the examination and other requirements set out in the handbook for bailiffs issued by the Ministry of the Attorney General.”

Because he might want an interview in addition to the examination.

Mr. Maharaj: We do not really have to put the word “handbook”. We could improve it a bit and say:

“...has passed the written examination and an interview conducted by the Ministry.”

Mr. Chairman: Hon. Senators, the proposed amendment to clause 5 at 5(1)(a) reads as follows:

“Insert the words ‘public service’ just before the word ‘bailiff’.

At clause 5(3) add subclause (d) to read:

“In the case of a person who is not a public service bailiff has passed a written examination and an interview which would be conducted by the ministry.”

At subclause (5), line 3.

“Delete the word ‘two’ and substitute the word ‘all’.”

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Clause 14 reintroduced.

Mr. Maharaj: Mr. Chairman, may I read it first and then we can determine.

Delete the opening umbrella clause—

Mr. Chairman: From the word “Every” to the word “designed”?

Mr. Maharaj: Yes, and insert the following:

“A bailiff, other than a public service bailiff, before being licensed under this Act, shall attend a training programme organized by the ministry designed to—”

And then (a), (b), and (c).

We want to add a new subclause (2) and renumber subclauses (2) and (3) as (3) and (4) and the new subclause (2) would read:

“The Ministry shall organize and conduct training programmes for all bailiffs at least once every year, which all bailiffs shall attend.”

1.15 p.m.

Mr. Chairman: Hon. Members, the question is that clause 14 be amended as follows:

“Delete the first four lines of subclause (1) and substitute therefor:

‘A bailiff other than a public service bailiff, before being licensed under this Act shall attend a training programme organized by the Ministry designed.’

Add new (2) and renumber subsequent clauses 3 and 4.

“The Ministry shall organize and conduct training programmes for all bailiffs at least once every year, which all bailiffs shall attend.”

Mr. Maharaj: Mr. Chairman, may I mention to hon. Senators that the regulations will contain more particulars.

Question put and agreed to.

Clause 14, as amended, ordered to stand part of the Bill.

Schedule ordered to stand part of the Bill.

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

Senate resumed.

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

Mr. President: Hon. Senators, we will suspend for lunch at this stage and the sitting will resume at 2.30 p.m.w

1.20 p.m.: *Sitting suspended.*

2.30 p.m.: *Sitting resumed.*

TOURISM DEVELOPMENT (MISCELLANEOUS PROVISIONS) BILL

Order for second reading read.

The Minister of Tourism (Dr. The Hon. Adesh Nanan): Mr. President, I beg to move,

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That a Bill to amend various Acts be now read a second time.

Mr. President, governments around the world are recognizing that tourism is an export industry that generates foreign exchange, creates jobs and encourages economic development. Named the world's largest and fastest growing industry, tourism is moving rapidly into the mainstream of economic development tools that governments are seeking to reduce their countries' reliance on traditional industries.

Mr. President, the Tourism Development Act, No. 9 of 2000, was assented to on June 1, 2000. Section 1(2) provides that:

“This Act shall come into operation on such date as the President may appoint by Proclamation.”

However, a prerequisite is that certain consequential amendments to other legislation should be made. Senators are reminded that upon proclamation of the Tourism Development Act, the existing Hotel Development Act will be repealed.

This Bill incorporates amendments to certain acts as follows: the Income Tax Act and Miscellaneous Taxes Act. Amendments are to be effected to the Income Tax Act, Chap. 75:01; the Miscellaneous Taxes Act, Chap. 77:01, such that references to the Hotel Development Act are replaced by the words “Tourism Development Act, 2000”; and the Corporation Tax Act.

In light of the fact that the Tourism Development Act provides tax concessions for an approved tourism project and not only to an approved hotel as pertains under the existing Hotel Development Act, the Corporation Tax Act, Chap. 75:02, must provide for exemption from taxes of gains and profits from an approved tourism project.

The Stamp Duty Act and Tourism Development Act. Section 6 of the Tourism Development Act, 2000, has introduced a new tax called a tourism project transfer tax which is intended to serve as a penalty to entrepreneurs who are found to contravene the conditions governing the approval of tourism incentives granted under the Tourism Development Act. The tourism project transfer tax would be payable by the vendor and the intention is that where such a tax is imposed, there would be a waiver of stamp duty normally paid by the purchaser of a property in respect of conveyance or sale under the Stamp Duty Act.

In order to give effect to this new provision, an amendment must be made to the Stamp Duty Act, Chap. 76:01, to exempt from the payment of stamp duty instruments made for the purposes of, or in connection with, the transfer of a

tourism project referred to in section 6 of the Tourism Development Act. In addition, a subsection needs to be included at section 6 of the Tourism Development Act to make it clear that where a tourism project transfer tax is paid, stamp duty will be waived.

These are simply amendments to the various Acts which are required to facilitate the proclamation of the Tourism Development Act. The other requirement for the proclamation of the Act is the finalization of regulations to the Act and, in this regard, regulations have been drafted for eventual approval by the President of the Republic of Trinidad and Tobago.

Mr. President, I beg to move.

Question proposed.

Sen. Eudine Job: Mr. President, I am indeed happy to hear the hon. Minister indicate that tourism development globally is very important to economies, therefore, I would propose that this hotel Bill is nothing but a modification of the old Hotel Development Act and is not a Tourism Development Act. [*Desk thumping*]

Mr. President, when that Tourism Development Act comes into being, we would expect a shift in paradigm for tourism development in Trinidad and Tobago. However, this just indicates that the Government really does not have a clue as to what tourism development involves.

When we talk about tourism development, we have to look at various aspects. Firstly, we must look at the institutions that govern tourism development and if we look at what obtains right now, there is absolutely no cordial relationship existing between the institution, that is the Tobago House of Assembly, and the institution that governs tourism in Trinidad, that is, Tidco.

