

*Leave of Absence**Tuesday, October 3, 2000***SENATE***Tuesday, October 3, 2000*

The Senate met at 10.05 a.m.

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

Mr. Vice-President: Hon. Senators, I have granted leave of absence to Sen. Philip Marshall from sittings of the Senate for the period October 3 to October 6, 2000.

SENATOR'S APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson
President.

TO: MRS. NIRUPA OUDIT

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

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, in exercise of the power vested in me by section 40 (2) (c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, NIRUPA OUDIT, to be temporarily a member of the Senate, with effect from 3rd October, 2000 and continuing during the absence from Trinidad and Tobago of the said Senator Philip A.F. Marshall.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 2nd day of October, 2000.”

OATH OF ALLEGIANCE

Senator Nirupa Oudit took and subscribed the Oath of Allegiance as required by law.

ROOSEVELT “ROSIE” DOUGLAS**(CONDOLENCES)**

Mr. Vice-President: Hon. Senators, it is also with regret that I put on record our sympathy on the passing of the Prime Minister of Dominica, Hon. Roosevelt “Rosie” Douglas.

Prime Minister Douglas has been in public office in Dominica for some years. He was first elected to Parliament in Dominica in 1985 and served from 1985—1995. Since 1994, he has been the Leader of the Dominica Labour Party. During the years 1996—1999, he served in the Parliament as Leader of the Opposition, and from January 31, 2000, he had been the Prime Minister of the Commonwealth of Dominica.

We join with the citizenry in Dominica in mourning his loss. It is a loss not only to the State of Dominica, but also to the wider Caribbean and, therefore, it is with some regret that I ask you to rise—I will invite the tributes first and then we will rise and observe a minute’s silence on his passing.

The Minister of National Security: (Sen. Brig. The Hon. Joseph Theodore): Mr. Vice-President, on behalf of the Senators on this side, I wish to express our deep shock over the sudden passing of Prime Minister Douglas. Mr. Roosevelt Douglas, better known as “Rosie” Douglas, took over as Prime Minister after the January 31, 2000 general election. He was sworn in as the Prime Minister in February, after leading the Democratic Labour Party to its first victory since losing to the Dominican Freedom Party in 1980.

Prime Minister Douglas has spent most of his time, since assuming office, seeking ways of improving the investment opportunities and the general standard of life in Dominica. The reports we have, show that from his student days he was an ardent politician and has always sought the interest of the people of Dominica.

We, on this side, extend our condolences to members of his family and to the people of Dominica.

I thank you, Mr. Vice-President.

Sen. Mahadeo Jagmohan: Mr. Vice-President and Members of the Senate, the loss of a Prime Minister to a nation is, indeed, a great loss to the nation and

the family of that Prime Minister. To leave this world, at age 58, in a distinguished, prestigious, position as Prime Minister is, indeed, a very great loss. We, of the People's National Movement, mourn the loss of this great Caribbean son.

He was the fifth Prime Minister of Dominica and, from all reports and appearances, he was doing very well. We are aware that he had very turbulent times in Canada as a student with respect to his agitation for betterment for students, as well as his attempt to focus on the affairs of the people of the Caribbean. We believe he had a great deal more to offer and not being in a position to do so now it would be a fresh start for his successor.

Mr. Vice-President and Senators, we of the People's National Movement, express our heartfelt and very deep condolences to the people of Dominica and also to the people of the wider Caribbean, especially whose lives the late Prime Minister Roosevelt Douglas touched.

We express also our sympathies to his immediate and extended family. May his soul rest in peace.

Sen. Dr. Eastlyn McKenzie: Mr. Vice-President, on behalf of the Independent Benches I would like to add my quota. Although I did not know the hon. Prime Minister Roosevelt Douglas, personally, I have read of him and have listened to friends talk about him. I have read mostly of his activities in Montreal, Canada.

From his friends in Tobago, I have heard of his being from a very privileged background and his parents trying to get him out of Dominica because of the fact that he fought the cause of the underprivileged and the working class. His parents found that he was getting too involved in that type of activity, and they thought that sending him away to study would have moved him from that type of scene. Little did they know, Sir, that he had that type of blood in his veins, and wherever he went he tried to fight for justice.

His fight for justice got him into trouble in Montreal, because they were protesting the work of a professor who failed students who felt they were being discriminated against. That failing grade prevented many of them from getting into medical school, and they did not take it lightly. As you would probably remember, Mr. Vice-President, led by people like Belgrade, "Rosie" Douglas and so forth, these students did some work in the computer room that was not really intended for that type of work, and they got into trouble. "Rosie" Douglas never

Roosevelt "Rosie" Douglas (Condolences)
[SEN. DR. MC KENZIE]

Tuesday, October 3, 2000

stopped his fight for the underprivileged and the working class and those whom he thought were at the receiving end of injustice.

Today, Sir, we mourn the loss of a fighter of the poor. We are saddened by his untimely passing and we offer our condolences to his family, his relatives and the people of Dominica.

May his soul rest in peace.

Mr. Vice-President, Hon. Senators, I think it is only appropriate that we stand and observe a minute's silence on the passing of the Hon. "Rosie" Douglas.

The Senate stood.

10.20 a.m.

AGRICULTURAL SMALL HOLDINGS TENURE BILL

Bill to reform the law with respect to tenure and occupation of small holdings used for agricultural purposes by private and State-regulated bodies; to regulate the relationship between landlord and tenant in respect of such holdings, and for other related matters, read the first time. [*The Minister of Agriculture, Land and Marine Resources*]; read the first time.

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

Question put and agreed to.

REGISTRAR GENERAL (AMDT.) BILL

Bill to amend the Registrar General Act, Chap. 19:03 [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

REAL PROPERTY (AMDT.) BILL

Bill to amend the Real Property Ordinance Chap. 27 No. 11 [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

Law of Property (Amdt.) Bill

Tuesday, October 3, 2000

CONVEYANCING AND LAW OF PROPERTY (AMDT.) BILL

Bill to amend the Conveyancing and Law of Property Ordinance, [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

LAND ACQUISITION (AMDT.) BILL

Bill to amend the Land Acquisition Act, 1994 [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

STATE LANDS (AMDT.) BILL

Bill to amend the State Lands (Amendment) Act, Chap. 57:01. [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

REGISTRATION OF DEEDS (AMDT.) BILL

Bill to amend the Registration of Deeds Act, Chap. 19:06 [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

LEGAL PROFESSION (AMDT.) BILL

Bill to amend the Legal Profession (Act.) 1986 [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

PAPERS LAID

1. The Caribbean Court of Justice: The History and Analysis of the Debate [*The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore)*]
2. The Caribbean Court of Justice—Draft Instruments [*(Sen. Brig. The Hon. J. Theodore)*]

ARRANGEMENT OF BUSINESS

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): I seek leave of the House to deal with Motion No. 1 followed by Bill No. 1 then Motions Nos. 2, 3, and 4.

Agreed to.

SPECIAL SELECT COMMITTEE REPORT

**Summary Offences (Amdt.) Bill
Praedial Larceny (Amdt.) Bill
Adoption**

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. Vice President, I beg to move the following Motion standing in my name:

Be It Resolved that the Senate adopt the Report of the Special Select Committee appointed to consider and report on the Summary Offences (Amendment) Bill, 2000 and the Praedial Larceny Prevention (Amendment) Bill, 2000.

The Select Committee met on several occasions and the main issues that were of concern to the Members were the emphasis of punishment which was being placed on the purchaser rather than the person who was selling the goods. We will find, Mr. Vice-President, that among the amendments recommended, amendments were to place greater emphasis on the responsibility of those people who sell agricultural produce. This would include chickens, cattle and other farm animals.

During its consideration the Committee had advice from, not only the Ministry of Agriculture, Land and Marine Resources, but also the members of the Agricultural Society and the Police Administration Department. They all gave evidence and the Bill was considered clause by clause. There were written submissions and oral evidence, and the Committee identified the following key concerns.

Under the Summary Offences (Amdt.) Bill the Committee was concerned that the original Bill sought to remove the discretionary sentencing power of

magistrates. The Committee is of the opinion that magistrates should have some discretion in praedial larceny matters, and, therefore, recommends the reinstatement of such magisterial discretion.

The Committee concluded that the Summary Offences (Amdt.) Bill, 2000, the Praedial Larceny Prevention (Amdt.) Bill, 2000, both deal with the issue of praedial larceny, and it suggests that certain definitions be reflected in both Bills. For instance, the definition of agricultural produce, livestock, poultry and farm animals. The different Bills carry certain amendments and we felt that it would be simpler since the two Bills complement each other that the same definition should appear in both Bills.

The Committee noted, for instance, that “farm animals” was not defined in the legislation and also observed that in the original Bill the definition of “cattle” was limited and did not cover all categories of “farm animals.” Concerns were raised by the Committee that the offence of stealing livestock, which is very prevalent within recent times, was not deemed to be an offence in the original Bill. The Committee agreed that this is a serious crime and suggests that a new offence of stealing livestock be created in the legislation.

The Praedial Larceny Prevention (Amdt.) Bill expressed concern about the likely infringement of the constitutional rights and freedoms of ordinary citizens, since the Bill, in its original form, did not show a clear distinction between the rights and liabilities of the vendor and the purchaser. The Committee felt that the Bill focused disproportionately on the purchaser as opposed to the vendor.

Members of the Committee were also of the view that focus ought to be on the vendor, who, at times, must be accountable for documentation relating to his or her purchases and the sale of agricultural produce and livestock. Special emphasis should also be placed on the middle-man vendor who is found on the highways and by-ways. Members concluded that the Bill ought to re-apportion the rights and responsibilities of the vendor and purchaser and the Committee, in order to assist in this area, has identified three categories of vendor, based on the points of transaction. They are the producer, who could be the farmer; the wholesaler, who could be the farmer or somebody else who buys goods in bulk, and the retailer, or the customer or an ordinary customer. The Committee further suggests that the group of persons who buys with the intention of selling must be identified.

The original Bill focuses on purchasers and sellers of agricultural produce or livestock to the value of \$100 or more. However, the Committee noted that this approach is not very effective and, therefore, did not prevent the occurrence of

Special Select Committee
[SEN. BRIG. THE HON. J. THEODORE]

Tuesday, October 3, 2000

praedial larceny. The Committee is of the opinion that legislation should seek to target every person who sells, trades in, deals in, supplies or otherwise disposes of agricultural produce or livestock of a weight of 25 kilograms or more.

The Committee surmises that registration is critical to the success of the legislation, as it would reduce and control, to a great extent, the incidence of praedial larceny. It proposes the introduction of a compulsory system of registration for all persons or traders in agricultural produce or livestock of a weight of 25 kilograms. Vendors must be properly registered with the Ministry of Agriculture, Land and Marine Resources. This form of registration would serve as an alternative to the ongoing farmer registration exercise being conducted by the Ministry of Agriculture, Land and Marine Resources.

There are also features of the new registration system, which would include the compulsory system for all vendors, that each registered trader should be issued with a registration number by which he or she can be identified. Registered vendors would be required to display the registration certificate. A fee would be attached to the provision of a certificate, and failure to register and/or display the certificate of registration, be made an offence.

10.30 a.m.

Based on the examination of the Bill, the committee raised the following issues that related to or affected the producer: one, whether the producers—these are the farmers—would be treated in the same manner as vendors; whether producers who were already registered under the ongoing farmers' registration exercise would be deemed to have been registered under this Bill and what was the onus on the producer, who at times produces and delivers produce without actually effecting a sale at the time, the sale being subsequently made at a later date. This deals particularly, Mr. Vice-President, with people who deliver goods without selling the goods at the time. Goods could be on consignment and sold at a later date. So this category of producer was also identified.

It was decided that producers, farmers, should be treated differently from other vendors. However the producer must keep records of sale, delivery and/or disposal transaction. The committee suggests that clause 5 of the original Bill be amended to include, sale, delivery or disposal of. It further suggested that wholesalers and retailers must have documentation of acquisition. The penalty for not having documentation would be the same for all persons in breach of this legislation.

Clause 6 of the original Bill gives the enforcement authority the power to stop and charge an individual without having reasonable cause for suspicion, and also makes the failure to produce the memorandum of sale or delivery a strict liability offence in law. However, the committee is not in agreement with this and suggests that the law enforcement agency be given the authority to stop and examine without warrant, only where they suspect that the agricultural produce or livestock was unlawfully obtained.

The members of the committee agreed that agricultural produce and livestock are perishable goods and consequently do not make good forms of evidence since they cannot be stored for long periods. Taking this into consideration, the committee recommends that greater emphasis should be placed on photographic evidence. It is therefore proposing that photographic evidence be admissible as evidence to take account of the perishable nature of agricultural produce and livestock, but that a time limit of 72 hours be imposed as the time within which the photographs must be taken. The photographer must be a trained member of the praedial larceny squad and the photographer should be empowered to record the refusal of any one or more of the parties to sign the declaration.

The committee is of the view that the creation of the praedial larceny squad, this is within the police service, will assist greatly in law enforcement and the eventual reduction in the incidence of praedial larceny. It envisages that the squad will comprise a group of dedicated officers whose primary responsibility would be to enforce the praedial larceny legislation. The committee therefore recommends the creation of a praedial larceny squad. Members of the committee are of the opinion that the proposed one-month time frame given to magistrates to deal with praedial larceny matters should be removed from the Bill.

They were of the belief that such a discretion should remain with the magistrate because it may not be possible to have the matter heard within the given period. They felt that the one-month restriction on magistrates could work in favour of the perpetrators instead of against them when the date set for the hearing of the matter fell outside the one-month deadline. The committee recommend that the Summary Offences (Amdt.) Bill, 2000 and the Praedial Larceny (Amdt.) Bill, 2000 be accepted by the Senate subject to the amendments at Appendices 1 and 2. I thank you, Mr. Vice-President.

Question proposed.

Sen. Nafeesa Mohammed. [*Desk thumping*] Mr. Vice-President, I feel very privileged to just say a few words on this report that has just been presented on

Special Select Committee
[SEN. MOHAMMED]

Tuesday, October 3, 2000

the Summary Offences (Amdt.) Bill and the Praedial Larceny Prevention (Amdt.) Bill, 2000. When this debate took place in this Chamber, I think it was around early June 2000, regrettably I was not in the Chamber, but at that time I think the matter was referred to this special select committee of the Senate and my colleague, Sen. Danny Montano represented us on that particular committee. We are basically in support of the recommendations emanating from this report.

However, Mr. Vice-President, I would like to express just a couple of concerns because I think, at the end of the day, this issue of praedial larceny—I mean, we are all aware of the fact that in this country, particularly with respect to the agricultural sector, praedial larceny has been a problem for many, many years. It is a very serious problem that so many of our farmers confront on an almost daily basis, to the extent that some people have even stopped farming because of this ongoing problem involving praedial larceny. We all acknowledge that the biggest problem, really, is in terms of not just dealing with arresting people or finding the persons who steal produce from other people but, in terms of the enforcement of the laws that exist and, indeed, the new legislation that we are seeking to put in place, the biggest problem here would be in relation to the enforcement of these measures.

Basically, when one is dealing with praedial larceny one is dealing with people who steal, moreso, crops. After a farmer has toiled the land for many hours in the blazing hot sun and so forth, after nurturing his crops, when the time comes to reap these crops he would find that, in just a matter of hours, many thousands of dollars worth of produce could be stolen. One is dealing more or less with perishable products to a large extent and this really is the challenge with respect to the legislation.

I notice from the report that there will be a special squad set up and, in terms of using the produce as evidence, provisions are being made for the photographing of the exhibits, or whatever evidence is available. These are welcome measures because, over the years, this issue has been discussed. It is a matter about which I know for many years now farmers have made representations and we will support any measure that will seek to bring about some relief to these many farmers who are affected by this problem in our society.

Looking at the report, my colleague, Sen. Montano, sat in on the various committee meetings. I know the hon. Sen. Joe Theodore headed this particular committee and I have no doubt that a very concerted effort will be made to ensure that the necessary machinery is put in place. In fact, this would be my plea to the

hon. Minister this morning, that over the next few days and weeks, while he is still there in that position as Minister of National Security, that he makes a very determined effort to ensure that this kind of machinery is put in place to deal with this problem because it is a very serious problem.

We are dealing with farmers who farm land in the remotest parts of our country and access to even a police station or a telephone is a very big problem. It is a real problem. If one goes to the Sangre Grande, Biche or Icacos areas, or wherever it is, even in Manzanilla, there are many people who are there labouring and tilling the soil and it is a question of enforceability. Police officers for basic criminal activity in our community, we know the difficulties with which they are confronted in terms of mobility and being able to have working vehicles to reach the scene of a crime and so forth, far less to deal with those who are stealing crops.

There is very serious criminal activity taking place in our country—serious offences. We are dealing with murder and incidents of domestic violence, just to name a few, and we know that, notwithstanding the acquisition of new vehicles and so forth, in terms of the ability of the police service to deal with crime in an effective manner, we still continue to have problems and crime continues to be the number one problem in our society. We are riddled by it and as a country, as a nation, we really need to put our heads together in an effort to grapple with this problem of crime, and praedial larceny is just another form of criminal activity.

It affects so many people, very hard-working, innocent people, who are making a very significant contribution to the economy of our country. Just overnight they can be the victims of this unfortunate incident. The incidence of it is very high indeed in our society and we are very concerned about it. Certainly we on this side will support any measure that seeks to alleviate this very serious problem that affects our agricultural community particularly. Mr. Vice-President, I thank you. [*Desk thumping*]

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. Vice-President, I would like to thank Sen. Nafeesa Mohammed for her contribution. I think she identified the areas of concern where the Praedial Larceny Bill is concerned because as we saw, I think in just yesterday's newspaper, the Minister of Agriculture complained that the laws were not strong enough. But it is not the laws alone, Mr. Vice-President. There were problems where, over the years, the police tended to give priority to other matters and praedial larceny remained at the bottom of the list. The reaction time was bad and

Special Select Committee
[SEN. BRIG. THE HON. J. THEODORE]

Tuesday, October 3, 2000

the farmers really lost interest in the service and in the ability to protect them and their crops.

We recognized in the committee—and I would like to take this opportunity to thank all the members of the committee for the sterling contribution they all made and to Sen. Prof. John Spence for guiding us as to the experts who should be summoned to assist us in our deliberations. What we tried to do in the committee was to put the onus on the supplier and on the vendor to prove that these items were legitimately acquired and to take the onus off the purchaser because it meant, as the Act stood at the time, that somebody buying goods over a certain weight could be challenged by the police to produce a receipt and that seemed to be slightly unjust in that the person doing the purchasing may not have been the person who acquired the goods illegally, or who may be unable to account for the goods.

So the amendments seek, Mr. Vice-President, to put the emphasis on the enforcement, and this is identified in the formation of a police praedial larceny squad with trained officers and to include photography as an item in identifying these perishable items with the trained photographer being part of the squad. The reason for this, Mr. Vice-President, is that the police service has a trained photographer but he is not always available to attend to incidents such as these. So the squad will have, among its members, a trained photographer whose evidence will be acceptable in court, and the machinery is being put in place.

The other problem of vehicles is being dealt with because Cabinet approval has been granted for the lease of 22 vehicles for use by the praedial larceny squad. I must confess that one of the major problems in vehicles being assigned for particular duties is that, once they become part of the traffic branch, the officers are free to send them where they wish. In this case, the vehicles will be committed very much like the highway patrol or the E-999 to the function and they have been assigned already to various stations in Trinidad and Tobago. Vehicles are not let on the road. We know that the tenders procedure has been completed and I believe the vehicles have already been identified.

Sen. Mohammed: Mr. Vice-President, I thank the Senator for giving way. Can he give us an idea of how many vehicles or how many areas we are looking at? I am particularly concerned about the Barataria area and Aranguez.

10.45 a.m.

Mr. Vice-President, I do not have all the details with me now, but I know that the seven districts in Trinidad and the one in Tobago will have jeeps. There are 22

vehicles being leased for use by the Praedial Larceny Squad, and the strength of the squad is being improved. There would be, at least, one sergeant and six constables for each team of praedial larceny people. The intention is that they will not only sit in the station and await complaints, they will go out and familiarize themselves with the farmers and be able to render some assistance.

Sen. Mohammed: Quite apart from the vehicles and so forth, would there be an equal number of photographers in each sector?

Sen. Brig. The Hon. J. Theodore: Mr. Vice-President, we have left this for the administration to determine, but what we have insisted on in the law is that a trained photographer who is a member of the Praedial Larceny Squad be available, and within 72 hours take the necessary photographs. It may not mean that you need one at each station, that would be somewhat excessive, but it would mean that these photographers will not be used for other activities like taking photographs of murder scenes and things like that, where there are photographers within the police service designated to do that.

The vehicles will be in radio contact with each other, they will be in contact with the various stations, and these officers are to be trained. We know, according to what the Commissioner of Police has advised me, virtually every police officer has the authority to arrest somebody for praedial larceny. We do not go to the other extreme that only these officers will deal with praedial larceny matters, but these officers would be committed to address, particularly, praedial larceny matters, very much like community police.

You will notice that the police service now has dedicated groups of officers who are trained, and specialize in certain types of investigation, and this is the direction the Praedial Larceny Squad is taking. Right now there are three vehicles in the Praedial Larceny Squad, more off the road than on the road, and this is something of which the hon. Senator is quite aware. We are no longer pretending that there is a Praedial Larceny Squad in name, but there will actually be one that will be functioning. The officers have been identified.

I am sorry I did not bring the details today, but I can give the assurance that the number of officers required is available. Because of the transfer of a number of Special Reserve Police to the full-time police service, it has given us the additional manpower without creating a shortage, as was the case in the past when the 999 and the highway patrol were created. The numbers are available, except that the approval we got from Cabinet to recruit 700 persons has led to only 150 being recruited now. Of course, this would have to take place during the course of

Special Select Committee
[SEN. BRIG. THE HON. J. THEODORE]

Tuesday, October 3, 2000

2001, but the Praedial Larceny Squad, I anticipate, will be officially launched before the end of this month, and it is planned to do it in the Sangre Grande area. At that time we will be able to give complete details of where all the vehicles are, how many officers are involved and how they can be contacted.

Mr. President, I beg to move.

Question put and agreed to.

Report adopted.

Mr. Vice-President: Having adopted the reports, it leaves me to now put the question individually on the two Bills.

SUMMARY OFFENCES (AMDT.) BILL

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

Bill accordingly read the third time and passed.

PRAEDIAL LARCENY PREVENTION (AMDT.) BILL

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

Bill accordingly read the third time and passed.

JUSTICE PROTECTION BILL

Order for second reading read.

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): I beg to move,

That the Justice Protection Bill 2000, be now read a second time.

The fundamental objectives of this Bill is to provide for the protection of witnesses, jurors, legal and judicial officers, law enforcement personnel and their associates in the face of the threat of their intimidation and elimination.

At the 17th Caricom Heads of Government meeting in 1996, there was a recognition of the need to highlight justice and security as major areas which require the combined and concerted efforts of the Caricom region. In particular, a criminal justice programme was outlined in order to meet the rising threat to criminal justice systems in the region in the form of intimidation and elimination of witnesses, jurors, judicial and law enforcement personnel and their families.

The Trinidad and Tobago delegation raised the issue of what was known at the time as witness protection at a meeting in Barbados, and this issue was put to

the heads who agreed that a regional programme would be in the interest of justice in the region. At the 18th meeting of the Conference of Heads of Government they considered the recommendation of a panel of experts and mandated the Standing Committee of Ministers responsible for legal affairs of the Caribbean Community, in consultation with the relevant national security agencies, to examine the recommendations of the panel of experts and proceed with their implementation. Among these were recommendations for the protection of witnesses and the inclusion of all major players.

When this Justice Committee met—and this committee is made up of the Attorneys General of the Caricom nations—it was decided that they should broaden the scope of the programme. It was also recommended that the concept of protection was just as applicable in civil matters as it was in criminal matters. The Legal Affairs Committee agreed to the engagement of a consultant to draft an inter-governmental agreement. What the agreement sought to do was to identify elements of a regional justice protection programme and establish procedures and mechanisms to facilitate the relocation of protectees to other countries, including guidelines for the establishment of national justice protection programmes.

We found that in Trinidad and Tobago trying to develop a justice protection programme on our own would have been impractical. We recognized that arrangements had been put in place by the previous People's National Movement administration. This was as a consequence of the arrest of a known criminal element and the identification of state witnesses. The last administration was forced into a situation where they were required to provide some form of protection for these witnesses to give them the safety and comfort they needed while awaiting the trial in which they were to give evidence.

Of course, the problem that came about was: where does one keep such people in a small country such as this? We also found that when our administration came in and we followed through on the arrangements, we found that the intention was to try and formalize the arrangements. You would appreciate, Mr. Vice-President, that it has already taken three years before we could get down to legislation which would make the Justice Protection Programme something that would become part of our statute books, and this is where the problem emanated.

We spoke to other territories and we recognized that even if we had to send a witness to another territory in the Caribbean, we had no guarantee that what they had in place would provide the protection we needed, so a regional programme carried more weight. We were offered assistance from the United States in the

*Justice Protection Bill**Tuesday, October 3, 2000*

[SEN. BRIG. THE HON. J. THEODORE]

form of consultation on how a programme should be developed, what would be the major components of the programme, and what would be the responsibility of the state and the responsibility of the witness.

At that time, when we came into office, the main concern was protecting the witness, and what we found was that a lot of what was passed on to us came by word of mouth. There were no memoranda of understanding, no agreements, there was nothing in writing, and we simply had to take the word of people who were within the programme that they expected this or that. Of course, as you know, most of them expected to be relocated somewhere abroad where the immigration and naturalization services may not be disposed to admitting a known criminal; it definitely would not have worked. So we proceeded while we continued to protect those state witnesses who were located.

We tried to identify what were the shortcomings in the system, and we sought the assistance of the other nations. We found out that Puerto Rico has a programme and so does Jamaica, but other territories felt it was unimportant as they did not have a situation such as that. But we were encouraged from a regional standpoint to make proposals to develop a programme.

As I said earlier, the heads agreed to pass it to the legal committee to develop an agreement among the states for such a programme to exist, and it was formally named the Justice Protection Programme, because it was recognized that not only witnesses were at risk, but jurors could be threatened and the law enforcement officers could also be under threat should they continue their investigation or seek to give evidence. Basically, the important aspect of this is to ensure that people who are involved in legislation and enforcing law and order, receive the protection of the State while going about their lawful duties.

The stated objectives of this regional project is as follows: to promote and ensure the proper administration of justice by providing participants with such protection, assistance and security as would enable them to perform their functions with efficiency and confidence when there is a threat to their lives, safety or property arising from or directly or indirectly related to the performance of their duties or obligations in the administration of justice. So the Legal Committee quite rightly found that the witnesses were not the only people we should be concerned about.

Coming out of the agreement each state is required to establish a national programme pursuant to Article 7 of the agreement establishing the regional Justice Protection Programme. A lot of what is provided for in the agreement is

reflected in this Bill before us today. The agreement contains provisions as follows:

- (1) It assigns overall responsibility to the Minister with responsibility for national security;
- (2) It defines in detail who can be participants in a programme, and
- (3) Establishes objective criteria for risk and threat assessment, two practical assessments of eligibility.

Just a word on this item, Mr. Vice-President. The programme is not one that somebody can ask to be a part of. The person who would make a request for somebody to become part of the programme is the Director of Public Prosecutions. He will have to indicate—and this will come out later—to an administrative committee that would be formed within the Ministry of National Security, that such and such a person is a vital witness, is playing a vital role in the whole process and is under threat, or it is felt that the person may not be willing to testify or continue in the matter, because of perceived threat to his safety and the safety of his family.

11.00 a.m

The Justice Protection Programme is a last resort. Because what will come out later is that there are other ways of protecting witnesses without them becoming members of the programme. The programme is quite a dramatic change. The programme means that the person has to give up his normal lifestyle; maybe move to another location, be separated from his family and be unable to communicate with his friends and relatives. It is a very extreme issue, and what will come out of that which was not available before, is that there must be an agreement between this person and the state as to the responsibility the state has for this person, what this person can expect the state to provide and what he is required to do. This is the key to the issue of witness protection.

The agreement also identifies the agencies, which must play major roles in the operation of a programme and outlines the function of each agency in relation to a national programme. While this is contained in the Bill, it will be expanded upon in the form of regulations. It requires the state to take measures that are necessary and reasonable to protect the safety, health and general welfare of participants. It provides for the relocation in the territory of another state, participants already admitted into the national programme of the sending state. So far, we are talking about the Caribbean region here, the other states that agree to this procedure. The

*Justice Protection Bill**Tuesday, October 3, 2000*

[SEN. BRIG. THE HON. J. THEODORE]

Trinidad and Tobago Justice Protection Bill is in fulfillment of this particular article. The programme has become all encompassing and has embraced all personnel potentially at risk in the criminal justice system.

One of the major items in giving effect to Trinidad and Tobago's obligation under the agreement, is that the Bill will stipulate the offences in respect of which protection or assistance may be offered; and detail the rights and obligations of both the state and the participant, as I pointed out earlier. It would also stipulate the contents of the Memorandum of Understanding which must be signed by the state and the participants, and establish the agency having roles to play in the operation of the programme. I will deal with these agencies later on, identifying what agency is required to do the threat assessment; what agency would determine who becomes a state witness, and the role of the Office of the Attorney General and the Office of the DPP.

We have to establish the offences and penalties applicable to participants and officials of the state who engage in unethical practices. Establish conditions for disclosure and procedures associated therewith on the part of an official of the state, and establish procedures for dealing with matters which may arise in relation to a participant in the programme. The need for such legislation becomes obvious due to the elimination of the whole problem we have had with state witnesses. We have in Trinidad and Tobago the occasions where Clint Huggins was killed and one gentleman known as Cuthbert Charles were both murdered before they could testify.

The justice protection programme came about in recognition of two ideals. One, the need of uphold the integrity of the justice system in Trinidad and Tobago, and to prevent any interference in the administration of justice through the intimidation or elimination of witnesses, jurors, judicial and legal officers, law enforcement personnel and their associates. Two, the need to establish, develop and maintain an appropriate and effective infrastructure at the national and regional levels, in order to safeguard and enhance the credibility and integrity of the justice system.

This is at the heart of the issue, because people must have the assurance and confidence in the justice that if they come forward to report an issue or give evidence, that they are not putting themselves or their families at risk or even worse, that the state will not assume responsibility for their safety while they are awaiting the trial. There are three stages: the pre-trial stage, the matter of giving evidence at the trial or participating as a juror, and the post-trial stage is after a

conviction is reached whether there will be an appeal, and what happens to the witness at that stage.

What this Bill seeks to do is to lay down the procedures and the systems and structures to deal with these issues; to give confidence to people who will be involved in dealing with the perpetrators of crime. I will deal with some of the sections. For instance, section four provides for the establishment of the Justice Protection Programme and the agencies thereunder. This is what gives the direction that the Minister shall establish a programme to be known as the Justice Protection Programme for the purpose of providing to participants subject to this Act, the protection or assistance or both. For the purpose of administering the programme the Minister shall, by regulation made under section 26, provide for the establishment of the following agencies. These are the regulations I referred to earlier on.

- (a) an Administrative Center;
- (b) an Investigative Agency; and
- (c) a Protective Agency.

I would like to deal briefly with what these three agencies will be required to do. What we have been doing in Trinidad and Tobago is developing procedures in anticipation of this Bill, and making notes of what occurred in the past, identifying the problems which were faced by the previous administration and which we, ourselves, have had to cope with, to see how best we can get such a programme to operate. For instance, the Ministry of the Attorney General will be responsible for the vetting of agreements with the protectees; entering into contractual agreements with the protectees and the termination of witness protection. This will occur under certain conditions. And provision of guidelines on types of cases for witness protection. We then have the Director of Public Prosecution who will be responsible for the preparation and submission of application for protection of witnesses. The assurance of the credibility of the applicant and the summary of the threat to the witness and/or risk to the witness to the new committee.

Mr. Vice President, we have two types of assessment here. There is the threat assessment; which is the threat to the person; and then there is the risk assessment, which is the risk to the community where the person is likely to be located during one or other stage of the process. We have also the administrative group, which is virtually the most important.

11.10 a.m.

There are two types of assessment here, Mr. Vice-President. There is the threat assessment, which is the threat to the person, and then there is the risk assessment, which is the risk to the community, where the person is likely to be located during one or other stages of the process. We have also the administrative group, which is virtually the most important. This administrative centre, based on the notes I have here, will perform generally these functions. The administrative centre should be entrusted with the sole responsibility for the Ministry of National Security's role in the witness protection programme. It will have the primary authority for determining the level of protection required, for example, short-term, long-term, temporary relocation or permanent relocation, and the suitability of the witness for such protection.

Its major function should be to (a), receive the application for entry into the witness protection programme. It will make arrangements for psychological testing to be administered to the witness and the family or associates 18 years and older, and the administrative centre should assign a secret code number to the witness and family members and to the sponsoring prosecutor and agent responsible for producing the individual protests. This level of secrecy is pitched at the highest level, Mr. Vice-President, because under no circumstances will the identities or locations of witnesses be revealed.

We notice that what has happened in the past is that certain witnesses living in safe houses—I am hoping the hon. Sen. Mohammed would look up—have found themselves going to the media and complaining that their meals are not sufficient, they cannot see their families, they are ready to go home and they have been waiting too long for the trial. This is not really getting the system to work properly and, since we have no legislation, we have to use persuasion to ask these people to remain in this safe house. However, once the person reveals his location and his identity, the whole programme is flawed because the witness is then known and people who wish to harm that person will know where to find him. So this Act seeks to put an end to that happening. Should such a person, under the new regulations, seek to disassociate himself with the programme, the Government will have no further responsibility for that person and we would have to be prepared to proceed without his input.

The other thing that this administrative centre will be doing is reviewing the witness security programme application and all other relevant information. This is all the administrative part of it. It would review and consider reports from

agencies before making a decision; convey approval for entry into the witness protection programme; liaise with countries in the region in case the person has to be relocated, and also authorize repayment of funds to maintain the programme. This is because housing has to be paid for, meals, and there is also a requirement sometimes that the family too has to be accommodated.

I should like to look at the Bill itself, Mr. Vice-President, because that way I would be able to identify any particular areas that I may not have addressed up to this point. The Bill, according to the Explanatory Note, has five Parts but there is a sixth Part which deals with miscellaneous items, more or less again administrative, including non-disclosure of information by officers and so forth. I should like to deal with the Bill by Part. Part I provides for the preliminary matters, this is the interpretation, the administrative centre, what is the agreement, the approved authority, *et cetera*. Under “associate” we see from the Notes that there is already an amendment coming from the other place, but this tells us exactly what all the agencies are, it explains risk assessment and threat assessment, so it is being made quite clear exactly what the Bill refers to.

Part II deals with the justice protection programme itself and in Part II we deal with the administrative centre that I just described, the investigative agency and the protective agency. Now, the investigative agency and protective agency, while they may both be based within the police service, perform different functions. The investigative agency is the agency that will go out and verify the complaint, verify that there are threats, try to identify the nature of the threat and, coming out of that investigation, a determination would be made as to the level of security the person has or will be given.