Prior to 1986, the Department of Tourism was just a bureau existing under the Tourism Development Authority. However, that changed with the coming into being of the Tobago House of Assembly Act and some autonomy being granted to the Tobago House of Assembly to develop tourism. The responsibility that should have been handed over to the Tobago House of Assembly never came with the authority, therefore, what in fact happened was that Tidco established a counter, or a parallel office, in Tobago, which, to my mind and the minds of others, discharged the same functions that the Department of Tourism should have carried out. I would like to know how long the Government can sustain those parallel organizations in one island.

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Apart from the relationships between the key institutions, I want to quote what the World Tourism Organization said about tourism development. I am quoting, Sir, with your permission, from a document called *tedQual*, volume No. 2 where it says:

“...tourism is an activity which implies a great deal of cooperation between the public and private sectors, and it is this type of framework that encourages the success of tourism and its efficient contribution to social development.”

I would like to propose that the critical partners within the industry do not have that kind of cohesion and collaboration that would make tourism a success in our country. We are coming too far behind to be making the kinds of mistakes that our other partners have made throughout the region, that they are now trying to correct and we are not doing anything about it.

This Act should have given some indication of how tourism should be developed, not how much incentives we should give to investors. On the question of incentives, I would like this honourable Senate to know that our research has shown that by giving seven-year tax holidays and so forth, we have not learnt from our mistakes of the past because we did that already. It did not work. After the 10 years that used to be given to the investors, they would leave the property there and go to construct something somewhere else. It has happened in Tobago over the years. We still have not learnt, so we are still giving them the tax holidays. We are still giving away the exemptions and everything else so, in effect, we are probably throwing out the baby with the bath water.

What we have researched in tourism is that we need to customize the incentives given to investors because we know that when somebody wants to invest in a country, these incentives are like the icing on the cake. They do not sway them one way or the other. The decision to invest would have already been made given the political climate of that country and given the stability of the country, and I am happy to say that our country is stable, probably economically and politically. That would have been the primary reason for wanting to invest in our country.

I just say here that in Germany, the word on the street is, “Come to Tobago and invest. That is the place to invest.” Why? Because we have everything, or mostly everything that is needed in a tourism industry. I am sitting in my tourism office and up comes this gentleman who just came off a plane and says to me, “I want to invest in Tobago.” So, I ask, “What do you want to invest in?” He says, “I

do not know. I just want to invest.” I ask, “Where did you come from?” “Germany. Word on the street is, come here; come and invest.” But, Mr. President, they want to come here, therefore, we have to deal with them on a one-on-one basis because we have the upper hand and we have to let them know that.

If we are serious about tourism development, we are not just constructing hotels and we are not just giving away incentives, we are looking at the manpower of a country. I read in the newspapers sometime aback where one of our hon. Members indicated that the Hilton has to import labour simply because in Trinidad and Tobago we do not have the quality of labour that is needed in the industry. It may be true. But what I ask is: How long ago did we know that the Hilton was going to be constructed in Tobago? Where was the forward planning? Is this Government serious about really getting the benefits from tourism? That is encouraging leakage. When you import labour, your money goes right back out. Those are the things we need to address when we talk about tourism development. This is not hotel development and modifying the Hotel Development Act.

Mr. President, when we negotiate with our investors, like I said before, we negotiate from a position of strength and when we talk about training, Hilton is supposed to know if they are coming here to build a property, we want them to train our people so that after we give them the 10-year tax holiday or the seven-year tax holiday, when they leave here, they would leave a cadre of trained human resource that could be utilized in our country, not just come in, put down the hotel, take your things and go. They must leave some tangible benefit that is going to benefit Tobago, in particular, and Trinidad.

One of the critical areas of tourism development is transport, both by air and by sea, and as much as I respect—I am sorry the hon. Senator is not here but I see his junior Minister here—the hon. Senator, I think that they should probably do the honourable thing and resign over this ferry fiasco, because you cannot be punishing one part of a twin island state like that and then making excuses. There are no excuses whatsoever for this ferry fiasco that happened recently.

2.45 p.m.

If we are talking about tourism, we are talking about access by air and sea. The domestic tourism industry has suffered tremendously over the past couple weeks. During the month of August is when we see most of our departures from Trinidad to Tobago: that is when Tobago benefits most from the domestic tourist industry.

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Do not talk about the airport. Our newly-appointed Chairman of TIDCO never knew—Centre of Excellence 5,000 here, 5,000 there—*[Interruption]*

Sen. Daly: Where is your wallet?

Sen. E. Job: —that there was so much horrors to get to Tobago from Trinidad. Visitors complain all the time. They say: “We are not coming there because we have to go through Piarco and when we do that, we cannot get to Tobago. If we arrive five minutes late, the aircraft is gone and we have to sleep at the airport.”

Mr. President, two nights ago I was there to meet some people coming from Tobago and there was this whole family sleeping in Piarco International Airport because the last flight had gone. These are the things we need to address when we are talking about tourism development, not constructing hotels and giving away everything.

Another issue that we need to look at in tourism development is infrastructure. I do not know if the hon. Minister has been to Tobago recently, but he would have observed that our roads are in a horrible state. You cannot invite people to go there. The roads are horrible, the sewer system is non-existent, our communication system by air and sea is almost non-existent and he is telling me about arrivals increasing.

I heard the hon. Minister of Finance say yesterday that 39 new hotels were constructed. I would like to know where. I am not seeing them. Maybe he is mistaking the bed and breakfast properties for hotels, I do not know. I am not seeing any hotels—maybe they are here in Trinidad, I do not know. My colleagues may be able to give me some more information on that.

While we are on the question of infrastructure, I want us to understand in this honourable House that when we are looking at tourism development we must look at tourism development as a system that integrates all other sectors: a system that emanates from a national vision. Given the track-record of this Government, they are so accustomed to implementing a piece of this and a piece of that, I do not even think that they understand what a whole, a circle or a system could look like.

When we talk about tourism, we talk about integrating it with agriculture, manufacturing; we talk about our services and, of course, we talk about our environment; because we have learnt that the environment is tourism’s resource and, because of that, we have to contribute to sustainable tourism development.

I was pleased to hear the hon. Minister in his budget indicate that there was going to be a Green Fund. I am not quite sure what it is to be used for. If, on one hand you are giving investors the authority or privilege to build hotels close to our marine system and, on the other hand, you are going to tell me about a Green Fund, I would want to understand what this Government really means when it talks about tourism development. We know when we talk about sustainable tourism development, we are talking about the present generation accessing our resources and ensuring that future generations would have access to these same resources. I hope the Minister takes into consideration that when he talks about the Green Fund he should also look at not destroying the environment unnecessarily, because the environment is tourism's resource.

Mr. President, when we look at Trinidad and Tobago—*[Interruption]*

Mr. President: Senator are you giving way?

Sen. C. John: Mr. President, I just want—for the sake of clarification in this Chamber—to make it known that my colleague on the other side indicated that there was no vision. I am surprised that statement came from her because she just came out of a tourism posting in Tobago.

Let me remind her that there is a Tourism Master Plan, which has been arrived at after widespread public consultations; both here and in Tobago. Matters of the environment, infrastructure and utilities are all contained in that document. She also alluded to the fact that there were 39 hotels, as the Minister of Finance indicated in his budget speech.

In his presentation, I think the Minister of Finance was referring to 39 hotel projects, and they do include guesthouses and bed and breakfast accommodation because they all form part of the hotel accommodation plan in the accommodation sector. It is 39 hotel projects. I am certain that he did not indicate 39 hotels. If that is the Senator's understanding, that is not the case. There are different projects. I just thought I would clarify that.

Sen. E. Job: Thank you, but I do not think I misunderstood the hon. Minister. As far as we know when we talk about accommodation, we talk about the different types of accommodation. If the Minister says 39 hotels, I am looking for 39 hotels not bed and breakfast or guesthouses but 39 hotels. *[Interruption]*

Mr. President, we are here on serious business, I am not going to politic and I am not going to engage in politicking because this is Tobago's development at stake. I am here to see about Tobago's business, not to engage in any bantering. *[Desk thumping]*

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As I was saying, when we look at the image of our country on the international arena, we have not had a very pleasant image within recent times. I think the hon. Minister knows that. Maybe they would have done some things to try to alleviate the crimes and so on that are being perpetrated against visitors. In doing so, their solution to that problem would have been more jails, more dogs and more guns.

Mr. President, there is a Private Members' Motion before this Senate that deals with education. I would like to inform the hon. Minister that education is the key: it is at the very heart of the development of our society. As a result of that, whatever we do in tourism must incorporate education and training. That Motion is a very vital one to this whole tourism development. I want to quote, again, from this Volume that I am reading, it is called *Tech Vol.* written by the World Tourism Organization. It says:

“...since tourism is becoming more complex and competitive and key variables such as technology, consumer tastes, the aspirations of professionals and the normative-administrative setting are evolving, a new mentality—a new paradigm—is emerging in tourism education.”

Mr. President, we have to look at all of these: not trying to debate whether one hotel or guesthouse is not a guesthouse or not. Let us look at what constitutes tourism development and let us focus on those issues if we are serious about tourism.

When the authority was given to Tobago to handle tourism development, the funding was not provided for Tobago to do any work at all with regard to tourism. Do you know what obtains now? TIDCO has to spend money to house its staff in Tobago, to conduct familiarization tours in Tobago for journalists coming to Tobago. We have a department of tourism staffed with persons who have qualified in tourism management; who have first-class honours in tourism management and who are just left there because TIDCO probably feels once one lives in Tobago, whatever one says or does, does not really matter.

2.55 p.m.

Mr. President, we are here to tell them that it does matter and that same master plan they spoke about indicated that the tourism development for Trinidad and Tobago must begin in Tobago, but that is not the case, that is not what we are seeing. So I do not know which part of the plan is being implemented right now.

Further to that, I would like the hon. Minister to tell me what has happened to the tourism policy that was being developed last year or some time ago. We heard about it, I have not seen the document, I do not know where it is, I do not know at what stage it is at, maybe the hon. Minister would be able to let us know.

The amendment is that this is not a Tourism Development Act, it is a modification of a Hotel Development Bill, so this amendment is to throw this Act outside because it really does not have any substance and it does not deal with tourism development at all. So the hon. Senators on the other side would have totally missed what tourism development is, and I am not going to argue with them Mr. President, because I did tourism development, I did not do social services and so forth so I am going to talk about what I know. [*Desk thumping*]

Mr. President, when we talk about tourism development we also talk about zoning. There is another motion in this House that deals with agricultural development and agricultural development also impacts on tourism development. You do not take prime land and just throw it away, as it were, in the name of tourism development, there must be some synergy in this whole system. In Malaysia and those countries that are now developing tourism, do you know what they have done? They have zoned their country. You do your tourism development here, you do your agriculture over there and that is how we know it. Not just put a hotel on the beachfront every two days. That does not happen anymore, we do not destroy the environment anymore. We do it with some sense.

Finally, I would like to touch again on tourism. The critical issue is when you develop tourism, it is supposed to benefit the nationals of a country, not expatriates, and it is not to fill somebody's pockets. If you are developing tourism at all and it does not benefit the nationals, then there is no sense doing it. In Tobago, we cannot see that happening because when you have to import labour from Barbados, Jamaica, Grenada, America or from wherever and Tobagonians are there and are not getting access to the types of jobs that are available in the industry, then something has to be wrong with this system.

Tobagonians are not being qualified to deal with what is happening on the ground and if you are developing tourism, you have a right to say this is where we are going people, and these are the areas that you need to get to study, and the Government is going to assist you in that regard. That is not being done.

Sen. C. John: Is there a hotel school in Tobago?

Sen. E. Job: You would know about that, the price is too high. It is \$3,500. You tell me which Tobagonian who does not even have a father at home could find \$3,500 to go to hotel school? How much is the Government putting towards that?