Then there is the protective agency, which will then provide the necessary protection. As I said earlier, Mr. Vice-President, the justice protection programme is really the last stage rather than the first step, because there are other forms of protection that can be provided by the police outside the justice protection programme. The administrative centre—in the Bill I have outlined generally what it does. In the Bill this same Part II goes into more detail.

Part III provides for the governance of the relationship between the administrative centre and prospective participants. Now, this is vital because, again, what has developed over time is that people will go straight to the police and suggest that they have been threatened, they feel unsafe and they want protection and there is no group or agency to vet this request. There is no investigation that takes place. When such people are told that it cannot be done, they immediately suggest that nobody cares about them. Here they are, prepared

*Justice Protection Bill**Tuesday, October 3, 2000*

[SEN. BRIG. THE HON. J. THEODORE]

to give evidence and nobody wants to put them within a witness protection programme. However, as I said, Mr. Vice-President, a programme such as this is really the last stage after many other efforts have been made.

Now, Part III deals in particular with this memorandum of understanding that I dealt with earlier. The Administrative Centre, as stated here under clause 12 (2): may, where it considers necessary in a particular case, include any other matter in a Memorandum of Understanding.

- “(3) The Memorandum of Understanding shall be signed—
- (a) by the prospective participant; or
 - (b) where the circumstances so require, by the person referred to in section 8 (c), in the presence of two witnesses, one of whom will be the participant’s attorney-at-law.
- (4) A prospective participant is included in the Programme when the Memorandum of Understanding is countersigned by the person authorized by the Minister for the purpose.
- (5) The Memorandum...may be varied...”

It will take effect on the day on which the participants receive written notice.

Under subclause (7) it states:

“Where a participant remains in the Programme upon attaining the age of eighteen years, the Administrative Centre shall require him to sign a Memorandum of Understanding...”

The Register of Participants is another administrative item, Mr. Vice-President.

“The Administrative Centre shall maintain a register of participants which shall be accorded a security classification not below “Top Secret”.

The details with respect to each participant are listed here.

“The Centre shall keep the following documents (...referred to as ‘ancillary documents’)...

- (a) the original of each Memorandum of Understanding;
- (b) in respect of new identities, copies of each new document issued under the Programme;

- (c) the original of each approval granted by the Centre pursuant to section 16(1); and
- (d) any documents returned to the Centre pursuant to section 18(5).

Subject to this section...”

This is 14 (1):

“...the Administrative Centre shall be the only approved authority that shall have access to the register and to the ancillary documents.”

Now, under Part V, Mr. Vice-President, the subject matter is “Protection Under The Justice Protection Programme”. This gives details of the rights and obligations but the rights and obligations are for both parties and clause 15(1) states:

“Where a participant is entitled to exercise a right, is under an obligation or is subject to any restriction, the appropriate approved authority shall take such steps as are reasonably practicable to ensure that—

- (a) the right or obligation is dealt with according to law; and
- (b) the participant complies with the restriction.

The steps referred to...include—

- (a) providing protection for the participant while the participant is attending court; and
- (b) notifying a party or possible party to legal proceedings, that the authority shall accept process issued by a court or tribunal on behalf of the participant, and designating one of its officers for the purpose.

Where the authority is satisfied that a participant who has been provided with a new identity under the Justice Protection Programme is using the new identity to—

- (a) avoid obligations that were incurred before the new identity was established; and
- (b) avoid complying with restrictions that were imposed on the participant before the new identity was established,

the authority shall give notice in writing to the participant stating that unless he satisfies the authority that the obligations are dealt with according to law or the restriction be complied with, the Authority shall take such action it

Justice Protection Bill
[SEN. BRIG. THE HON. J. THEODORE]

Tuesday, October 3, 2000

considers necessary to ensure performance of the obligations or compliance with the restrictions.”

The protection or assistance provided under the justice protection programme—this is important because this protection shall be terminated by the centre if the participant requests in writing that it be terminated or may be terminated by the centre if the participant deliberately breaches a term of the memorandum of understanding. This is the point I alluded to earlier, Mr. Vice-President, that the arrangements that are in place, even up to now, are not documented, they are not recorded—they are not agreements. We have been trying to institute written agreements between witnesses and the state but without the law it is difficult to insist that such an agreement be signed. But a memorandum of understanding will have to be signed before somebody enters the programme and it will be clearly stipulated what the responsibilities of the state are and what will be the responsibility of the individual to abide by the memorandum of understanding.

For instance, I would like to continue under 17(b)(ii), that if:

- “(ii) the Centre discovers that the participant had knowingly given information to the Centre that was false or misleading in a material particular;
- (iii) the participant’s conduct is, in the opinion of the Centre, likely to compromise the integrity of the Programme;”

It goes on in this vein, Mr. Vice-President, that the circumstances that gave rise to the need for protection or assistance to the participants cease to exist. Again, it is for the centre and the investigating body to determine the risk or the threat assessment and to determine what level of security should be provided and when that security should cease or be downgraded as the case may be. It is not for the individual to decide how much security he thinks he needs or whether or not the security ought to continue. So risk assessments are done on a continuous basis and the protective agency will provide the protection determined, based on the risk.

11.25. a.m.

The Bill states in subclause (v):

“the participant deliberately breaches an undertaking, including an undertaking to give evidence, in relation to a matter material and relevant to the programme.”

These are all conditions under which the Memorandum of Understanding will cease.

- “(vi) the participant refuses or fails to sign a new Memorandum of Understanding when required to do so...
- (vii) there is, in the opinion of the Centre, no reasonable justification for the participant to remain in the Programme.”

They get in there, and I must tell this honourable House that the feedback we have been getting from many potential witnesses or state witnesses is that their wish is to be relocated abroad, particularly in the United States. And sometimes they convert this wish into an expectation. It has even been suggested that they have been promised at some point in time that they would be relocated.

Of course, the realities of the situation show that this is not a practicable approach, hence the regional arrangement. It does put one in a very invidious position, that there is this feeling that witness protection means, in essence, relocation to a witness protection programme that is similar to that of the United States. This is certainly not the case.

Sen. Shabazz: I just want to ask one question. The witness protection programming, will the people be kept in Trinidad and Tobago? Is that what the Minister is saying?

Sen. Brig. The Hon. J. Theodore: No, no, regionally. Now, the region is small, but Trinidad by itself, or Tobago, for that matter, it is almost impossible. One of the reasons Trinidad and Tobago pursued this issue of a regional programme is because of our experience. Now, some of the other territories have said that they have not had that problem, why should they bother. That is fair enough. But all we are saying to the region is that should the need arise, these are the acceptable measures that should be put in place. It means, therefore, that if Trinidad and Tobago has a situation and wishes to ask a Caribbean territory to house a witness for, let us say, three weeks awaiting the date of trial, that we have the assurance that the systems are in place to safely protect that person under conditions that we ourselves would protect one of their witnesses.

This is where we are heading and that is why the legislation is important. The agreement has already been signed by seven of the Caribbean nations. So we are on our way to developing this regional programme. That is why it was also extended by the Attorneys General of the region who comprised the legal committee of Caricom.

*Justice Protection Bill**Tuesday, October 3, 2000*

[SEN. BRIG. THE HON. J. THEODORE]

Generally, Mr. Vice-President, the Bill seeks to establish all these measures that would make it workable. Under Part VI which I mentioned exists, this deals primarily with the administrative matters, miscellaneous matters, on how officers at the Centre would be liable and how they should perform their functions.

For instance, a person who is or has been a participant or a person who has undergone assessment for inclusion in the justice programme should not disclose the fact of such participation or assessment; should not give information as to the way in which the programme operates; and information about the officer at the administrative centre who is or has been involved in the programme or the fact that he has signed a Memorandum of Understanding.

This very secrecy protects the individual. What we have to do now is to change this attitude of taking witness protection lightly. It is a very serious business; it is a heavy burden on the state and the witness or the juror or the prosecutor, also has a responsibility for his own safety and for the sake of the programme to maintain a high degree of confidentiality and not take it lightly and simply feel that one can just jump into the programme and leave it whenever one wishes.

The bottom line is that if somebody enters the programme and for some reason decides he does not wish to participate anymore, the responsibility of the state for them will cease. That is what will be shown in the agreement and this will be agreed to beforehand.

It is difficult to do that today with witnesses who are already in the programme, because no such agreement has been signed. So we have a situation where we are trying to work with an unofficial programme to get it to work until we have the laws in place that would allow us to enforce certain conditions.

So generally, what we trust is that with this legal framework being put in place and with the regional programme, the whole programme as it relates to justice protection, would become more effective. As I said, we did not have written agreements before, but so far the programme we inherited had been successful. It was working and we are continuing to have it function satisfactorily, but we can improve on it. This is what we have been attempting to do over the years, by having the region agree on this witness protection programme.

I would certainly like to hear the views of the Senators and I would certainly make an effort to answer any questions they may have, as far as this programme is concerned, because it is a reality in Trinidad and Tobago, and by passing this

legislation it will then give us an opportunity to put legitimate systems in place which can be enforced and which would have the force of law.

Again it will also allow other people in the justice system to benefit from this programme. I am afraid right now it is very much a discretionary matter. It should be a programme that would be open to all people who are there enforcing law and order.

So, Mr. Vice-President, I look forward to any views that the Senators may wish to express. I beg to move.

Question proposed.

Sen. Muhummad Shabazz: Mr. Vice-President, we on this side accept that this is, indeed, a very important Bill. Not only that, it is always good to get up after the Minister of National Security. I really feel pleased to hear him, because he is one of the few people who would tell you that a programme has been working before; that it has been good and that what they are doing is carrying it out. I always compliment him on that when I stand up to speak because most times when a Bill is passed here, it seems as though it has just started and that nothing happened before. So I would like to take this opportunity to let him know that we appreciate that because the witness protection programme was really something put into place and to a large extent it has been working.

What is happening here, though, I would like to paint a sort of social picture to the Minister to let him understand that this Bill is a Bill that we welcome. But there are a number of things that must be put in place for this Bill to really work. You have to look at a number of factors. Why do we need a witness protection plan? I could look back, let us say, to about 20 to 25 years ago in the police service—and you need to look at what is happening, because to make this thing work you need to have a social kind of understanding. The society must have an understanding about what is happening. They must have a certain feeling they want to see a certain amount of success in it and there must be a commitment. They must have that confidence to liaise with the police service and the other organizations that will deal with ensuring that this is a success.

We have a main problem, and what is that, really? This whole witness protection programme has started with the coming of the drug lord. When a man could pay \$1 million, \$2 million bribe and \$.05 million, it is not so very easy. The coming of the drug lord has created a problem in our country that we need to look at. We are not casting any aspersions on anybody, but if a man is a judge or a magistrate—and we have seen it happen in Trinidad and Tobago—working for

Justice Protection Bill
[SEN. SHABAZZ]

Tuesday, October 3, 2000

\$10,000 a month, his salary is really \$100,000 a year. Even if we put him at \$15,000 a month, his salary is \$150,000 a year. To get one case off a drug lord might be able to give him \$500,000. It means that in a society, you need people at the higher level of your society who are committed to integrity and all these other things to even start working on a Bill like that.

There are people working in government departments whose salary might be \$3,000 and who might be willing to take \$100,000-odd just to reveal a bit of information which will interfere with these things. So that even though people are not being paid what they expect, or have a higher level of salary, you need to have a certain type of education in order to ensure that many of these things do not happen.

What was happening before? We used to have something called the informer system. I keep asking policemen this: Is there a fund for informers? People used to be glad; they used to feel very confident that you could have gone to Mr. Burroughs or to the top police officers and carry information to them. As a result of that, the information used to be kept confidential, something that is not happening now.

The question of confidentiality with information is something that we need to look at. It was confidential information and the police were able to operate and work in such a way to solve crimes. There are many unsolved crimes. People have to come forward, and you really have to protect people who are going to give evidence, because people who want to give evidence do not trust the sources to keep it confidential. That is where we need to talk about education, about building a society and making this society much better than it is.

The informer no longer comes forward; the informer no longer cares to tell the police anything, because he believes that what he is going to tell the police will not be treated confidentially. So we need to look at that. We need to look at, how could we get people to cooperate with the police if they do not have that confidence that they could do it and do it without them being exposed or being known?

What other problems do we need to look at with regard to this whole question of the police service? Because in this Bill—it is something that made me laugh—you are seeing the question of, yes, I am for protecting the jurors; I am for protecting the witnesses, but you are seeing also that this Bill would be for the protection of law enforcement people. That may include the policemen.

11.40 a.m.

Police people are really and truly crime fighters. They do not really want any protection from the law; we cannot soften the thing down. Their protection from the law is their ability to fight crime; you arm them well and give them what is necessary and set them in a way that they could fight crime. Why do we want to protect policemen? They are to be the crime fighters; they are to be the brave people; they are the people who decide to give their lives for the protection of the rest of the people in this country. And we ought to enforce or engender in them a certain kind of bravery that would make them go out there.

Because we know long time in Mr. “B” days, it might be a wrong statement to make but police were not afraid of anybody. We were crime fighters. We know that when you go out there it is your duty to fight crime, regardless. Now, it seems as though the bandit or the criminal element has more strength and more power than the police. The police seem to be afraid to go to them. And you are hearing statements like that, that you need to train your policeman to be a stronger and braver kind of person.

We need to look at certain things again, and I want to deal with the police service in a wider kind of way. As policemen, there used to be in all the police stations—and I want to say this to the hon. Minister of National Security—the picture of the two donkeys fighting for the food. This was a picture where they were fighting for food; each pulling at a different end. Then an idea came to them and both went and ate one set of food and then they went and ate the second set of food afterwards. It showed that with teamwork, we could achieve what we want to achieve.

Now all these stations no longer have these pictures. We are talking teamwork and—speaking as an ex-policeman—coming into a police station and seeing this picture told us that we were together as a team; that we were bonded together in the fight against crime, and against criminals. Now those pictures are no longer there and we are talking teamwork. We are talking how to bring the police service together and how to get them to fight crimes but the things that are necessary to do that are not even there. Then they seem to say that the police service, at times, seem to be pulling against each other. The police service, at times, seem not to have this togetherness that they had where they all went out and fought crime as a unit.

Look at what is happening at the top level of the police service. I feel that everybody should be promoted in the police service; I feel that everybody in the

Justice Protection Bill
[SEN. SHABAZZ]

Tuesday, October 3, 2000

service should be allowed to reach to the highest level in the police service. But you hear policemen say, “why are we talking crime fighting and when we look at the top level of the police service, we really see administrators running the police service?” I am not against them; from the Commissioner of Police, the Deputy Commissioners and the Assistant Commissioners. There are mainly administrative people running the police service. They are not really in the true sense the crime fighters. I do not like what has happened.

Since the time of Randolph Burroughs the crime fighters seemed only to have reached a certain level. In this country, although we are talking about fighting crime and we are seeing crime rising, we really want the policeman to be the type of fellow who would also have a certain type of behavioural manner that, at times, is not really applicable or conducive to the crime fighter. The crime fighter is a tough man going out there to deal with the criminals, having a certain amount of street sense; understanding what is happening on the road; having information coming to him and you do not have that. So I am saying in the absence of that, let us develop people who are specifically inclined to fight crime; promote them at a certain level, I do not know how you will do it, but they need to be rewarded if they want to go out there and fight crime. Because really and truly, what you are taking away is the spirit from the crime fighter, because he feels that he cannot reach to the top level of the police service. He is starting to feel that.

I am not blaming the Government, I am saying that we, as a nation, as a people need to look at that. You are not going to fight crime if the crime fighter is not moving on; if he is not given credit. I do not want to say that I expect him to behave at the highest moral standards when he goes to the criminals. The bad man would come into my house and interfere with my daughter and my wife and might shoot me still. Maybe he should still go with nice kid gloves with which the nation requires him to go. But he has to know. You see, as long as the criminal feels that he is “badder” than the police, it is not so easy to solve crime in this country. So you need to toughen up and find good ways but still be tough and strong on the criminals because that is what is happening in Trinidad and Tobago.

Look at the question of the drug lords; look at the question of bribe. Try to build your policemen and make them understand. Build not only your policemen but people all over; all the courts. What we are looking to do is to create a Trinidad and Tobago that is based on much higher standards. Not only based on the material standards that seem to be set at this point in time. Because it is like the rich guy. Long time the golden rule was, “do unto others as you would have them do unto you.” A little child was telling me the other day that the golden rule

seemed to have been changed. The golden rule now seems to be, “he who has the gold makes the rules.” And that cannot be happening. As long as our society is going in that direction we are really in trouble. I understand the value of money; I understand the value of riches, but what we seem to be doing is letting these qualities go away because money seem to be what is talking. So, really, we need to look at a society and a social order that is far different from what we are creating. Because at the end of the day, we will be held responsible.

Let us go a little further. In looking at the Bill, we know that in Trinidad and Tobago it is good to hear the hon. Minister of National Security claim that in truth and in fact—and the Bill says that it will be a regional thing, because it is very difficult to hide somebody in Trinidad and Tobago who is on a witness protection programme. How will this Bill work? Where are we going to be sending the people of the Caribbean? Maybe in America it might work. That is why many people look to go to America because you could safely hide a man in America but you need to look at certain things.

We had an example of a soldier who was sent to the United States of America. What happened was that it was found that no real care was taken of him; it was found that his family was not taken proper care of; they just put them in a place and there was no real contact with him; no real association with him. So that the question of the protection plan really would not work that way. The Bill provides here—I just want to call out some of the things that the Bill says that it will do.