Sen. C. John: Mr. President, I think my colleague is probably misleading this Senate. If one did not know better, one would have thought that no sort of training and human resource development existed. There is a hotel school in Tobago, now the Senator is talking about the price. We could talk about the price, but do not give the impression that no type of training exists. We have a hotel school in place to develop the national resources so that we can address the expanding hotel sector. *[Desk thumping]*

Sen. E. Job: Mr. President, like I said, I am not going to debate that because if there is a hotel school in Tobago that Tobagonians cannot access, then there is no hotel school at all so it does not matter. There is a building, and this is what this Government is all about Mr. President, building buildings, it is not about educating people. How many schools they have constructed? It is not about people being educated at all, so what is my colleague talking about? The building is there, but how many people go? They cannot access it, \$3,500! The Senator just said recently, when he was asked why he went into politics, and may I quote, he said:

Mr. President: Get back to the Bill please.

Sen. E. Job: Yes, Sir. I hope that Sen. C. John would see in his good graces to probably sponsor a scholarship or two to that institution. We will welcome it.

Hon. Senator: Hand out.

Sen. C. John: I will tell the chairman of TIDCO.

Sen. E. Job: Thank you. Mr. President, finally, I am talking about this manpower development that is very critical to Tobagonians not being hewers of wood and drawers of water. They have to be able to access, to run those hotels that are being constructed in Tobago. If there are 39 hotels, we are supposed to have 39 managers from Tobago, not from all over the world, and if we are serious about tourism development, countries like the Bahamas that are serious but their foreign exchange leaks out about 85 cents to the dollar, it goes right back out into imports. We do not want to have a situation like that. We do not have a situation at all, but we want to have a situation where when we bring the tourist dollar, if there is any leakage at all, it is minimal. *[Interruption]*

Mr. President: Please proceed, Senator.

Sen. E. Job: Thank you for your protection, Sir. *[Laughter]*

Mr. President, before I take my seat I would like the hon. Minister to know that we really do not agree with the name change because it does not reflect the whole tourism development system, all it does is modify the Hotel Development Act, changes a couple things in it, and does not really factor in the serious elements of tourism development.

Thank you.

Sen. Prof. John Spence: Mr. President, I have no difficulty with the Bill because clearly it is to implement provisions that have already been passed, so I think we had to do that, but in the course of the debate so far, some points have arisen to which I would like to make reference.

We have had some difficulty in getting Government policy articulated. We did not get it in the case of education, we really did not get it in the case of science and technology, we have not yet had it in the case of agriculture, nor as far as I am aware have we had it in the case of tourism, but the hon. Minister Carlos John—has he gone?

Hon. Senator: No, he is here.

Sen. Brig. Theodore: He is moving up. *[Laughter]*

Sen. Prof. J. Spence: The hon. Minister has just told us that there is a tourism master plan. This is the first time as far as I can remember that we have been told that the tourism master plan is now adopted as Government's policy. Perhaps the Minister of Tourism in his winding up can confirm that is indeed the case, because if it is not, then his reference to it would seem to not carry much weight, but if it is, then I think this is extremely important. Remember that the tourism master plan was not available generally, until some of the Independent Senators forced that a copy be placed in the parliamentary library so, at least, it is now available and it seems now that this is Government's policy.

Mr. President, if that is the case then I think it is important and I would be grateful that we could get this determined before the end of this afternoon's debate, because if it is the case, I would certainly like to make some comments in the budget debate on the tourism master plan because I certainly believe that as far as Tobago is concerned, there are many aspects of that plan that are most inappropriate and are not in the best long-term interest of the people of Tobago.

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With reference to the hotels that are being built I have before me a copy of the hon. Minister of Finance's presentation in the other House and I would like to read it out because it may help to illuminate a point that was raised earlier.

Mr. President: Senator, you might be breaching the rule of anticipation, because that is not yet before—

Sen. Prof. J. Spence: He made the statement in the other place.

Mr. President: Yes, but it is not before the Senate, that is still to be debated here, so you will have ample opportunity then to make any reference to what he says and debate it then.

Sen. Prof. J. Spence: Thank you for your guidance. The reference has already been made to 39 hotel rooms, may I say that it is indeed the case that 39 hotels were referred to. Because it has already been referred to, I want to confirm that the statement was made that there were 39 hotels built and if one divides the 39 into the number of rooms, we come up with the figure—and take out the Hilton which has 250—we would come up with about 39 hotels, the majority of which were 30-room hotels. So clearly, there is some strange arithmetic there which the hon. Minister of Tourism could clarify for us.

Mr. President, I would be very grateful if we could have that clarified with respect to the tourism master plan and its adoption by Government as Government policy because if that is the case, then we have a concrete issue to discuss in the budget debate which is coming up. It is very difficult to get Government policy in a number of areas, but if this is indeed Government policy then I think we have something concrete to bite our teeth into.

Thank you, Sir.

Sen. Martin Daly: Mr. President, I must of course be guided by your ruling and the fact that the budget has seeped into this debate presents much temptation. I would simply say that any document, including this Bill that talks about six of this, seven of that, eight of the other reminds me of a partridge in a pear tree and I am reliably informed by one of my colleagues who is very learned in these matters that somewhat similarly to the documents that come before us that say 19 of this, 39 of that, seven of the other. We have: seven swans a-swimming, six geese a-laying, five golden rings, four calling birds and three French hens. I must say that the reference that has seeped into so many of this and so many of that is perhaps somewhat tempting, but we will leave it there, and we will return to the subject of a partridge in a pear tree in due course.

Mr. President, there is one aspect of this Bill that causes me to say a few words in this debate. There seems to be little doubt that when the Aliens Land Holding Act was amended to become the Foreign Investment Act, there was widespread abuse of those provisions in the Act that permitted foreigners to buy an acre of land for residential purposes without a licence. It seems little doubt that there was such widespread abuse and that seems to have led to three or four very disastrous consequences for Tobago. The first is that as one acre at a time was swallowed up by people who were trading in hard currency, the price of land in Tobago escalated. The second thing that happened was that we opened our doors in good faith but I am reliably informed by one of my colleagues that some of these residences in Tobago are actually advertised on the Internet to be used by tourists in their home countries.