On page 11, the Bill has made a lot of promises as to what it intends to do for the people who were brought into the protection plan. It states:

“Providing any documents necessary to establish a new identity for the participants. It is the duty of the Bill to protect the participant. Permitting the participant to use an assumed name in carrying out his duties in relation to the programme and to carry out documentation supporting the assumed name. Providing payments to or for the participants for the purpose of meeting his reasonable living expenses, including where appropriate, living expenses of his family.”

That is a big, tall order, you know. Whether we have the system in place to put that in effect it is something that we need very, very, much to look at. It goes on:

“Providing whether directly or indirectly other reasonable financial assistance; providing payments to the participants for the purpose of meeting cost associated with relocation.”

Justice Protection Bill
[SEN. SHABAZZ]

Tuesday, October 3, 2000

That is a very tall order. We are making many promises to these people and if our society is not equipped, geared or educated as it should be, what we will find is that we take many of these people put them into places and when we put them there and we get the type of evidence that we want from them, we just completely forget them. That is how this society operates, and that is one of the things that we need to look at. How are we going to re-educate and build a society that will deal with these kinds of things? These are some of the concerns we ask here. And we see here again.

“Providing other assistance to the participant with a view of ensuring that the participant becomes self-sustaining.”

That is a big, big, promise and whether we could carry out that promise, I do not know. In truth and in fact what really does that promise mean? “To provide assistance to the participant with a view to ensuring that the participant become self-sustaining.” Whether it is while he is inside; whether it is while he is outside, what does this really mean? If you are going to be making promises like that you have to be careful; you have to be sure that you are really going to carry out these promises. You see outside of the jurors and outside of the administrative people you will find that many of the people that you bring into your witness protection programme are people who have been involved in crimes and have been involved with the very criminals that you want to get rid of.

11.50 a.m.

Normally the people who are brought into the witness protection programmes are really criminals who are being given a sort of a—they are really helping them out, being given “ah sort ah” amnesty in order to be part of that programme—normally. It may not be all, but normally. It is the people who we know who have been part “ah” the crime team sometimes that “yuh” giving this type “ah” protection and when “yuh” giving it to them—although we know it is important to have witness protection because it sends at times “ah kind ah” signal that the bad guy, if he becomes a stool pigeon or a duck, could now be given some kind of “ah” protection and his family treated good and everything. So “ah lot ah” people will go into committing crimes—not deliberately go—who are involved and would want to come out, when they see these type of promises, might be willing. But maybe it is the only way for now to solve the problem. I am not objecting to it really but I am letting “yuh” look at it and make that observation.

Not only that. These very people, we need to look and take some things into consideration “eh”. We had the Clint Huggins issue here and “yuh” must

understand what the Clint Huggins issue was about, “yuh know”. Are we going to sign a contract with these people and say when they are no longer ready to be part of the programme “dey” could just say “dey doh” want to be part? I find “dat”—you see, if we “go in” into this witness protection programme, what we on this side say is that there should be some contractual arrangement to ensure that until the evidence is given and until this person has met his end of the bargain, which is to give the evidence necessary to convict the criminals, there is really no way out, even if he requests it.

Now, how could we do “dat”? We “cyar do dat” when “yuh” taking five years to try a murder case. We cannot do “dat” when “yuh” taking seven years to try a burglary case or “ah” robbery case. It cannot be done that way. What “yuh” need to do is where ‘yuh’ have people in a witness protection programme, give a commitment, even if “yuh” have to go to a special court to ensure that these cases come through quickly. If “yuh” not doing that, why must I stay in a witness protection programme for eight years?

That was the problem with Clint Huggins maybe, you know. The case kept going on so long that Clint Huggins, who is a young man, want to “lime”. He wanted to come outside and have a “lil” fun. So they need to ensure that if a person is in the witness protection programme that the court situation is better and that he is provided with some sort of “ah” guarantee that “yuh” not just going to have him there without him seeing the hope that some day he would be seeing daylight. Really and truly, if “yuh” justice system is not working effectively, what they in truth are doing is imprisoning the witness, you know. “Yuh” not putting him in a cell in Frederick Street but “yuh” putting him in a nice cell with a bed with everything. “Yuh” locking him up for the next seven or eight years, so that cannot work.

Another thing is this. Where “yuh” going to keep these people? The people that “yuh” keeping in Trinidad, there must be some guarantee. Although they are saying they are going to find work for them, Barbados sends a prisoner here in its witness protection programme, the way the Caribbean and Trinidad and Tobago will operate, they would probably need to find a place like probably where Clint Huggins was. They would probably need to develop an island somewhere, develop Chacachacare or somewhere where they could send these prisoners or these witnesses so that if anything happens they would have a fair degree of security [*Desk thumping*] where they could feel confident that they could survive and people would not get to them.

We are living in a society where the drug lord is almost king, you know, where the money—the people who are committing crimes, because of drugs they

Justice Protection Bill
[SEN. SHABAZZ]

Tuesday, October 3, 2000

are multimillionaires you know, and they could really pass the kind “ah” money “dat dey” want to reach to anybody. Most likely, when “yuh” take a man into the witness protection programme, because of “dis” same situation with big money with guns, with crimes, “yuh” must look at his family and offer some sort “ah” protection to them. So “yuh” going in a wider scale. Do they have what is necessary to ensure that we could implement this programme and implement it effectively? These are the things that we need to look at, Mr. Minister of National Security, through you, Mr. Vice-President.

Not only that; there are a number of other things that he needs to look at, you know. We know why the Clint Huggins issue was how it was, but not only “dat”; with the Clint Huggins situation, remember it was somebody close to Clint Huggins who was found taking money to have Clint Huggins removed from the scene. How well are we dealing with that? How are we going to deal with that or what are we going to put into effect? Because the minds “ah de” people in “yuh” country not changing unless “yuh go” on some education programme to help them develop far better than we are doing it now.

“It have” people, Mr. Vice-President, in this country, young people, who really are striving to be drug lords, you know. I know that for sure, you know. The reason “dey” doing that, young people telling “yuh” now it is better to live to 35 or to 30 and live happily than to spend the next 50 or 60 years “ah mih” life—because of the picture that we paint “ah” these people. We really make these people feel that they are kings. We really make these people believe that they could do anything and have the best legal minds to defend them. “Ah” not against, because they deserve the best defense but they get the best defense because they could afford it. They bring “dong” English QCs and they bring people from all over to give them that defence and most times they win “dey” case. So a young fella coming up feels that it is better if he has money to pay the lawyer. “Yuh” need to get our legal system working better.

We know of cases where papers disappeared from the courthouses. We know of cases where if “yuh” have “ah” good lawyer “yuh” going to win “yuh” case and we know that there are some good lawyers, who probably are not practising law at this time, who have been responsible for a lot of these people winning their cases, and we “doh” have to go far to ask people about that. We in here know about that. The question of witnesses disappearing, that “doh” happen “jus” so, Mr. Vice-President. We know “dat” is “ah” deliberate thing. We know “dat” people—the drug lords—we know that the connection through big lawyers in this country causes that to happen. So “yuh” see, we “cyar” just patch up the crime

situation by putting a plaster on the boil so that when “yuh” walk down “de” road nobody see “wha’ yuh” have underneath there, but it is festering and becoming far worse than it will ever become as we go along with time. [*Desk thumping*]

I am convinced that in order to do things like this “yuh” need to get “yuh” police service—and “ah” not saying that “dey” not tight enough—but tighter and not only tighter but more—yuh see, all the cars and all the vehicles we are bringing in, “dey mashing up” the scene quickly, “yuh” know. Yes people are working them and driving, but crimes are not really being solved in “yuh” country and the reason crimes are not being solved is because we need to do “ah new type ah” training programme and “ah new type ah” re-education among our law enforcement people. [*Desk thumping*] If we “doh do dat”, we are in trouble.

We need to find a way to educate and to rebuild the confidence in the population so “dat” they will be able to not be informers in the sense that “yuh” point them out and ridicule them but that “dey” will be willing to give information to the police service because they will ensure that they will be dealt with confidentially. If “dat” does not happen, then we “in problems”. We need to deal with the wider system. We need to deal with all the other systems—the justice system. How are we going to deal with “dem” and make “dem” have confidence “dat dey” could administer law and make a judge or a magistrate sit there and feel confident that he is working to build a better nation and that money is not the only thing that is important to make him important? He needs to do that and we need to educate people on that.

We need to educate the lawyers, even though—yes “yuh” going to be defending people and “yuh” going to be defending them—well, I “doh” know how “dat” could be done, ask a lawyer to look at the next side, because a man is innocent until proven guilty. However, “yuh” need to ask them again, in doing this, “Let us set up a proper system that will deal with the thing properly”. We need to look at the same people that we need to protect and bring into the programme, find ways to make the system work better for them. But we must let them understand that “dey not” just coming into the system to have a good time, to enjoy themselves, but “dey” coming into the system because they are bringing “ah” evidence and “ah” evidence that we want to ensure we are going to get out of them because there is a contractual arrangement to get it out of them.

The drug lord could reach to “somebody cousin” and tell them, “Well listen, I putting \$2 million in the bank fuh him if he tell the government he no longer wants to be in this programme”, so all “yuh” time would have been wasted and gone down the drain. Right now there is a case going on in the court, where it was

Justice Protection Bill
[SEN. SHABAZZ]

Tuesday, October 3, 2000

reported in the newspaper that the man is now asking the young lady, “How could you give evidence against me?” I really admire the young lady for still standing up, but maybe it is only because all he is offering is his heart. Maybe if he was offering \$5 million she might have changed. We “doh” know. “Yuh” see, they need to look at that and “yuh” need to look at that carefully.

There was something I needed to note on page 27, Mr. Vice-President. Well, that was the same question of how do we terminate the thing. There was something I wanted to know. If “yuh” send a man from here—because, you see, the Caribbean is very small—to, let us say, another island, in a safe place, he will have to attend court in Trinidad. “Yuh” might have changed his identity. How “yuh” bringing him to court? What type “ah” court environment are they bringing him to in Trinidad, Mr. Minister of National Security?

Are they bringing him into the same court environment here? Is it because now that he is a protected witness he will be taken to a court environment that will give him that protection? What type of environment will he be having in court? Will he now be John Thomas out here but he was John Doe here and when he comes back to Trinidad he is John Thomas but in an open court? These are the things that we need to look at. Under what type of conditions and under what type of environment is he going to be returning to court here? Is he going to be using his own name in the court here where everybody knows him and could see him? ? This is what we need to look at too when we are talking about bringing the criminal back here.

Page 33, “ah” not too clear on clause 20 on page 33, Mr. Vice-President.

“Officers of the Administrative Centre performing functions in relation to the Programme, shall not be liable to any action, suit or other proceedings in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of a power conferred by this Act.”

You see, “dat” sounding so wide, to me it confuses a bit. If “ah” man did something, “yuh” see when they say he is not liable “yuh” almost seeming to say that even if he did something that was not proper or is not correct “dat he not” liable. “Yuh” widen it so much that “ah” would need “yuh”, Mr. Attorney General, to explain it a little better when “yuh” reply, and—[*Interruption*] Mr. Minister of National Security. Maybe “yuh” should be holding both positions for this to be effective. [*Desk thumping*] “Yuh” see, we have that confidence that if “yuh” holding both positions the thing will probably—and it will work more—I do not want to cast aspersions on anybody so let me “doh go there”. Enough said.

The offences coming under—I think we agree with them basically, but “ah doh” know if any other thing—I see for any other domestic violence offence somebody may be put in a witness protection programme. Any money—I “doh” want to go into that because, you know—any money laundering offence. Mr. Vice-President, the question of the safe house, the question of relocation, all-important. We “doh” have—another situation I want to know is this.

If a man is in prison, because we have had a situation where a man was imprisoned in the Dole Chadee setting and the man is still in prison. As a matter of fact, one newspaper reported recently that he was going to be given freedom for the Independence here—a presidential pardon. That statement was rebutted. It was said and somebody said no. If a man is in prison how will they deal with him? Are they going to take the evidence from him and put him away nicely in some special part of the prison and when he is finished giving the evidence they just let him back in the prison again? That person must be under pressure you know.

As a matter of fact, if even that person is not in prison and a person who is free goes into a situation, gives evidence and when they are finished with him they just let him back again into the society as though he was John Doe—they made him John Thomas—they let him back into the society as John Doe, he will still have problems. In the prison the problems must be worse. We need to ask them to look at that.

They talk about where “yuh” going to put people and their families. One of the reasons I am recommending that they have an island or that they have somewhere like where the army is, because really and truly, anywhere they put this person and the evidence leaks out, by some chance—because they cannot be sure that it would not. We are in the era of the drug lord and big money. “Yuh cyar” be sure that it would not. Anywhere they put him, as long as that evidence gets out, that whole environment could be unsafe.

12.05 p.m.

You could have him living a normal life in a new environment with a new name, but if the evidence leaks out, the environment is going to be unsafe. The sad thing is that he would not be living next door to the well-off people. We would not put him in certain highfalutin residential areas. So again you are putting a lot of people under risk. It is much easier that he might end up next door to me than next door to the Minister of National Security. I am in Laventille/Morvant, so it is easier that a safe house might be found there. It might hardly be found in

Justice Protection Bill
[SEN. SHABAZZ]

Tuesday, October 3, 2000

the other residential areas, the Westmoorings, the Goodwood Parks, and so on. But I am not making a case that you put it there. We are kind of tougher and could deal with that, I believe, but I am not making a case.

Mr. Vice-President, we, on this side, do not have much more to add to it. The points that I have made, I am asking the Minister to look at them, try to see how best he could help solve the problem; look at the question of the informer's fund; find a way to get people to bring information. I would really like to hear the Minister explain and deal with those things when he replies.

Thank you very much, Mr. Vice-President.

Sen. Mahadeo Jagmohan: Mr. Vice-President, my colleague, Sen. Shabazz, went into some measure of detail on this matter, therefore he has made it easy for me. I do not have to spend much time speaking to the Senate. But with your kind permission and the indulgence of this House, perhaps congratulations are in order to every single citizen of Trinidad and Tobago for their faith and prayers and their communication with the Supreme Master that we have survived a genuine threat of Hurricane Joyce. Perhaps most of the citizens of Trinidad and Tobago went somewhat unscathed.

Mr. Vice-President, there are certain points my colleague did not spend much time on because of the time factor. But a question is engaging my mind and many Senators may also wish to have a look at it. If a potential witness or an actual witness is the owner of a permanent job in any strata of the society, that has accumulated benefits that could be paid as terminal benefits and qualification for pension rights, if a potential witness is taken to a safe house, whether here, there or elsewhere, will his rights be protected? Because the witness protection programme has associated with it civil liberties and we have come to enjoy civil liberties in this country as enshrined in our Constitution which is there for the benefit of us all.

Will there be—Sen Shabazz touched on it, but I certainly want this to be developed by the hon. Minister—actual protection for the families of policemen? Small children and vulnerable women in this country are now targets because of the menfolk. That is an area we could hear something about. I wish to state very clearly that people are concerned in these areas. Also, Mr. Vice- President, I commend the hon. Minister for his presentation. It has already been said, we are not opposing this Bill, but we want to clarify certain areas.

In referring to Caribbean States, the Minister went on to say that justice protection cannot succeed by us alone. This means that all Caribbean States

would be an integral part of some kind of union or letter of understanding, or whatever. I wish to have clarified later on, the statement by the hon. Minister, that some of the Caribbean States have not had the problem as we are having, the question of proceeding to have witness protection plans, and so on, and whether this means that they will go it alone or stay out of the programme. I do not know. But in Trinidad and Tobago we have grown up listening to an old saying: “if your neighbour’s bed is on the fire you wet yours.” Perhaps those states that are thinking that way can give some consideration.

You see, Mr. Vice-President, despite some of the weaknesses identified by the hon. Minister, we in Trinidad and Tobago can, of course, develop our own witness protection programme to an extent. Why not? We have all kinds of treaties with Puerto Rico and Jamaica, even North and South America. I do not wish to go into them, but merely to say that all these friendly nations should be considered for a link- up with Trinidad and Tobago for the witness protection plan.

Is it going to be positive—and this Bill will get passage here—that judicial officers and jurors who serve on some of these programmes would be considered for protection under this plan? Would the protection have a time-limit? I say that against the background—this is an appropriate time and I am sure, Sir, you will permit me—that recently we read in the newspapers—and the hon. Minister of Finance made a positive statement—that around 3,000 workers of the Ministry of Works and Transport were laid off and re-hired. That was a nice statement from him. But what we know is, they were re-hired and recently laid off and the jobs they were supposed to do is being contracted out, and some of the affected workers are in the public gallery here today.

This has some relationship with the Witness Protection Programme. You could bring on board protection for judicial officers and other people for a little while and then you withdraw the protection and you throw people to the wolves. Like my brothers, they have been thrown to the wolves.

I do not wish to be long on what I am observing, but the Minister said the Director of Public Prosecutions will decide as to who should be given protection. I know the DPP does not work like an island upon himself; he works in collaboration with judicial officers, the police and all other persons who have a nexus with the justice in Trinidad and Tobago.

Mr. Vice-President, the human rights part of it and the civil liberties part of it have to be very closely monitored before we put any programme in place. I

Justice Protection Bill
[SEN. SHABAZZ]

Tuesday, October 3, 2000

became very concerned when the Minister made a reference to unethical practices of members or officers of the state. Did he mean the civil servants, the protective services, or it meant everybody? To me, this should mean every single citizen should have a concern about the witness protection programme because, to me, a certain level of people in the whole structure of the society are given protection automatically, while people of the lower strata are not sure they will get protection automatically.

The level of secrecy is an area that needs to be tightened. Right now in Trinidad and Tobago, it is my own view, people want to be honest, they want to maintain their integrity, but somehow the level of secrecy has gone loose in this country. Many friends tell one another, "I want to tell you something in confidence that nobody else should know about," but before the last word drops, a third person gets to know about the secret just shared.

Mr. Vice-President, many persons might express their concern privately, officially and otherwise, to the Minister of National Security, because this Bill would be a new innovation and the people who pioneer this will suffer. Should I say, pioneers have always been sufferers. They will get the difficult side of things. It is my hope that all those who have to pioneer this Bill, the state—well it seems to me that the People's National Movement will have that responsibility in the near future, but this Government should take into account the question of protecting all those who will have to concretize this plan

So it is our hope that after this Bill is finally passed here—I do not know if it may end up going elsewhere in the other place for further consideration on the basis of amendment. But this is a good measure and it is needed and would help every citizen in Trinidad and Tobago. I will tell you why, and this is not my independent thought. A friend of mine called the name of a certain city in a very great country. He said so and so city is the most inhumane city in the world. I asked him what he meant. He said you could be going down the road and you see human blood and you know it is human blood, but they are so selfish, they do not wish to have any problems with their civil liberties, and so on, that they will turn their face the other way and never express any concern. We hope with the passage of this Bill all the citizens of this country will become concerned to protect witnesses or those who wish to assist with the crime situation.

Thank you very much, Mr. Vice-President.

12.20 p.m.

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. Vice-President, I would like to thank the hon. Senators who made their contribution and I will seek to address the concerns they raised. I do appreciate the points raised by Sen. Shabazz. Coming from a police point of view it is very relevant to the whole issue of the witness protection programme; that the law enforcement agency should seem to be above board. I accept that a number of measures have to be put in place. Regulations will be made to amplify this when it becomes law. What I would undertake to do is to make mention of the concerns expressed, for instance, the Memorandum of Understanding, to ensure that when somebody enters the programme they cannot just arbitrarily opt out and perhaps leave the prosecution at a disadvantage, without a witness at all. So the Senator's point has been well taken.

The informer system—I myself have observed the changes that have occurred in the police service. It seems as though the modern police are not into this relationship with informers that was the case in the past. I am not quite sure what one can do about it. Things are changing. The police have adopted styles of investigation. But the informer system did work and there were a number of undercover police who would always be on the block taking in what was going on. I do not know if this still happens. But the point again is taken and I will mention it to the commissioner for what it is worth.

Police were able, from past reports I have received, to actually go directly to a place where stolen items may have been lodged after a burglary. All of this came from people informing. What I see happening is that the community police approach is approximating that. In other words, you have police in the neighbourhood; you have police liaising with the community and as far as possible one expects that the community would come on board and assist the police in discovering crime committed in their communities.

So maybe it is a different way of doing the same thing. But if the Senator feels that the success rate is not high enough, it is certainly something that we are working at and I trust that the community police would be able to provide that missing link with the people to assist in identifying perpetrators and solving crime.

It has always been said there is a problem with the police service, but we are addressing these problems bit by bit. The matter of training is paramount, even from the barracks when recruits go in. The whole syllabus has been changed.

There is ongoing training. There is training being done in many areas: management training, training in administration, training particularly for the community police in anger management, dealing with victims of domestic abuse. So a lot of training is taking place.

As I mentioned earlier when I spoke about the praedial larceny squad, there are a few select groups within the police service. These teams are put together. I do not know if the members of the Senate would remember the kidnapping squad that was put together last year and it has worked very efficiently. But then, the question is what happens to the kidnapping squad when there are no kidnappings taking place? So you find they will then be criticized for sitting around doing nothing. But again, the police service does have its expertise within its ranks.

The pattern that is being adopted now to draw qualified officers to form this task force as and when the need arises, is working. It happened in Tobago. Just last year when there were problems with the tourists being robbed and so on, a team was actually selected by the commissioner and his executives. They travelled to Tobago and remained there for a few weeks. But things have been brought under control and that group has now disbanded and have returned to Trinidad.

So, again, one wonders, are we going to wait until another problem with the tourists to regroup? But, again the size of police personnel in Tobago is earmarked for increase and there are proposals being put forward to expand their strength to deal with the added responsibilities that they have adopted. What seems to have been the problem is that the police take on the responsibilities and then discover that they are short of people to address the situation. This is a problem that exists right now.

As I mentioned earlier, we do have permission to recruit up to 700 more police, but only 150 are undergoing training right now. So that is another 550 that are still to come. It looks good on paper, but in practice there are not enough police on the ground. We are taking steps to deal with that. I trust we can keep things under control until the necessary number of police officers have been trained and join the regular force.

Teamwork, yes, I fully agree. There is a high degree of teamwork. I mean you have the various areas within the police service, these special squads as I mentioned. You have the kidnapping squad, the CID, the special branch; you have a number of elite groups within the police service who are specially trained to investigate matters. They have received training in the management of a crime

scene; they have been trained in investigations. Quite a lot is going on. Now these special squads—because I cannot see us creating a permanent squad of police—eventually, as I said many years ago, we expect that all police would eventually be trained as community police. As I mentioned earlier, all police have the right to arrest people on praedial larceny charges. So while we have a special squad, it is not confined to only this group of police, but all the police are responsible for law and order.

The budgetary requirements, we have a fair idea based on experience, on the sort of funds required for persons in the witness protection programme. This is budgeted for on an annual basis. So far I have not had the experience of any shortfall in dealing with the people who are members of the programme. I mentioned the point about the contract and this is the memorandum of understanding that will have to be signed between the witness or the person to enter the programme and the state. This is where I will raise the issue with the hon. Attorney General to ensure that there is some proviso that the person cannot just arbitrarily walk out the programme and, perhaps, as I say, embarrass the entire state.

So informers do not exist. I mentioned this earlier. With regard to witnesses in prison or witnesses who go back into the society, the risk is always there. When a person decides to turn state witness against people of his own kind, perhaps with whom he may have associated, the risk is there. I cannot promise and I do not think that anyone can promise, that the witness protection programme would provide absolute protection. It is a means to an end to allow that person to be protected while the case is going on. Of course, the most critical time is after the case has been determined, because there may be other people out there who may wish to seek revenge and the person and his family are then put at risk.

So part of programme involves a rehabilitation phase which deals with a point made concerning the—it is right here. In the Act the points were raised at clause 5(4) (c) about:

“providing payments to or for the participant for the purpose of –

- (i) meeting his reasonable living expenses including, where appropriate, living expenses of his family...”

It is here and we are prepared to do that. It goes on:

- “(ii) providing whether directly or indirectly other reasonable financial assistance;”

Justice Protection Bill
[SEN. BRIG. THE HON. J. THEODORE]

Tuesday, October 3, 2000

This incidentally is in the Act. This is clause 5 which deals with the Administrative Centre. Clause 5(5) (e) and (f) reads as follows:

- “(e) providing assistance to the participant in obtaining employment, access to education and health care;
- (f) providing other assistance to the participant with a view to ensuring that the participant becomes self-sustaining.”

Now what this means is that while the participant is within the programme, there is a risk that the person may simply sit there and vegetate and do nothing for maybe two or three years, as the hon. Senator pointed out, while awaiting the case to be tried. But built into the programme where children and families are concerned, we look to the education of the children. Now again, it may mean privately done, if the child cannot go to a school where he or she is not recognized. The family may need to do some sort of courses or training, or the individual himself may have some desire to enter into some sort of business, and depending on his level of education and training, he may have to be put into a training programme.

All these things have been done in the past and they have been put here so that the person who is within the programme would have a clear understanding of what the state’s responsibilities are to him. It is important, because people who came into the programme originally had no clue of what they would get and it turned out to be something that came more by chance or by goodwill than by law. These things are deliberately recorded here to ensure, being law, that the state would fulfil its responsibilities to the witness.

Sen. Jagmohan mentioned the DPP and putting somebody into the programme. What the law actually says, and this is at clause 10, under “The Director of Public Prosecutions”:

- “10.(1): In relation to criminal matters, the Director of Public Prosecutions shall, where he is satisfied that the circumstances so warrant, prepare and submit an application in the prescribed form to the Administrative Centre for a prospective applicant’s entry into the Justice Protection Programme.”

This is where the administrative centre will then act on this application and ask the investigative agency to determine the level of risk, the threat assessment, actually—risk is for the community—the threat to the witness; and a determination would be made as to what level of protection the person is entitled

to. There is also another area dealing with protection. I cannot find the exact clause now, but what we have to be aware of is that the protection is not confined to protection under the programme. Because the question will arise: What happens between the time the person requests protection and when he gets protection?

I know that is important, but there is a provision within the police service to provide protection immediately on request. It could be in the form of a bodyguard; in the form of protection of the home; in the form of protection between work and home. But there is something that is provided for, for the person to get some form of protection. There is immediate protection, short-term, medium-term and long-term. While the issue of entering the programme is being determined, protection will be provided for the individual.

So a number of areas that have given cause for concern and have become obvious to us over the years have been addressed in this legislation. Sen. Shabazz spoke about training within the police service. I fully agree that we have to continue the training programme and the education programme to ensure that the police become as efficient as possible and gain the confidence of the public so that they would have their support and cooperation.

With regard to Sen. Jagmohan's concerns, protection is also extended to families and children as applicable, because if the person is taken to a safe house and the family remains at home, while the target may be the informer or the witness, there is still risk and there is a certain amount of pressure on the individual if he is not given the assurance that his family is safe while he is in a safe house. So the family is considered.

12.35 p.m.

So the family is considered. Jurors and judges will get protection, and the question was: How long will it last? It will last—*[Interruption]*

Sen. Job: What is the definition of family in this programme?

Sen. Brig. The Hon. J. Theodore: It was dealt with in an amendment in the other place where, after "associates" it has been included a family member of that person. Now there are definitions of what a family member is. I assume we are talking about immediate family; spouse, children and so on. But that was deliberately included because it only said "associate." Although in drafting we sought to include family in "associate", but to make it clear the amendment was accepted in the other place.

Justice Protection Bill
[SEN. BRIG. THE HON. J. THEODORE]

Tuesday, October 3, 2000

The protection for anybody will last as long as the agency determining the risk finds that there is risk to the person. Now, this could be years and that is the expensive part. I am afraid it is not a cheap undertaking and it is going to cost money and it has been costing the Government money; the previous administration and this administration. But we feel that under the circumstance we cannot quantify the service that citizens seek to pay to the nation by assisting in having the perpetrators of crime dealt with.

I trust I have dealt with the majority, if not all of the points raised, and, if necessary, at the committee stage we may wish to look at the amendments that have been made and to look at the Bill in more detail.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: Hon. Senators, just to remind you there are several amendments that were made in the House of Representatives on Wednesday, September 27, 2000 and they are incorporated in the Bill that we have before us. You should have that with your Bill. Subject to your approval, I propose, seeing that we have no circulated amendments, to deal with it in parts. So we will deal with the six Parts and the two Schedules. Shall we go?

Clauses 1 to 27 ordered to stand part of the Bill.

First and Second Schedule 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.

Mr. Vice-President: Hon. Senators, I think it is appropriate and opportune now to take our lunch break. It is just before 12.45 p.m. and we will resume Senate at 1.45 p.m.

12.44 p.m. *Sitting suspended.*

1.51 p.m.: *Sitting resumed.*

Mr. Vice-President: Hon. Members, as agreed, we move to “Government Business” Motions.

JOINT SELECT COMMITTEE REPORT
Working Paper on the Reform of the
Management Structure of the Parliament

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): [*Desk thumping*] Mr. Vice-President, I have the honour to move the Motion standing in my name:

Be it resolved that the Senate adopt the Report of the Joint Select Committee appointed to consider and report on the ‘Working Paper on the Reform of the Management Structure of the Parliament of Trinidad and Tobago’.

Mr. Vice-President, the working paper before us, which was the subject matter of this Joint Select Committee investigation, dealt with the need for modernizing the Parliament. What happened is that the Government recognized there was a need to look at the whole structure of the Parliament. As you know, Sir, under the existing system, although there is said to be separation of powers, the fact of the matter is that the Executive arm of the state does have an influence in the management of the administrative aspect of the Parliament, because the staff of the Parliament is, in effect, employed by the Executive. What has happened over the years in different jurisdictions is that this issue has been looked at from time to time and there have been recommendations made to see whether there can be a little more autonomy in the administrative aspect of the Parliament.

Now, when I say the administrative aspect, I am separating the Parliament as in the floor of the House and the functioning of the Parliament itself as an institution, separate and apart from the administrative arm for the particular purposes of this debate. So, Mr. Vice-President, what happened is that the Law Commission did a working paper on the management structure of Parliament and looking at our institution. The working paper was entitled *Working Paper on the Reform of the Management Structure of the Parliament of Trinidad and Tobago*.

It was decided, Mr. Vice-President, that we should have a Joint Select Committee to look at this whole question, and at a sitting held on November 18, 1999 the House of Representatives agreed that a Joint Select Committee be established to consider and report on the working paper. It was further resolved that the committee be authorized to consider, as part of its record, the work of the previous committee which was appointed to consider this matter. The Joint Select Committee consisted of Mr. Ramesh L Maharaj, Chairman; Mrs. Kamla Persad-Bissessar, member; Dr. Rupert Griffith, member, Mr. Chandresh Shama, member; Mrs. Camille Robinson-Regis, member; Mr. Martin Joseph, member; Mr. Wade Mark; Brig. Joseph Theodore, Mrs. Carol Cuffy Dowlat, Mrs. Nafeesa Mohammed; Prof. John Spence and Mrs. Mahabir-Wyatt.

Mr. Vice-President, the committee was privileged to have written memoranda submitted to it and they received written memoranda from Mr. Kenneth Lalla, Chairman of the Public Service Commission; Ms. Jean Rosemund, Director of Personnel Administration; Mr. Hugh Clarke, Executive Officer of the Office of the Ombudsman and the Chief Personnel Officer, Mrs. Sandra Marchack and heads of divisions of the Parliament department. The committee also was very privileged to have attending our meeting to give oral evidence, the President of the Senate, Mr. Ganace Ramdial, the Speaker of the House of Representatives, Mr. Hector McClean, Ms. Norma Cox, Clerk of the Senate, and Ms. Anastasius Creed, Senior Human Resource Officer.

Mr. Vice-President, in the report which is before us it was recognized—and I think the best way to deal with this is to deal with it on the basis of the report and then—if one looks at page 4 one would see in paragraphs 15 and 16 that the committee felt that it had to consider first what the working paper said and that it had to also consider what has happened in other jurisdictions. It is very significant to see what paragraphs 16 and 17 said because, from the outset of its deliberations, and particularly after hearing evidence from some of the main stakeholders, to wit the President of the Senate, the Speaker of the House and the Clerk of the House and the heads of the parliamentary division, it became apparent that the arrangement for the management of the Parliament Department did not keep pace with the changes in the department that it was created to serve and such arrangements had outlived their usefulness. So I think I would be correct in saying that it was recognized that the institution which was supposed to deliver what it was intended to deliver has not kept pace with the changes over the years. There is only one way to describe that and that is to say that the Parliament as an institution was not reformed to meet the demands of the changing society.

The committee agreed that the modern concept of a parliamentary democracy presupposes that the Parliament is serviced by a secretariat, which is separate and completely independent of the Executive. The committee also recognized that such a secretariat must be staffed by a cadre of highly trained and well-equipped parliamentary officials, and that issues, which inform departmental policy-making, differ from those in the general public. The committee agreed in principle with the recommendations of the working paper.

Now, the working paper had recommended—and you would see that we departed from the recommendations, but if one looks at the working paper at page

10—that there should be established a parliamentary service commission comprising the Chairman of the Public Service Commission, the Speaker of the House, *ex officio* or, in his absence, the President of the Senate, and three other members appointed by the President; the members of the parliamentary service commission, with the exception of the Speaker, would hold office in accordance with section 126 of the Constitution; the power to appoint persons to hold or act in positions falling under the parliamentary service, including power to appoint, transfer, confirm, remove, exercise, discipline, powers, *et cetera*—the same powers of a service commission.

So it was recommended that there should be a parliamentary service commission to really see about the appointment, disciplining, *et cetera*, of the staff of the Parliament. It further recommended a separate legislation should be enacted to provide for the establishment of a parliamentary service and for the classification of officers to further provide for the establishment of a parliamentary management board responsible for the administration and management of the Parliament of Trinidad and Tobago. So there were two recommendations made by the working paper—a parliamentary service commission to see about the appointment and disciplining of staff and a parliamentary management board to see about the administration and management of the Parliament.

The parliamentary management board would be comprised of the Speaker of the House of Representatives; the President of the Senate; the Leader of the House of Representatives; the Leader of the Opposition; the Minister of Finance; two Members of the House appointed by the House of Representatives and two Members of the Senate. Officers of the public service in the Parliament Department would be deemed officers in the parliamentary service with transfers being permitted to and from other services. The existing arrangements for superannuation benefits in the public service would continue to apply to the staff of the Parliament Department.

The parliamentary management board would be granted the power to determine remuneration and conditions of service of the staff, to obtain specialist staff when need arises, to employ temporary staff and the parliamentary management board would be permitted to make regulations for the administration of the Parliament, *et cetera*. In the exercise of accountability, the parliamentary management board would report to Parliament annually and the Auditor General should continue to audit the accounts of the Parliament Department.

Mr. Vice-President, I do not want to exaggerate the problem, but during the course of the investigation, of our sitting, it became apparent that although there is a situation where money is to be released to Parliament, there would be situations where the money is not released. There would be instances—and this does not apply really to any particular government. That seems to be what has been happening for whatever reason over the years—where the Clerk of the House, or I do not know if the Clerk of the Senate too, would have to take their own moneys and pay for refreshments, *et cetera*, and then hope to get it back from the requisite authority.