3.10 p.m.

Thirdly, Mr. President, the question is that if one makes a purchase of land in any small country so readily available and attractive, over time, one changes the culture of a community. That is a very serious consequence. Those are three very serious consequences of what now appears to be, I am not sure if it was a mistake or lack of enforcement.

There are certainly provisions in the Foreign Investment Act that provide for forfeiture. The question is, if this abuse is so widespread, how come, not one single person who abused the provisions of the Foreign Investment Act has paid any form of penalty or suffered any sanction at the hands of the state of Trinidad and Tobago? I venture to suggest that, as I say repeatedly, we are not only not law enforcement efficient, but we—*[Cellular phone rings]*

Mr. President: I have repeatedly asked Members to switch off their phones when they come into the Chamber. I will not ask Members to find vibrators on this occasion, but I think we might have to move to that situation. *[Laughter]* Please switch off.

Sen. Shabazz: Sorry, Sir.

Sen. M. Daly: I must say however, Mr. President, that that had a distinctly ministerial ring about it. *[Laughter]* Either the caller is hallucinating, the receiver of the call is hallucinating or, of course, if it is foretelling coming events, Sen. Shabazz has quite clearly borrowed the phone. Anyway, let us get on with our business. *[Desk thumping]*

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Mr. President, I raise this question, and again, we have to come back to the partridge in a pear tree budget where we are talking about the failure of the Inland Revenue to enforce the laws, as the licensing office before was unable to enforce the laws relating to motor vehicles. We have a provision which we are approving today, in an amended form, which is open to tremendous abuse unless it is properly monitored by the tourism authorities, whoever they are, and indeed, there has been a certain amount of—I would not say upward mobility, but there has been a certain amount of mobility in the tourism authorities. Chairmen have come and gone and there has been a fair amount of mobility.

We are amending the provision today that provides for the payment of a tourism transfer tax which is calculated as a percentage of the value of the project. If someone either sells the project, which I am not so concerned about, because that would be obvious. That would be a matter of record, but that penalty is also designed to penalize someone who gets the benefits, the considerable benefits under this Act, but does not use the project in the manner for which it was approved.

I simply say—and use is my concern—and I sincerely hope there is some plan in place. I know it is a bad thing to ask about plan and policy, but I sincerely hope there is some very comprehensive plan to police projects in Tobago which get huge tax benefits under this Act and then are not used for that purpose.

If we have admissions, as we have had repeatedly, that the Inland Revenue is not making people comply sufficiently with VAT and the licensing office is not making people comply with the annual motor vehicle licence, so we have to get rid of it, I sincerely hope that we are not going to make a similar mistake here. We have a rigorous, carefully thought-out plan staffed by a dedicated knowledgeable group of people who will continually inspect these projects to see that they are being used in the manner that was presented when they gave the benefits.

I raise this, Mr. President, because I am considerably disheartened by the history of the Foreign Investment Act, particularly in Tobago. I would like some assurance from the Minister, not in general words, but I would like some specifics about what precisely will the tourism ministry have in place to monitor the use of these projects to see that they are used in compliance with the presentation that was made and for which they have got huge benefits.

I do not want to hear anything general. I want to hear something quite specific. Indeed, if such a capability does exist in the Ministry or is going to be put in place in the Ministry, I would like to have some assurance, however late in

the day, that some action will be taken where persons have bought one-acre properties, allegedly for residential purposes, and then hired them out. It really is a very serious question.

It really makes a laughing stock of us as a nation, and it makes a laughing stock of us as a government. May I say again, as a government of any stripe. I am not concerned about this Government, their predecessor, their successor, their roll over, their repeat. It makes a laughing stock of us if we pass legislation which is then abused contemptuously in our faces. It suggests to people that we are a banana republic and that if we can be so foolish in the way in which we give tourism concessions, then we can be equally foolish in the way we give other concessions. I am really quite anxious to hear what is the plan to prevent these concessions being abused and to ensure that if they are abused, that this transfer tax is levied and made to be paid by the abuser.

I might point out, Mr. President, that when we look at the section which this Act is amending, there is a graduated scale. The longer one takes to move, the smaller the amount of the penalty, until at year eight there is no longer any penalty and one is free to sell or use. I think in years one and two it is 12 per cent. The longer one takes to move on this, the less the penalty the state will collect from the abuser.

Sen. C. John: Mr. President, I just rise once more to ease the uncertainty of my very good friend and to inform him and this honourable House that a monitoring mechanism is already in place. TIDCO is the body responsible for monitoring the matters raised by the hon. Senator.

Sen. M. Daly: I must congratulate my friend. He is indeed my very good friend. He has made four maiden speeches in the course of the last 15 minutes. *[Laughter]* *[Desk thumping]* May I say, rather like “I divorce thee. I divorce thee. I divorce thee,” “I congratulate thee. I congratulate thee. I congratulate thee” on your maiden speeches. *[Laughter]*

That is exactly what I am afraid of! That we are going to be told in general terms that TIDCO has a mechanism in place. Give me some particulars. I am quite sure a maiden speech from you today—since we were brought here from 10 o'clock for no good reason, and we have, by my calculations, six or seven more hours to fill according to the Wade Mark timetable, it would be a very welcome time for you to make a maiden speech and tell us precisely.

Sen. C. John: Mr. President, I am not going to fall for that bait. This matter before us is regards the amendment. If my friend wants to hear more of that, we will elaborate further during our response in the budget debate.

Sen. M. Daly: So we will not get any answer today. We are amending the Act today to ease up on the penalty and to make sure there is no double penalty. I understand that they have been taken by surprise and that they need a little time. At some stage, friendship has to play a part in whatever we do. *[Laughter]*

May I say, Sen. John, you might be more astute to look for bait in St. Joseph rather than in this House. *[Laughter]* Be that as it may, I just observe contemporary scenes, and really, there is a certain irony—do not start me on the damage that has been done to Mayaro. We need the whole Green Fund there. In fact there are winding roads that do not need to be widened, which tells me it is marginal, but do not start me on that topic. *[Laughter]*

I am just a humble observer, as you know, Sir, and I try to stay within the rules. I always try to look at the irony in legislation and there is something of an irony that we are discussing today, a tourism transfer tax, at a time when we have a number of tourists present in the House. *[Laughter]*

One Senator has been on a long and apparently arduous and somewhat unsuccessful tour of St. Augustine. Another Senator, if rumour is to be believed, is still on a tour of our old capital. I hope that in the course of that tour, he promised restoration rather than paving. *[Laughter]* I may disclose that the hon. Minister and I are neighbors in a certain constituency, and I will free him from any references to his uncertain tourism status. I think we can take it that Sen. Wade Mark is not travelling at all, therefore we cannot describe him as a tourist. *[Laughter]*

Mr. President: Can we move on, please?

Sen. M. Daly: Anyway, Mr. President, may I just say that I am very concerned about the monitoring mechanism and I look forward with interest to the response. We have made a note that we will be getting a response in the budget debate to this matter, so really, as much as I would like to explore the travels of some of the other members—perhaps some of those even closer to me—I will take the hint and simply say I am really concerned about this provision.

Thank you, Sir.

Sen. Dr. Eastlyn Mc Kenzie: Mr. President, it seems as though every time we discuss anything about tourism development, we Tobagonians fall into some sort of, I do not want to call it discord, in this place. I had no intention of saying

anything in this debate on this amendment, but it hurts sometimes when I realize that sometimes we seem insensitive to the position of those of us who live and want to live in Tobago.

When I look at the amendment, we want to exempt gains and profits of approved tourism projects in accordance with the order. You will remember, Mr. President, when we had the debate on this Tourism Development Bill, two of our very staunch supporters of the Government had to leave this Senate. When we deal with things like this, it stirs up a hurt in people like us who are genuine in what we say.

Sen. Daly brought a very important point. I remember, myself, bringing this point to the attention of the Government when we were discussing this Bill, how difficult it is to assess the gains and profits of people who have tourism projects in Tobago when they advertise abroad, are paid in foreign currency abroad, they have all-inclusive facilities and services paid for abroad. How in heaven's name are we in Trinidad and Tobago to assess the gains and profits from such transactions? We cannot do it.

They are advertising on the Internet. One pays for the trip. I will give an example. There was a time when at a certain hotel in Tobago, the advertisement was put up abroad. The people paid for an all-inclusive trip, they came down, they had all their things: transport, tour, and everything supplied by the hotel.

3.25 p.m.

There was a hitch. The aircraft was supposed to take the people back on a certain day at a certain time because, believe it, Mr. President, they fixed their schedule "as tight as old pliers". What happened? Because they could not fit into the time because the aircraft was late and another group would have had to sleep on the group that was there, they had to move them out and put them into other hotels. What happened? It was only then at the other hotel when they saw how much they were paying per night, they realized how they were ripped off because if the old hotel said okay, you pay, let us say \$700 per night, they realized that the hotel in which they were put—same class, same level—they were paying something like \$500 and they became aware that this hotel was ripping them off. How does Trinidad and Tobago know that unless one of those guests would have said so?

When we talk about tourism gains and profits and exempting them, we do not know what we are talking about. These all-inclusive projects and services that we have, we do not know. Sen. Daly mentioned, again, the people who use their so-

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called residences as guest houses, they pay abroad. They come down; they stay there and that is it. The money is paid into somebody's bank account in Germany, Italy or wherever it is. Do we have an embassy there monitoring who comes to Tobago and how much money they spend on what? We do not do that. We cannot do it and I say, again, that there should be something where, when these people are caught, they should be punished and that the privilege should be taken away. Just as how you cancel bailiffs; just as how you cancel everything else; cancel it. I will tell you why I am saying so.

Some months ago, there was bad weather in Tobago. The Assembly assisted a hotel in building a breakwater just to protect that hotel front. When it was announced that there was destruction and damage to a part of the hotel, the Assembly that helped financially to build the breakwater sent in its technical officer who was responsible for the project to go and see what was the damage. They turned him back and chased him away. You want to tell me that the Government's money, your money and my money, was spent to support these people who, as soon as we intervene to see what is wrong with how we spent our money, they chase us away and you tell me that we must give them exemptions in gains and profits without any sort of restriction or any sort of monitoring process where this privilege should be taken away.

When Sen. Job was talking, Senators were sort of not understanding when she spoke about the hotel school and the training. Many of the hotels in Tobago probably are the only people sponsoring students to the hotel school in Tobago. They cannot afford it. Some people cannot afford it. I think Sen. the Hon. Carlos John said they would talk more about it in the debate; I, too. [*Laughter*] I will bring the history of that project here so that people will understand that when we get up to talk, we do not talk because we want to talk. I am one of the persons here who hate to be irrelevant. I do not like to be irrelevant at all. I try to stick to the point, stick to the matter at hand and try not to bring anything irrelevant into what I have to contribute, but since we are going to hear about it, I will bring it, too.

I will do my research and tell you about it, tell you how many years it took before we even got equipment for the kitchen. I will tell you. Sometimes when we try to be reasonable and so forth, do not make us feel insulted. We come here genuinely to assist in the development of this whole country.

Sen. Job: Not to banter.

Sen. Dr. E. Mc Kenzie: I am happy when people from Trinidad come to Tobago and they are happy, because when I come here, I am treated very, very well. I want this to be a hallmark of the people of this country [*Desk thumping*] and when we come here and we say things, we are genuine. We do not want to put down anybody, but we are talking about issues that affect all of us.

Mr. President, I would recommend that the monitoring body spoken of by Sen. The Hon. Carlos John, will know that when it finds people in breach of the rules, just as how we give them the exemption, take away the exemption and charge them for all that they were doing wrong before. Let them pay it back. Then, we would be satisfied to know that they are not abusing a privilege that a developing country is giving for the development of a tourism industry.

Thank you very much, Mr. President.