When I heard that, it made me feel that the system had to be radically wrong. If a Parliament has to function and there is a situation where any member of the administrative staff has to write his or her own cheque to pay for refreshments for Members of Parliament or Senators and then get it back from the Government, something is radically wrong. It happens in different ways, whether it is for the planning of the sittings of Parliament in order to have the necessary refreshments and meals, *et cetera*, or whether it has to do with other things as to the kind of resources, the kind of human resource, not only the financial resources, in order to meet the demands of the Parliament.

For example, in the Parliament, you would want a set-up whereby if Members make their contributions and you want to get those contributions quickly in order to respond to debate, you should be able to have it almost right away. If there is a Parliament with a committee system functioning, one should be able to have staff with the necessary expertise in order to service the Parliament. It is in that context it has become necessary to look at these arrangements again and to see what can be done in order to improve the set up.

So that, coming back now to page 5 of the Joint Select Committee's report, when the committee started and it started its deliberations, it recognized that the system—something was wrong with the administration and management.

2.05 p.m.

Therefore, you had to have modernization and that is why at paragraph 16, it is recorded:

“The Committee recognized that such a secretariat must be staffed by a cadre of highly trained and well-equipped parliamentary officials and that issues which inform departmental policy make them differ from those in the general public.”

Mr. Vice-President, the committee said that:

“The recommendations outlined in the Law Commission’s Working Paper are threefold. It proposes that legislation should be enacted to provide for the establishment of a Parliamentary Service; a Parliamentary Service Commission and a Parliamentary Management Board. It was felt that the creation of these three entities would result in greater independence of Parliament thereby emphasising the doctrine of the separation of powers, et cetera.”

Paragraph 18 stated:

“Currently, the arrangements for expenditure by the Parliament are the same as for any Government Ministry. Funds are requested and budgeted for in the Draft Estimates of Expenditure to cater for recurrent expenditure like Personal Emoluments, Goods and Services, Travelling and Training. At the end of each month, a statement of expenditure for the current month is submitted to the Budget Division together with a request for funds to cover the projected expenditure for the following month. Herein lies the problem, for funds are not always made available on a timely basis and invariably the total sum requested cannot be granted. This results in the Parliament Department owing suppliers for goods and services. Consequently, suppliers are reluctant to extend further credit until sums owed to them are paid. Your Committee was dissatisfied to learn that there have been occasions when the Head of the Department was forced to utilise personal funds for the purpose of purchasing meals for Members of Parliament for parliamentary sittings and reimbursed when funds became available.”

What a total shame, if I may say, Mr. Vice-President.

“Your Committee noted that constitutional provision has been made for the expenditure related to the personal emoluments of certain offices to be charged on the consolidated fund. Such offices include:—”

The offices were itemized there:

- “(i) The Auditor General;
- (ii) The Director of Public Prosecutions;
- (iii) The Chief Parliamentary Counsel;
- (iv) The Ombudsman;
- (v) Members of the Elections and Boundaries Commission;

- (vi) Members of the Integrity Commission;
- (vii) Members of the Salaries Review Commission;
- (viii) Members of the Service Commission.”

Then, the Committee dealt with the Parliamentary Service:

“The Working Paper proposes the establishment of a Parliamentary Service exclusive to the Parliament. It also states that the chief objective of such a reform exercise would be the creation of a dynamic institution served by a career Parliamentary Service with high standards, capable of guarding the long-term interests of the Parliament and providing continuity in an environment which is liable to change every five years.

Further, it highlighted the fact that in several other Commonwealth jurisdictions, legislation provides for the independent staffing of those Parliaments. There was consensus amongst the major stakeholders that the creation of a Parliamentary Service was indeed a step in the right direction. Your Committee took into consideration the highly specialized nature of the work and the long and uncertain hours and agreed to the establishment of a Service called ‘The Parliamentary Service’.”

Mr. Vice-President, I regard this as a very important topic and in light of that, I would ask Senators to forgive me if I go through in detail, the report so that Senators would appreciate what we are dealing with.

“THE PARLIAMENTARY SERVICE COMMISSION

The Working Paper recommended the creation of a Parliamentary Service Commission comprising the Chairman of the Public Service Commission as Chairman, the Speaker of the House of Representatives ex-officio or in his absence, the President of the Senate, and three other members appointed by the President of the Republic of Trinidad and Tobago in his discretion. Comments received from the Chairman of the Public Service Commission, the Director of Personnel Administration and the Chief Personnel Officer neither condemned nor endorsed this recommendation. They simply pointed out the advantages and disadvantages of having such a Commission, and all expressed concerns of having politicians serve on a Service Commission.”

Reference was made to the case of Endell Thomas so that politicians would not have any influence on the working of the Commission.

“The existing staff attached to the Parliament Department also expressed similar concerns. Your Committee took these comments into consideration and made appropriate recommendations.

Your Committee considered a recommendation that a fourth class of service, (*the Parliamentary Service*), should be added to the three services currently vested with the Public Service Commission. However, your Committee rejected this option having regard to the fact that it would add additional burdens to the already overworked Public Service Commission and in recognition of the fact that bureaucratic constraints often impede decision making by the Public Service Commission.

Instead, your Committee preferred a modified version of the recommendation of the Working Paper that there should be established an independent and separate Parliamentary Service Commission. In its opinion, this Commission should be appointed by the President in accordance with Section 126 of the Constitution, with powers to appoint, transfer, promote, discipline and terminate Parliamentary officers. Your Committee is of the firm view that for this Commission to operate effectively, this Service Commission should be staffed by a small cadre of supporting personnel, and wherever possible, the services needed by the Parliamentary Service Commission should be contracted out.

Your Committee agreed that any new management structure for the Parliament must afford Members of Parliament from all sides and groups, an opportunity to determine matters pertaining to the functioning of the Parliament. To this end, your Committee decided on a proposed structure for a Parliamentary Management Board which would be a policy making, as well as a decision making body. Your Committee discussed the functions and powers of the Board and agreed that the Board must be consulted by the relevant authorities when fixing remuneration and in the developing of Parliamentary Service Rules and Regulations. In addition, the Board should be given the powers outlined in paragraph 26(C)(vi). Your Committee felt that more detailed powers and functions could be formulated and included in the proposed legislation.

Under the Ombudsman—as we know, the Ombudsman is a part of the Parliament and the Constitution under section 91(1) established the Office of the Ombudsman and stated that he shall be an officer of the Parliament.

“This is an independent office that is not intended to be under the control of the Executive. Your Committee considered the comments from the Executive

Officer to the Ombudsman and noted the concerns expressed by him, one of which pertains to financial management of the Office. The accounting unit of the Parliament is responsible for effecting financial and accounting services to the Office of the Ombudsman, which is headed by an Executive Officer and comprise some twenty-eight public officials. The Clerk of the House as Accounting Officer for the Parliament and Parliamentary Institutions is ultimately accountable for the disbursement of moneys used by Parliament for the Office of the Ombudsman, and expenditure is incurred only on the instructions of the Ombudsman or his Executive Officer. The Ombudsman's plea for financial autonomy of the Office of the Ombudsman in his Fourth and Fourteenth Annual Reports and the Report of the Joint Select Committee of Parliament...Insofar as one of the objectives of this reform exercise is to give greater autonomy to the administration of Parliament, your Committee felt that those reform efforts would resolve the Ombudsman's concerns and concluded that it would be unwise to recommend any amendment to the Constitution related to the Office of the Ombudsman at this time.

Your Committee wishes to report to Parliament that it has completed its deliberations and recommends the following:—

- A. (i) That legislation be enacted to provide for the establishment of a Service called 'The Parliamentary Service', and for the classification of officers thereunder;
- (ii) That transfers or secondments should be possible between the Parliamentary Service to and from other Services (Civil Service, Fire Service, Prison Service, Teaching Service, Police Service and Judicial and Legal Service);
- (iii) That for appointments to positions with the Parliamentary Service, preference should be given to existing Civil Service staff in the Parliament Department with such staff being allowed a maximum of twelve months to confirm their interest in moving from the Civil Service to the Parliamentary Service. Officers who opt for transfer to the Parliamentary Service would retain their superannuation benefits from the Civil Service. Officers who choose to remain in the Civil Service shall be redeployed to comparable positions in the general Civil Service.
- B. (i) That legislation should be enacted to provide for the establishment of a Parliamentary Service Commission comprising a Chairman and four other members appointed by the President of the Republic of Trinidad

and Tobago after consultation with the Prime Minister and the Leader of the Opposition;

- (ii) That the members of the Parliamentary Service Commission would hold office in accordance with section 126 of the Constitution of the Republic of Trinidad and Tobago;
 - (iii) That the power to appoint persons to hold or act in positions falling under the Parliamentary Service, including the power to (a) make appointments on promotion and transfer, (b) confirm appointments and (c) remove and exercise disciplinary control over persons holding or acting in such positions would be vested in the Parliamentary Service Commission;
- C. (i) That legislation be enacted to provide for the establishment of a Parliamentary Management Board responsible for directing parliamentary management and administrative services for the Parliament of the Republic of Trinidad and Tobago;”

Then it deals with the composition of the Management Board.

- “(ii) That the Parliamentary Management Board be comprised of the Speaker of the House as Chairman, the President of the Senate as Vice-Chairman, the Leader of the House, the Leader of Government Business in the Senate, the Leader of the Opposition and a representative of the Independent Senators. The Clerk of the House shall be the Secretary to the Board with the Clerk of the Senate as the Assistant Secretary;
- (iii) That the legislation make provision for the Board to elect a Chairman in the absence of the Chairman and Vice-Chairman;
- (iv) That the relevant authorities would fix remuneration and determine conditions of service of the staff of the Parliamentary Service in consultation with the Parliamentary Management Board;
- (v) That Parliamentary Service Rules and Regulations for staff shall be developed by the relevant authorities in consultation with the Parliamentary Management Board;
- (vi) That the Parliamentary Management Board be given the powers to:
 - (a) approve the employment on contract of specialist staff for periods not in excess of three years; and”

Joint Select Committee Report
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

Note that the Parliamentary Service Commission would employ the normal staff but the Parliamentary Management Board would have the power to employ specialist staff.

- “(b) approve the draft Estimates of Expenditure for the Parliament and Parliamentary Institutions;
- (vii) That Members of the Parliamentary Management Board should hold office for the life of the Parliament and upon dissolution of Parliament until the first sitting of the next Parliament, the Speaker of the House of Representatives and the President of the Senate shall form an interim Board. The Clerk of the House shall continue as Secretary with the Clerk of the Senate as Assistant Secretary.

In respect of the Financial Administration of the new Parliamentary Service, your Committee recommends the following:

- (i) That the administrative and operational expenses of the Parliament and Parliamentary Institutions, including salaries and allowances for Members of Parliament and staff; goods and services and other necessary parliamentary expenditure be charged on the Consolidated Fund;”

Mr. Vice-President, if I may pause here. When one looks at what happens—and as I said it does not relate to Governments—because of the kinds of procedures that have existed throughout time in the public service, Ministers of Finance would not even know what is happening at times with these things, so that there are situations where you have the allocations and the moneys to be disbursed, and the Ministers of Finance do not get involved in that. It is only when there are problems, the Ministers of Finance are told. I am not blaming government, I make it quite clear. We are not blaming any government, past or present, with this particular thing.

Sen. Shabazz: That is nice.

Hon. R. L. Maharaj: It is the system that exists, the bureaucratic system in which the Parliament depends upon assistance in which technical rules may apply and you may not get the release of funds. In that set-up, it was felt that if you had to have reform, then one of the matters which ought to be considered was whether or not these expenses should not be charged on the Consolidated Fund.

Mr. Vice-President, this is not a problem which has turned up overnight. This is a problem which has been happening from the evidence and from what we were told in the committee, over the years.

- “(ii) That the Parliamentary Service maintain accounts and records in a form approved by the Auditor General of Trinidad and Tobago;
- (iii) In the exercise of accountability, the Parliament Management Board should report to Parliament annually or more frequently if it so determines;
- (iv) That the accounts of the Parliamentary Service be audited by the Auditor General in accordance with Section 116 of the Constitution.

In respect of the Office of the Ombudsman, your Committee recommends:

- (i) That the existing staff become part of the new Parliamentary Service;
- (ii) That the proposed legislation provide for the Parliamentary Service Commission to have similar powers in respect of staff in the Ombudsman's Office as staff attached to the Parliament;
- (iii) That provision be made in the legislation similar to that in Section 121(8) of the Constitution for the Parliamentary Service Commission to consult with the Ombudsman before appointments are made to offices within the Office of the Ombudsman.”

2.20 p.m.

“Your Committee considers the Parliament and its institutions to be pivotal organisations in maintaining the constitutionally guaranteed rights and freedoms of all citizens as enshrined in the Constitution. Your Committee feels strongly that if these rights and freedoms are to be continued to be enjoyed by the population, Parliament must be provided with a modern and dynamic administrative structure which will equip it to meet the challenges of the twenty-first century.

- 30. In making the above recommendations, your Committee took into consideration:-
 - (i) the need to increase the efficiency and effectiveness of the existing administrative machinery of Parliament;
 - (ii) the accepted position in many Commonwealth jurisdictions to appoint Parliamentary staff who are exclusively employed by Parliament;

Joint Select Committee Report
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

- (iii) the specialised nature of the work of Parliament;
 - (iv) the need to ensure the constitutional independence of the Parliament; and
 - (v) the current difficulties experienced with the existing financial arrangements.
31. It is therefore the fervent hope of your Committee that the recommendations contained in this report will be accepted by both Houses and implemented with some degree of urgency, so that Parliament could effectively fulfill its mandate and continue to make laws for the peace, order and good governance of the Republic of Trinidad and Tobago.”

Mr. Vice-President, before I go further I take this opportunity to pay tribute to the Clerk of Committees, Mr. Jaggassar, and the members of the staff of the Parliament who assisted us tremendously in this exercise. May I also put on record my thanks to the Members of the Opposition who cooperated fully and made contributions—we agreed and disagreed, but there was really a political family getting together, in my view—Sen. Nafeesa Mohammed, Mrs. Camille Robinson-Regis, and Mr. Martin Joseph. [*Desk thumping*]

I would also like to put on record our sincere thanks to the Independent Senators: Sen. Diana Mahabir-Wyatt, Sen. Prof. John Spence, and also the Members of the Government: Mrs. Kamla Persad-Bissessar, Dr. Rupert Griffith, Mr. Chandresh Sharma, Brig. Joseph Theodore, Sen. Jearlean John, and before her was Sen. Cuffy Dowlat. The committee did its work but, I think it would be unfair if I do not put on the record what has happened in this administration with the attempt to modernize the Parliament.

This modernization of the Parliament, which we are trying to do and which we have recommended as a Joint Select Committee, bearing in mind that this would have to be considered by Cabinet—. When this administration took office it was decided that the Red House should not be used for any other state activity except the functioning of Parliament. It was decided that steps should be taken for other offices to vacate the Red House so that the physical structure of the Parliament building would be renovated, refurbished and restored in order to provide the facilities and amenities for the proper functioning of Parliament.

I think that although it was anticipated that a lot more work would have been done, we had some problems in getting the Registrar General’s Department to

move from the Red House because that has taken some time. I think that the commitment of the Government must be recognized. It was recognized that to reform this parliamentary institution you have to start with having the building itself sorted out. Quite apart from that, the facilities for Members of Parliament were dramatically improved.

As a matter of fact, Members of Parliament were given, for the first time, computers, air-conditioning, increased salaries for staff, increased facilities for stationery, increased allowances for telephones and for the payment of persons to assist the MPs. There was an allowance given before which did not meet the needs of the MPs. [*Desk thumping*] I would not go into details, but when one looks at the record one would see that the Government did things which showed that it was prepared to have Members of Parliament doing more effective representation for people. [*Desk thumping*]

Mr. Vice-President, I think I would be failing in my duty if I did not put on record the support and cooperation of the Minister of Finance, Planning and Development. He was one of the persons who, when the proposal went for approval, supported it 100 per cent and found ways and means to ensure that Members of Parliament were given these increases.

Mr. Vice-President, when the proposals went for us to get approval so that there could be two phases in the refurbishment of the Red House, phases one and two—. What the Government had planned was to refurbish the Red House in such a way that the House of Representatives and the Senate would be able to sit at the same time, and there would be committee rooms in the Red House so that committees could function. There could also be offices for the Members of Parliament—MPs would include Senators—so that they can see people, they would be serviced by a secretariat, and we would have a modern, functioning Parliament. When the Parliament has to sit up to 3.00 in the morning, there would be relevant accommodation and services provided so that Members of Parliament would be happy and at ease.

I want to tell the hon. Senators that the Senate alone does not sit until 2 o'clock and 3 o'clock in the morning. The House of Representatives sat until 2.30 this morning.

Sen. Dr. McKenzie: Mr. Vice-President, if I may just interrupt the hon. Attorney General to tell the hon. Minister of National Security that last Friday morning when we were leaving here at a very unholy hour, Sir—in your absence they do things behind your back—the hon. Attorney General took over your

[HON. R. L. MAHARAJ]

portfolio, and saw to it that we had security to protect us; great security—for people like Sen. Mohammed, who has had her car stolen from her twice—to go to our different places of abode in safety.

I want to say to him, Sir, that the ladies felt very safe having the Attorney General around to ensure that the police officers escorted and gave good patrol to make sure that we could be safe and sound to be back here. I think he sort of outdid the hon. Minister of Finance, Planning and Development. So we want to say thanks to the hon. Attorney General for how safe we felt as ladies going home at 3 o'clock in the morning escorted by the blue lights. [*Desk thumping*]

Hon. R. L. Maharaj: Thank you, I do appreciate that, but we could not have allowed you to go alone. I want to assure you that I always feel safe in the company of ladies. [*Laughter*] [*Crosstalk*]

In talking about the plans for the Red House, even when it was found that we were having difficulties with the finance, we again approached the Minister of Finance, Planning and Development and he was able to give the commitment in the budget debate that this would all be sorted out. We cannot really, in a democracy, function effectively if we do not ensure that the institution in which the people's rights are being looked at, being investigated, being debated, is not properly functioning. The whole history of Parliament is that it is really a forum for the people, and it would seem to me that things would be very lopsided if over the years we allowed the Parliament as an institution to become outdated.

We are trying to get Trinidad and Tobago to position itself to be competitive in the world, because you cannot really be competitive in the world unless laws and institutions which deal with law and order are also competitive. If we are going to fulfil our role in a modernized age in which there is globalization, we cannot lag behind if you are going to be a leader in the region. It is with this vision that this administration decided that although we are going to take steps to modernize different aspects of the state, one of the steps that we have to take is to modernize the Parliament and the management structure and administration of the Parliament.

Mr. Vice-President I beg to move.

Question proposed.

Sen. Nafeesa Mohammed: Mr. Vice-President, this is one of the few occasions when we could sit as a Parliament, have a debate in a rather cordial

atmosphere and agree on several of the matters. We are not obstructionists, as others may make us out to be, and as others have been in the past.

As I sat here and listened to the hon. Sen. Eastlyn Mc Kenzie commend the Attorney General for the security services that he provided on Thursday last and as we talked about the reform of Parliament and the reform of the physical structure of this Red House building, I certainly, as a relatively young parliamentarian in this Chamber, think that I can now start a lobby—as we seek to improve the conditions in the Parliament—on behalf of all female parliamentarians, now and in the future, for some nursery facilities, perhaps, in the fullness of time, [*Desk thumping*] especially when sometimes we have to sit at 3 o'clock in the morning. [*Laughter*]

It is in keeping with the times, because I know in Britain, not too long ago, there was a big debate about the use of committee rooms to enable female parliamentarians to breastfeed their babies, so in keeping with the times I think it is a legitimate matter to pursue.

Mr. Vice-President, I would like to put on record the fact that it was, indeed, a privilege for me to have been part of this Joint Select Committee that sat, with respect to the reform of the management structure of the Parliament of Trinidad and Tobago. I know the hon. Attorney General has a reputation for being a workaholic, and, indeed, there were occasions when he had everyone going for some long hours, but, at the end of the day, we were able to arrive at some agreement with respect to this question of reforming our parliamentary structure.

As was mentioned before, there was a working paper that had been prepared, and the Joint Select Committee met in respect of that working paper. We certainly did not slavishly follow the recommendations of that working paper. In fact, during the deliberations I recalled that we had the benefit of many persons involved in the public service, the Parliament and what have you, and it was really an interesting discussion that had taken place. I think in all the discussions, the main area of concern that we had, from our point of view as the Opposition, was the need to ensure that whatever structure we came up with, that we try at all costs to preserve, as far as possible, the need for there to be some independence, some autonomy, with respect to Parliament and the Executive.

2.35 p.m.

That was our main area of concern particularly insofar as the recommendations of the working paper were concerned because one of their recommendations was in respect of the establishment of a Parliamentary Service Commission that would

have in fact comprised persons involved in the political arena in one way, or the other, and at the end of the day, I think we were able to develop a hybrid system that would ensure that measure of autonomy and independence that we desire.

I think for many of us it has been some five years now that we have been sitting in this Senate and I believe we tend to take things for granted especially as it relates to the operation of Parliament in Trinidad and Tobago. Behind the scenes, we have had the experience where, from time to time, we have met at all ungodly hours in the night and in the morning and there would be some staff members around who have to stay here until whatever time the parliamentary sitting is terminated. For the record, I think it is important for us to be aware of the many departments that make up the parliamentary department in our country.

There is the Office of the Speaker of the House; Office of the President of the Senate; the Parliamentary Secretariat comprising the Office of the Clerk of the House; Office of the Clerk of the Senate; Office of the Clerk of the Committees and the Office of the Public Accounts Committee; the Office of the Leader of the Opposition; Administrative Services Unit; Parliament Library; Accounting Unit; Internal Audit Unit; Hansard; the Office of the Sergeant-at-Arms and the Office of the Ombudsman.

All in all, I think the staffing with which we are dealing when talking about the Parliament Department is made up of approximately 90 persons employed on a permanent basis.

I am sure as we look around, I see Sen. Ramnath here who has been in this Parliament for many years. I am sure when he just started off there would have been faces in the parliamentary department who are still here for some 30 or more years. Hardworking, committed staff of the Parliament Department and we have to give credit to these persons who have to carry out certain duties and responsibilities. It is a very specialized area in terms of our public service and the conditions under which they operate, we know are not too pleasant.

When the hon. Attorney General mentioned that at times the Clerk has had to make payments out of her personal finances to meet certain commitments, it tells you how urgent it is for us to ensure that there are improved systems in place in order to reform and modernize our parliamentary structure. This is a matter that transcends governments as the hon. Attorney General pointed out, because we just have to look at our history, and our Parliament is a system that we inherited. We have our Constitution that caters for the House of Representatives and the Senate, and over the years, we know how things have been operating. Certainly, tribute

must be paid to these very committed and dedicated workers who have been with us.

I think this was the fundamental issue that was looked at in our discussions. One of the main issues was the question of the timely disbursement of funds, and in that regard, we were able to come up with a particular formula that should ease the situation a bit. Insofar as the establishment of a Parliamentary Service Commission was concerned, as I mentioned, we were very concerned about preserving the whole concept behind service commissions which is to ensure that there is that independence from political interference and at the end of the day we were able to achieve the right formula for that as well.

With respect to setting up a Parliamentary Management Board, that again would be a novel system here and there would be representation from all sides of the political equation in terms of the day-to-day affairs of the operations of Parliament and that is something with which we agreed.

When the hon. Attorney General was speaking, however, he started to go off on a political tangent and I think I need to set the record right because he mentioned the Government has to be given credit for improving the conditions for Parliamentarians. If it is they have made some improvements in terms of increases and so, we gave them credit for that, but at the same time, for the record I think it is important for us to remember that it was around 1992 when the then PNM administration came into office that, for the first time in this country, elected Parliamentarians were given certain basic amenities with respect to operations in their respective constituencies.

This is a fact that is recorded and Sen. Ramnath could testify to this because he was in the Parliament in a previous era when no such condition existed, but I recall the days when, for the first time, an elected Member of Parliament was given a grant. I think it may have been about \$6,000 whereby they were able to hire staff to operate a Member of Parliament's office and they were given certain basic provisions of furniture and stationery and that is when it all started, under the previous PNM administration. When this administration came in, by that time the hon. Minister of Finance made loans available for computers. If they have now given all elected Members of Parliament computers, we say thank you. At the end of the day, what we are concerned about is that you would be able to improve the level of representation for the people of Trinidad and Tobago so at the end of the day, it is the people who can benefit from these improved amenities. I think we needed to put these things on record.

It is unfortunate though that to this day we have not been able to tackle the problem of improving the physical structure of this very historic building. I know of the difficulties; the hon. Attorney General mentioned the problems of the relocation of the Land Registry and only last week we learnt that the Registry was in fact relocated to the Huggins Building. I do not know if, perhaps, by now, the Attorney General has attended to the problem, but just last week as I came out of this Chamber, I saw several search clerks assembled at Woodford Square and there have been some rumblings with respect to the lack of space for our search clerks to function at the Registry. In fact, there was a threat of a virtual shut down of our economy because our search clerks would be unable to prepare their search reports on a timely basis.

I know the Attorney General is very sensitive to these issues and would do whatever he can in the shortest possible time to improve those conditions. The problem is a lack of space. If there are 130 search clerks, they need more room at the Huggins Building. So perhaps if he speaks to his colleague, the hon. Minister of Housing and Settlements, John Humphrey, he might be able to get that added space in the area we had spoken about some time ago.

With respect to the physical structure, we know that during the five years we were here, some attempts were made at improving the physical structure when the Members lounge and one or two areas may have been improved to an extent. We know that whilst that was done, the roof continues to leak, in the very Members lounge where thousands, if not millions of dollars, may have been spent, that in a matter of months the rain started to leak through the roof and damaged the curtains, carpets and what have you. It is a situation in which we really have to take some decisive action. It has taken some five years, it is a pity the hon. Minister of Works and Transport, Sadiq Baksh, is not here because I know just before the previous administration left office there were plans to improve this building. Five years have gone by and perhaps now with Sen. Carlos John in that Ministry maybe he might be able to do what Sen. The Hon. Sadiq Baksh was unable to do, or was incompetent to do.

Mr. Vice-President, at the end of the day, we are talking about the reform of the management structure of the Parliament of Trinidad and Tobago and I think we all recognize that there is a need to reform this structure in order to keep it up with the times, to make it a more dynamic institution. From the deliberations, the report has been made and Members would have copies of it and at the end of the day, we on this side did, in fact, support the recommendations made by the Joint Select Committee.

I wish to apologize—I note from the report, the Members who signed the report—that my colleague, Mrs. Camille Robinson-Regis' signature is not there and I think at that time it was because she was out of the country. Other than that we support the basic recommendations of the committee.

Thank you.

Sen. Diana Mahabir-Wyatt: Mr. Vice President, I would be very brief. Since I am the only Independent Senator here today who was on that Joint Select Committee I say that we endorse heartily the report. We are extremely pleased to hear today that the hon. Minister is talking about the improvement of the physical facilities concurrent with the management structure. It is as one of those who was not fortunate enough to have a police escort home at 3.00 a.m. I do appreciate the fact that everybody else did, and I think that is very important in light of security, but I am worried about staff when we are repeatedly asking people to work until 3.00 a.m.—well we leave at 4.00 a.m.—and to be back at work for 10.00 a.m., I think that we should make sure that there are facilities for them, perhaps even a shift system so that if this goes on for long periods they are able to work. I just do not think that human beings can work at that rate, 16—18 hours a day, day after day, and still be able to perform.

I think we have to be very thankful to them for the work they have done in the past and continue to do. I am absolutely astounded at the quality and the extent of the work that our Parliamentary staff manages to produce under the constraints under which they have been operating.

The hon. Attorney General mentioned having to use personal funds to buy refreshments, but he did not mention what happens when they run out of paper, so that there is not enough paper or stationery which has happened in the past. Where they are not allocated enough money to be able to print *Hansard* on a regular basis. These kinds of things obviously have to stop and it is for those reasons I am very pleased to endorse the adoption of the Working Paper on the Reform and Management Structure of the Parliament of Trinidad and Tobago.

Thank you.

Sen. Kelvin Ramnath: Mr. Vice-President, I want to add a few comments and congratulate the Members of the Committee for having taken a small step towards ensuring a better management of the parliamentary system.

I entered this Chamber in 1976, it is a very long time ago, and not much has improved here in the last 24 years. I do not go back that much because I still see

myself as being relatively young here and in the politics—although what I am going to say does not have anything to do with any ambition—I have to return.

2.50 p.m.

First of all, what we are doing today is creating a small measure to improve the efficiency of the parliamentary service. I think this is something we should welcome but we should see this as just the beginning of a long journey to bring our Parliament to the level where our citizens would want to tour the Parliament and to interact with its Members from time to time; to have an opportunity to visit our library; feel comfortable when they come to participate in committee and so forth. I do not think this requires a lot of foresight, I think it requires a lot of will.

Traditionally, Members of the Senate and the House of Representatives, who are not Ministers, have been relegated to the minor role because Ministers, by and large, in the past, spent most of the time in their ministerial offices and on Friday afternoons they took a walk from their ministerial offices to the Parliament. While they are in their ministerial offices they have all the necessary administrative support to carry out their work. It happens even today. I think this is a bi-partisan that should lead to promoting the value of the Parliament in our democracy.

We are also very reluctant to talk about benefits and facilities for Members of Parliament. I am really amazed at the statements I hear coming from people who sit in the Parliament about salaries and benefits for Members of Parliament. I am shocked when I hear people—who know better and who know that one cannot function, as a Minister, a Member of the House of Representatives or the Senate, very effectively, on the present salaries—criticizing the Government for an increase that is tantamount to a pittance, and behaving in a holier than thou attitude, that the Government is increasing parliamentarians salaries relative to people in the other sectors of the society

One of the most important things that we should do, as a Parliament, is to ensure that working conditions are at the level that will ensure that Members of Parliament can carry out their work properly. If one looks at this building it tells a very sad story. Although I have to tell you, Mr. Vice-President, that this is a remarkable improvement to what I saw as far back as 1976.

When one came into the Parliament in those days there was the Director of Surveys office at the bottom. Parliamentarians had to come through the same stairway as Members of the public who were seeking services from the Director of Surveys. There were no security and committee rooms. The tea room was in

the library where the toilet is now located, I do not have to tell you what it was like but the will was there to make this institution, which we say so much about, as being paramount in the nation, to do something, so that it can be a place, a building, an institution, which the entire country would look upon as the center of power in the country.

It was more important to look at Whitehall, as the center of power and other ministries as the place where power resided than to look at the Parliament itself. I encourage Members of Parliament, who are on their way out, to understand that one of the legacies that they can contribute to, is to ensure that this institution is preserved and promoted so the average citizen would be proud.

Mr. Vice-President, on the daily basis we all experience the criticisms made by the general public about politician and these criticisms will be mounting as the fateful day approaches. For those who have sat in the House of Representatives, it is even worse. I am sure the Member of Parliament for Barataria, whose ambition it is to sit in the House of Representatives, would go through the experience of having to face the irate electorate with the criticisms that politicians are crooks; they are thieves; they cannot be believed; they are not to be trusted and all of the other things that accompany the campaign.

We need to do something about lifting the esteem of this institution and getting across to the public that this institution is an important and pivotal part of our democracy, but there is this reluctance. I am not so worried about whether the parliamentary staff is independent or not, those things are relative to the morals of the day, people cannot be forced to be unbiased and so forth. I think what it would do, however, is to ensure that there is some level of stability in terms of the people who work in the parliamentary office. I do not think that would do much more. I do not know what the parliamentary board is going to do more than what the Speaker and the President do these days. What I think is important is for the board to identify, very seriously, the concerns of Members. I think that in addition to a nursery we probably need a barber shop as well in the parliamentary building; other facilities not only Members could use but certainly their constituents, assistants and various other people who come here.

We should not have allowed this building to deteriorate as it did, and this has nothing to do with who is in power. This is an important historical building. It is important not only in Trinidad and Tobago but also in the West Indies. Apart from being made useful for occupancy it has to be preserved as part of our history as a people of Trinidad and Tobago. It really does not matter who is in power.

Mr. Vice-President, I implore Government and the Opposition to continue the struggle for improving the quality of the building; continue to promote the interest of Members of Parliament; ensure that we are at one in terms of salaries and benefits, not only of the administrative services but also the Members of the House of Representatives and the Senate and be realistic. A Chief Executive Officer in a state enterprise in this country gets \$50,000 a month and that is without perks. The Prime Minister, I think, gets \$15 thousand a month; the Attorney General gets \$12 thousand a month and when the Salaries Review Commission proposes that it should be increased by a small percentage, even Members of this Chamber are very concerned that such increase is phenomenal.

3.00 p.m.

We are not going to gain the respect of this population if we cannot get some of the finest people in the society to sit in these Chambers. People are not going to come here simply because they love to sit here during the week or sit in ministerial office. They have to be attracted on the basis as well of a decent compensation package. I do not know how some of our Ministers operate. I am absolutely sure they must have a lot of savings. But if one looks at the earning potential of the people in the Front Bench of this Senate, one would realize that this is nothing more than dedicated national service. [*Desk thumping*]

These are people who are giving up very, very important time and they are not at all compensated. I am sure most of them can contribute what they earn in salary to charity when compared with their earning potential, and we have to be realistic. I am sure Sen. Daly will agree with me. I do not know if he was talking to me but he would know that the time he spent here—I remember hearing him say to one Member of the Senate in crosstalk, “Do you know how much it costs me to listen to you?” [*Laughter*]

So, Mr. Vice-President, I simply want to congratulate the team for making a step forward, a step in the right direction, but I would like to see in the not too distant future that we transform, if only this building, so that citizens would be proud of their MPs operating in an environment that is conducive to good decision-making process and so forth, and that we at least provide our Senators and our MPs with decent accommodations. I have no doubt that it is the intention of both sides but I think a lot depends on the ministers of Government, whoever is elected to power in the country, to see that more is done because many MPs and Senators have, as their only office, the Red House to carry out their work, whereas ministers have other facilities and other offices in which to do their work. Thank you very much, Sir. [*Desk thumping*]

Sen. Rev. Daniel Teelucksingh: Mr. Vice-President, I too would like to congratulate the committee for their work and their recommendations, particularly their recommendations on parliamentary reform. I am very pleased, though, to hear the last speaker, and certainly the hon. Attorney General, speak about the vision for the Red House, the seat of Government, and the need to have this historic building repaired. I am subject to correction but I have been reliably informed that it costs the Government about \$30,000 for a season—a rainy season, dry season—to put tarpaulins on this building. I do not know for how long we have been doing that and for how many seasons we have been covering this building with yellow tarpaulins costing in the vicinity of \$30,000. [*Interruption*] But certainly! I am very happy that the hon. Attorney General has given us the assurance that this work is going to be done to get this building, which is the seat of Government, repaired and so forth. We have to unscramble that logjam where Nipdec has the contract to fix or repair this building for so long and something has happened.