Sen. Prof. Kenneth Ramchand: Mr. President, there are three areas where I feel the Tourism Development Act should be amended. I am not going into great detail about them because like everybody else, I am mentioning these points as a preview to some of the things I want to say in the budget debate.

In the first place, Mr. President, I have spoken several times in this Senate about the Foreign Investment Act and the abuse of the Foreign Investment Act. I have been told, first of all, that we are allowed to buy land in Germany and America, too, so why can they not buy land here? Which, to me, is nonsense. This is a small country. I have been told: Why are you worried about them buying the land? They cannot put it on their backs and carry it away. That, too, is rubbish and I intend to speak more about the Foreign Investment Act in relation to the development of Trinidad and Tobago and in relation to tourism in the budget debate.

The second thing is, at the recent parliamentary conference in the Bahamas, there was a discussion about a requirement, mainly by the US government that Caribbean countries clean up their offshore banking regulations, an interference in the sovereign rights of these countries to have offshore banking for their own benefits, *et cetera*. Two of the countries present at that conference made it very clear that they were very upset about this interference and about their inability to interfere with other people interfering with them, too, in the sense that these countries were organizing all-inclusive holidays to the Caribbean islands and they could not write to them to say, "Do not do that. You are interfering with our industry." Meanwhile, they can bully us and tell us to clean up our offshore banking because we are interfering with their collection of revenue in their own countries.

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Mr. President, I hope to bring up this matter about all-inclusive holidays being organized overseas where all the profits go overseas and very little comes to our islands. I intend to bring up that in relation to tourism. I would have thought that if they were coming with amendments, these would be two amendments that would be brought to us, an amendment to the Foreign Investment Act and some kind of legislation to deal with all-inclusive holidays.

The third notice I want to serve is—I have already brought it up in this Senate and nobody has tried to deny it. I do not have the figures but I will try to get the figures in time. I am pretty certain that at least 50 per cent of the tourist arrivals to Trinidad and Tobago are arrivals by people of Trinidad and Tobago returning home on holidays, or returning to visit their friends, and any legislation we make about tourism, should bear that in mind. These are tourists that you retain; these are tourists that you should encourage; these are tourists to contribute to the development of the country in the short term and in the long term. I would like to see something in our tourism legislation that would encourage these people and strengthen their bonds with us.

Those are three matters that I feel should be part of any reasonable amendment to our present Tourism Development Bill and I will certainly be bringing them up in the budget. Thank you.

Sen. Daly: Which Minister is replying?

The Minister of Tourism (Dr. The Hon. Adesh Nanan): Mr. President, I thank all hon. Senators who contributed to this particular debate. When debate on the Tourism Development Bill took place, many areas were discussed and we had duplication to some extent here today, but I would like to clarify a few issues raised by Sen. Job. Apparently, she is not familiar with the debate on the Tourism Development Act, 2000.

This particular Tourism Master Plan of 1995 was started by the previous administration. In the other place and also in the Senate, I gave that kind of statement and also the praise for the development of this Tourism Master Plan. This Tourism Master Plan, in fact, is what is driving this Tourism Development Act, 2000 and I am sure that the Senator, when she reads this Tourism Master Plan, will recognize that because of the 1995 report, there has to be modification with respect to modern-day development and programmes in the tourism sector.

Mr. President, I would not go into details with respect to the Tourism Master Plan because we are in the process, as I said before, of formulating a national tourism policy and strategic plan. I am sure hon. Senators will remember when I

said that, and that will deal with all the human resource requirements in terms of the tourism industry, bringing the communities together in terms of building the community scenario into the tourism plan—domestic tourism as well as the visitors coming into the country.

I could stand here and point out the developments over the last four and a half years in the tourism sector in terms of improving the infrastructure throughout Trinidad and Tobago. In fact, we are handing over a decompression chamber in Tobago this afternoon that is part of the Inter-American Development Bank's project, a loan, again, that was born out of this Tourism Master Plan.

The loan is coming to an end in September. It has been extended to September and, of course, the Tourism Master Plan also makes reference to a larger loan that was a short-term loan and a bigger loan in terms of tourism infrastructure and development.

The hon. Senator spoke about airlifts. We recognize the importance of airlifts. It is the lifeblood of any tourism industry and that is why we are building that four-finger airport to modernize tourism to improve, as the number of visitors we project in the next five years—a great influx of visitors—as we market the destination more appropriately. In fact, the Caribbean Tourism Organization has asked Trinidad and Tobago to increase its contribution to the marketing fund. It is moving from US \$60,000 to US \$90,000 in terms of our contribution. That is based on our access to the European Market. We are making that kind of input into the tourism sector in terms of putting the money into the marketing of the destination.

Not only are we putting the money into the marketing of the destination, I remember when I was speaking about marketing and marketing the destination, we heard that the yachting industry was born out of the hurricane season. At that time, I asked, "Was Mother Nature sleeping at that time?" I am sure the Senator will remember when I said that in the Senate. But, again, the yachting industry is part of the embryonic period of the tourism industry. We are fortunate. We are in an infancy stage when we look at our Caribbean neighbours in terms of planning so we can look at how their tourism industry has benefited and we can look at the pitfalls and not get into those areas.

3.40 p.m.

Mr. President, we are fortunate to be able to be eclectic in a sense in terms of harnessing the best that is out there as we build our tourism industry. Also, we are very strong on product development. We are setting international standards with

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respect to the tourism industry, so that we can be recognized internationally. The Hilton Hotel is a five-star hotel that will have international recognition. On September 01, there will be the opening of the Crowne Plaza Hotel and other upgraded hotels in terms of our industry. In terms of putting the plant and machinery into the tourism sector, we are doing that.

Somebody spoke about giving away the jewels of the country in terms of incentives. This particular tourism master plan makes reference to incentives. I do not know—the Senator mentioned certain islands—if she just read, took it off the Internet and came here this evening. I want to inform her that when we look at that tourism master plan and one is planning and putting a vision for a country, we have to look at how the other countries are moving, for example Barbados and the Bahamas.

In my opening contribution I talked about economic diversification. This Government is using the tourism industry as a pillar for diversification of the economy. All countries are moving towards tourism. For example, in Belfast one will see that places where bombings took place are now becoming tourist sites. All countries are looking towards the tourist industry in order to utilize that to facilitate the growth of their economy. We here are fortunate. We have natural resources which we are harnessing, but not in an *ad hoc* fashion: we are doing it in terms of sustainable development.

I spoke about the new website TIDCO developed—one million hits in one month. Somebody told me that was impossible but that was the record in terms of the carnival kind of impact—one million hits in one month. I was told that is a wrong figure, but I am still waiting for the Leader of the Opposition to come and tell me what was the figure.

Mr. President, we are utilizing modern technology to improve the tourism industry. The whole area of the Internet is being utilized by travel agents. We must get on that mainstream area, in terms of utilizing technology to improve our tourism industry. We are doing that with our modernized website that TIDCO has put up. We have seen the benefits. When I went around the mas' camps last year I was quite fascinated by the use of technology. Many of the mas' bands use the Internet. People are subscribing to mas' bands through the Internet. Almost 25—30 per cent of the market now is through the Internet. That is the kind of utilization of technology. That is why when we planned from 1995, we had to modernize a tourism master plan as we project a national tourism policy and strategic planning framework.

The Senator mentioned training. I have before me some information that I would like to share this evening in terms of tourism training. Training workshops were conducted for tourism staff in the following areas:

- quality service management;
- customer service;
- event management;
- environmental management;
- presentation skills and guiding techniques for taxi drivers; and
- service and excellence for customs and immigration officers.

Industry associations have also been instrumental in hosting seminars and presentations to strengthen the knowledge base of the private sector within the tourism industry. All stakeholders are getting the benefits. We recognize the importance of frontline personnel, that is why, recently we have had training courses in languages: we are teaching them to speak Italian. Recently we have had a request for the teaching of Italian because a number of Italian visitors are coming into the country and they have asked for Italian. They have even asked for Portuguese. We are facilitating that area in terms of making our frontline people: our human resource personnel more capable in terms of dealing with our visitors.

Mr. President, we heard here of—*[Interruption]*

Sen. Prof. Spence: Mr. President, just before the hon. Minister winds up, because he seems to be doing that, I am even more confused as to whether the tourism master plan is a policy document accepted by the Government or not. He mentions it frequently in his winding up but, at the same time, he said a policy is being developed—a little long in coming after five years in office, may I say. If the Minister could just clarify for me: is the tourism master plan a Government policy or not? That is one. Secondly, he mentioned the second loan, is that to come? That seems to be based on the tourism master plan. Does that mean one has to stick to the plan, irrespective of Government in order to get the second loan?

Dr. The Hon. A. Nanan: Mr. President, we discussed this at length, initially, in the debate. I just want to clarify for the hon. Senator Professor that we are in the process of a national tourism policy. The tourism master plan is a draft that is being utilized in formulation of the national policy and strategic plan framework. I do not know if that answers his question in terms of—but this particular tourism

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master plan also speaks to the short-term loan that was facilitated by the IBD and it also speaks of a long term loan in terms of the infrastructure. What has happened with the short-term plan in terms of implementation—it took a little time to get off the ground. As you know there are certain conditionalities that have to be met, right now we have extended it to September. There are a number of projects. There have been a number of studies. I am sure you are familiar with the feasibility study for the north coast, the carrying capacity of the water in Tobago, the marketing feasibility study and those kinds of projects. A number of studies were part of the loan.

We have also seen a number of community projects that have been part of the IDB loan. That has been a kind of catalyst as we move forward to promote the tourism industry. In answering his question, for a larger loan or a long term, the Professor is quite familiar in terms of negotiations for loans, it takes a while in terms of having an *aide memoir* ready. We can guarantee you that this tourism master plan will be part of any discussion that is taking place for any long term loan that is to come. I do not know if that answers his question.

That is the kind of projection. We are moving forward. I must admit here that, as the hon. Senator said, TIDCO would be the monitoring agency for all areas of this particular Bill in terms of the incentives that are being given. Regulations are being drafted for approval by the President in terms of facilitating the various forms for the interim approval. The way it was under the Hotel Development Act—it has to be modified for the Tourism Development Act 2000.

Mr. President, I just wanted to address one area in terms of leakages. I am sure you read the Bill. If you did not read the Bill it makes provision for three areas that are reserved for nationals. One of them is the destination marketing company which will facilitate people coming in, the transportation service, and the other one is the number of rooms in guesthouses from eight to under twenty-one. That was the area reserved for nationals. That is in the Bill.

Sen. Job: Thank you, Sir. I just want to say we are talking about leakages and the fact that nationals can benefit from the developments that you proposed, does not mean that would stem the flow of leakages from this country for tourism development. Leakages come from the amount of imports that are needed for tourism development. When we talk about imports we talk about labour, materials, food, every other thing. Thank you.

Dr. The Hon. A. Nanan: I thank the hon. Senator for making that suggestion. In the Bill, if you read—I am sure you read the Bill—the Bill makes provision for linkages for the agricultural sector, the construction sector and all the other sectors that will facilitate the tourism industry. I do not want to get into a budget debate but, certain statements were made in terms of the linkages. The Minister of Agriculture, Land and Marine Resources is very enthusiastic about providing the kind of requirement by the hotels for the industry.

3.50 p.m

There are certain areas in which we can get involved, in that we would like to maximize the national input in these hotels that are being built. I think I have summarized some of the concerns raised in this particular debate. The concerns that were raised, I think, had been already answered in the initial debate on the Tourism Development Act, 2000. As I said before, these are amendments before the Senate in terms of facilitation of the Tourism Development Act.

Mr. President, it is a privilege to be in the Senate again, and as the tourism industry takes off, I am sure that all Senators will be very happy in terms of the gross development. There would be a greater contribution to the GDP and we would be moving away from the petroleum sector as the dominant sector.

Mr. President, I beg to move.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

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

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ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I beg to move that the Senate do now adjourn to a date to be fixed.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 3.55 p.m.