Mr. Vice-President, I am delighted that we have begun the process of parliamentary restructuring. In the *Working Paper on the Reform of the Management Structure of the Parliament*, there have been references to upgrading and modernizing the administrative system and I know it is good that we have been making additional facilities, providing the best facilities for the MPs, and so forth. I want to make a plea on behalf of the Independent Bench. As long as the Constitution—very little is said about the Independent Bench in this paper. I want to make a plea on behalf of this most important Bench. As long as the Constitution retains Independent Senators, their work will continue to be an indispensable part of the functioning under the present system of Government.

I heard the previous speaker make reference to the MPs and their dedicated national service. That applies to all of us—dedicated national service. Mr. Vice-President, Independent Senators are not career politicians. We never professed to be that. If we can more meaningfully participate in the parliamentary agenda of the Senate, many of us have seen the need for the inclusion in this of a Senate secretariat with a research officer to the Independent Bench. Over the years there are so many of us who have seen the need for this and I would like the Government, in further consideration of the working paper, to think very seriously about providing a research officer for the Independents.

Since the primary responsibility of Parliament is legislative in nature, all of us in this House will benefit immensely with such a provision, and this will ultimately result in the total overall performance of the Senate. I am not talking

about the Independent Bench alone. I have often heard temporary Independent Senators express their own inadequacy because of limited briefing and preparation on serious legislative matters on the Order Paper. Some of us who are regular Members of the Senate have the same problem. [*Interruption*] Certainly; we do not know what is going on but in addition there is nobody to help us; nobody to brief us; no resource person.

However, as I say this, I also want to say how grateful we are for the immense assistance given by the present Clerk of the Senate and others on the Senate staff. [*Desk thumping*] If they had not helped us we would have been lost, but I want to most respectfully suggest to the hon. Attorney General that the Independent Benches need a specialist research officer to assist us, and this is most advisable at this time. I thank you very much, Sir. [*Desk thumping*]

Sen. Martin Daly: Mr. Vice-President, [*Desk thumping*] I take part in this debate solely for the purpose of recording my personal thanks to the parliamentary staff. I always like to see the irony, and it is somewhat ironic that we are now wanting to elevate them into their own department, and all this business. For many of the reasons described by Sen. Rev. Teelucksingh I have had, on many occasions, to assemble material at breathtaking speed, either because I have not been able to give up the time when I know what is on the agenda, or usually because we have some topsy-turvy arrangements.

Whether it is the *Hansard* one goes to five minutes after one has made a contribution and demand a page, and one gives them two words of reference, they find the page. That is my personal experience and I think that needs to be recorded. [*Desk thumping*] Whether one goes to the library or one rings them up, whatever, one gets things quickly. Sometimes, certainly speaking for myself, the request might be somewhat testy, because the vagaries of the parliamentary agenda have one under pressure, and I think they really perform an amazing service.

Really, this is by way—it is probably one of our last opportunities to give a vote of thanks and I certainly would not like to give that vote of thanks at 2.30 in the morning when some important piece of legislation is being sneaked through the night. Happily I am able to give it at close to 2.30 in the afternoon so that we can make a proper record of it. I will stay away from the ironies of the title of the legislation—the other ironies of “Management Structure of the Parliament” because, of course, implicit in what I am saying is one must have a management structure for the parliamentary agenda and we must have a management structure

that recognizes the realities of life in Trinidad and Tobago. I certainly hope we would not inflict a 2.30 on the Senate again. I was fortunate enough to miss it, happily, but I certainly hope that we will not inflict that on the Senate again.

Since we are discussing the parliamentary staff, I wonder, when we make those kinds of arrangements or fail to make the appropriate arrangements, do we consider only the dislocation of ourselves or do we consider the dislocation of the parliamentary staff who have to leave here at 2.30 and 3.00 o'clock in the morning—and I gather this is not an infrequent occurrence in the other place. So I think when we all sing the deserved praises of the parliamentary staff, and we are discussing management and structure, perhaps they might give some thought to this.

Whether or not those who arrange the business wish to dislocate Members, that is one thing, but have we considered what the uncertainty does to members of the Parliament staff who come to work at whatever time they arrive here in the morning and have no real idea of what time they are going home? I really think that is something that has to be seriously considered. We cannot really speak well of them and say we are doing this to benefit the Parliament if we have not given proper consideration to things like that. So that I think it is very important, Mr. Vice-President, to record our thanks to the assistants. I have given but only two examples and indeed, by giving those two examples, I am not suggesting that one has either the time or Members have the inclination to listen to an encomium about every department in the Parliament which deserves it.

The other thing that I think is worthy of mention is that people sometimes have a negative view of people who work in the public service and I could only put it in a colloquial way. The parliamentary staff always makes one feel like people. They have a way of—if one is not careful, one would begin to acquire some sense of self-importance in the way in which they treat one; but they do it very subtly. It is by no means obsequious but they do have a way of making one feel that the office, which one holds is an important office, and that is a subtlety, which I think many of us, have felt, and which also needs to be recorded on this occasion. Thank you, Mr. Vice-President. [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): [*Desk thumping*] Mr. Vice-President, I think that the Government also would like to thank the staff but I think Sen. Daly probably does not have a true picture of what parliaments do. I do not think it is fair for him to come here and try to pontificate that when Parliament sits at 2.00 o'clock in the morning that that is a bad thing and that they sneak in the night or in the morning

and pass a law. If parliamentarians study they would see that in most parliaments there are times when some parliamentarians even sit all night. In the British House of Commons they sit all night sometimes—in Canada, in Australia and in India. So the fact of the matter is, it depends on the circumstances.

If Sen. Daly is talking about the debate on the Equal Opportunity Bill which he was not at last week, because we went until 2.00 o'clock in the morning, the Government's policy on that was well known. It was not in the dark of the night. It was in the full glare. For four years the Government discussed it. They knew what the policy was. It was known by Sen. Daly that it was going to be debated, and if he opted not to be here, what does he want? Does he want the Government to sit and wait until Sen. Daly comes in order to debate it? I think it is very unfair for Sen. Daly to come and try to give the impression that if a government takes a measure and it debates it until the morning, because of certain constraints, that it is undemocratic.

When the PNM debated measures throughout the night, I did not hear Sen. Daly. I sat in the Parliament and the PNM administration made us sit all night—went home at half past 5.00 in the morning on occasions.

3.15 p.m.

That was all over the newspapers but I never heard Sen. Daly criticize the PNM administration for that. He never said it was sneaky. He never said it was in the dark of night.

Sen. Daly: Point of order, Mr. Vice-President. He is misleading the Senate. I referred specifically to the Senate. I am not aware of any sitting of the Senate that terminated at 2.30 in the morning in the life of any administration in the nine years in which I have been here. He is misleading the Senate. I made no reference to the Equal Opportunity Bill and, more importantly, I made no reference to what happens in the—I specifically confined my remarks to the Senate and said it was unfortunate that the Senate was now following that tradition. He is misleading the Senate.

Hon. R. L. Maharaj: I do not know about misleading. He came here on a matter dealing with management structure. He introduced this and when he is getting the response, he is offended. What matter is he talking about? The only matter he kept talking about is the Equal Opportunity Bill because that is the only matter he was not there for and he used the expression "sneaky". But, only Sen. Daly must be able to criticize.

Sen. Daly: Ah!

Hon. R. L. Maharaj: When he talks about only the Senate. Members of the Senate are parliamentarians and I am not going to sit here and allow anyone, including Sen. Daly, to make these improper remarks about a government, without any foundation and leave it without saying it. The time has come to deal with some of these things.

Mr. Vice-President, I did not hear Sen. Shabazz object when Sen. Daly was talking.

Sen. Shabazz: Mr. Vice-President, I am not objecting. If I were objecting, I would stand and do that. I am not objecting at all. I think he is misleading the Senate this time.

Hon. R. L. Maharaj: That has become a very popular expression, "misleading the Senate". Everybody is misleading the Senate. It is a very popular expression.

Mr. Vice-President, when a government asks Parliament to sit in order to determine a matter, it is not to determine a matter for the benefit of the Ministers, it is to determine a matter for the benefit of the public. When people decide to become parliamentarians, whether in the Senate or in the Lower House, they must be prepared to serve even if it means sitting late at night or early in the morning if the national exigencies demand it.

If it is that Sen. Daly wants to recommend a shift system for Senators, let us have it, so that we will have Senators for the day; Senators for the night; Senators for the morning and Senators for the afternoon.

Mr. Vice-President, in respect of some of the other comments made, I would agree with Sen. Mahabir-Wyatt that probably what should be considered in respect of the staff of the Parliament, is that when the Parliament has to sit very late and early in the morning, that, obviously, is very unfair for members of the administrative staff to have to work all day and then work the next day at the normal hours. Probably what we should do is consider that kind of system.

That is exactly why this Government took the initiative to look at the whole structure of Parliament in order to determine whether there should be a Parliamentary Management Board to deal with these matters because, obviously, if there is such a management board, the board would be able to provide staff on that kind of basis in order to meet those contingencies. That is a matter which can be taken into account and it shows that there is need for reform of the Parliament.

Another point was made by Sen. Nafeesa Mohammed when she talked about the Registrar General's Department not moving out of the Red House in time. She also said there was some meeting in Woodford Square and that there was going to be a strike to close down the country with respect to economic matters. Mr. Vice-President, again, I do not know from where all these facts they say, come.

I went to the new Registrar General's Department at Registration House at South Quay, in order, as the Minister, to view what was happening there because I was told there may be some problem. When I went, it was quite clear that the facilities at that building are much better than what existed at the Red House for the storage of deeds and other documents.

When I became the Attorney General and I got the portfolio subsequently of the additional sections of the Ministry about a year ago, one of the first things that attracted my attention was the condition at the Red House. I was asked to come and view the state of the search room; and the search clerks, the staff, members of the public and of the legal profession, complained about the conditions at the Red House.

Now, Mr. Vice-President, those conditions did not come overnight in 1996 when this administration came in. It is not that all the problems grew overnight. The problems, obviously, grew over a period of years. If you had seen, Mr. Vice-President—I am sure you may be familiar with them—the conditions under which those records were kept—and I am talking about very valuable records—you would have been astonished as to how search clerks could have found title for these documents. What has happened is, because we wanted to modernize the Parliament, we decided that the Registrar General's Department had to move. That Department dealt with the Companies Registry, the Land Registry and the Civil Registry which dealt with birth, marriage and death records.

The building at South Quay was provided by the Government and at the back of that building, a huge vault was constructed. The vault was purely to house the records. Mr. Vice-President, if you see how the records are kept now; there are racks. They are sectioned and they are very easy to find. In that building, there is a very large area for members of the public, much better than what was had at the Red House. The environment and facilities are also better for the staff. There is a proper room for them to have lunch and a waiting room for the public.

There are also two rooms for search clerks. There is one room which can accommodate about 50 search clerks and another room which can accommodate another 50 search clerks. Let me give you an idea of how difficult it is for

government to improve and make changes because, sometimes, changes are very difficult to accept.

In the Registry, we decided, with the information technology, that we were going to modernize the storage of records and making these records available. We have computerized records. In the Land Registry now, there are common law deeds that you can get on the computer—the profile of deeds from 1979—1999 within a week. The work has already been done over the last two years. You can get the profile from 1970—1979. There is the profile of deeds on computer so that someone can look and get that on the computer screen from 1970—1999.

Sen. Ramnath: Progress.

Hon. R. L. Maharaj: That therefore means that it could save some time rather than using the manual process.

We also have on the computer 65 years of records of births, marriages and deaths. We have, for the last three years, all the records relating to judgments, *lis pendens*, powers of attorney, *et cetera*. We are becoming almost fully computerized.

We are also working on having the indices on the computers so that apart from having the profiles, you will be able to have the indices. For example, if you want to search for No. 7 London Street, you will be able to press a knob and you will get it, but that will take a little more time.

The Registrar General and her Department have, over the last few months, given a free training programme to private search clerks in order to teach them how to use the computer to get information. There is a situation where there are about 100 private search clerks. These search clerks are employed by private firms. They go to the Red House to access documents and to get information. They are very important. The banks have to lend money. People have to get information about other things. We decided that half the number of search clerks can use the room with the computer at one time and half could use the other room with the paper based information. But we are having resistance. We are having resistance because, with the computer, everyone wants to stay in one place to be able to get all their information and people do not want to move from one place to the other.

I had a meeting with them yesterday morning. I explained what was happening. I told them what we were doing and I said, listen, let us see how this works and if it did not work, I told them I would come on a regular basis to see how it was working.

Joint Select Committee Report
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

I told them that although I was not an expert conveyancer, I did some conveyancing as a practising lawyer and I explained to them how the thing worked and told them if they could not get—if the bank gave them instructions to do a search, they will be given the number at times. If they have a search to do, they can do some of the search with the computer and later in the day, they can do some of the search with the paper based information.

I told them that search clerks were not to be given a tenancy of the chairs. As a matter of fact, some of them actually wrote their names on the chairs, as if they had tenancy of the chairs. Those are some of the problems.

What I am saying is, if it is we have to progress, there would be criticisms and fallouts because people do not accept change easily. All I can promise Sen. Nafeesa Mohammed and this honourable Senate is, yes, I recognize there are some persons who are not happy with what is happening, but I have given the undertaking that I will look at it because I recognize, and we must all recognize that that is a very important sector for the economic life of the country because if search clerks cannot get information for the banks, then, obviously, bank transactions can be held up. If search clerks cannot get information for bills of sale, then bills of sale transactions can be held up, so that we will have to look at it and see what best we can do in all the circumstances.

I am very happy that the hon. Senators in this matter have decided to support this matter.

Sen. Rev. Teelucksingh: Mr. Vice-President, before the hon. Attorney General takes his seat, I know he was consulting at the time I was speaking and raising a very important point about the need, we have discovered for many years now, for a research officer in the secretariat of the Senate for the Independent Benches. Would you most graciously consider that? There is a need we have found for many years now. Will you consider that? A research officer for the Independent Benches.

Hon. R. L. Maharaj: Mr. Vice-President, having regard to the restructuring, what is envisaged is that not only Senators, but the Parliament should be run in a different way, really, in that what should happen is that Members of Parliament should have the assistance of people to help them do research.

That is why even with respect to some of the reforms we have done during the last few years, this Government agreed for the Parliament to have some additional research officers and people have been employed on contract in order to do that, servicing the Parliament.

Mr. Vice-President, forgive me for saying, there are so many things this Government has done and if, for example, we try to catalogue them, even in the Parliament, some people do not even know what we have done. The staff structure in this Parliament, even without these reforms, has been radically reformed by Cabinet making decisions in order to remedy the situation.

3.30 p.m.

It may be that what we should do at the end of all this is to put it for the press to see, because I am sure that they would want to tell the population of Trinidad and Tobago, not only some of the bacchanal that happens here, but they may want to show the people of Trinidad and Tobago what are some of the positive reforms which have occurred to, in effect, improve the life of the people of Trinidad and Tobago.

Mr. Vice-President, I beg to move.

Question put and agreed.

Report adopted.

BAILIFFS BILL

House of Representatives Amendments

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

That the House of Representatives amendments to the Bailiffs Bill listed in the Appendix be now considered.

Question proposed.

Question put and agreed to.

Clause 3(A)

House of Representatives amendment read as follows:

- “3 A. In the definition of ‘Accountant’ delete the words ‘member of the Institution of Chartered Accountants of Trinidad and Tobago’ and insert the words ‘person who has at least five years experience in the field of Accountancy’.
- B. Insert the following new definition immediately after the definition of ‘licence’:

Bailiffs Bill
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

‘Ministry’ means the Ministry of the Attorney General.”

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

Mr. Vice-President, the amendments speak for themselves. I do not think Senators would want me to go further into them. The purpose of the amendments really, as far as the accountant was concerned, it was felt that it was too narrow. Therefore, it was thought that it should be wider to give that latitude. They felt that the ministry should be defined.

Question proposed.

Question put and agreed to.

Clause 9(1).

House of Representatives amendment read as follows:

“9(1) Insert the following new subclause after subclause (1):

‘(2) The functions listed in subsection (1)(a) and (b) shall be performed exclusively by a public service bailiff and the other functions listed in subsection (1)(c) and (d) shall be performed exclusively by any other bailiff.’,

and renumber subclauses (2) to (7) inclusively as subclauses (3) to (8) respectively.

Insert after clause 9 the following new clause:

9A (New Clause)	‘Protection of bailiffs Chap. 4:21	9A. The immunities, privileges and protection accorded to Bailiffs under the Petty Civil courts Act shall apply to Bailiffs registered and licensed under this Act.’”
--------------------	---------------------------------------	--

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

The amendment to clause 9(1) is really to demarcate what are the functions of public service bailiffs and others, so that it would be quite clear. It is really a matter of style. In respect of 9A it was to make clear—this was omitted when the Bill was done—that the immunities, privileges and protection accorded to bailiffs under the Petty Civil Courts Act shall apply to bailiffs registered and licensed under the Act.

Question proposed.

Question put and agreed to.

Clause 10(1).

House of Representatives amendment read as follows:

“10(1) Insert after the words ‘the premises’ in the fifth line the following words:

‘together with a signed or certified copy of the document upon which he has the authority to perform his function on that occasion.’”

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

Question proposed.

Question put and agreed to.

Clause 15.

House of Representatives amendment read as follows:

“Insert after paragraph (c) the following new paragraph:

‘(d) prescribing the rules and procedures to be followed by Bailiffs seeking to gain entry to premises for the due performance of their duties;’
and renumber paragraphs (d) and (e) as paragraphs (e) and (f).”

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

Question proposed.

Question put and agreed to.

Schedule.

Bailiffs Bill

[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

House amendment read as follows:

- (a) In the heading, delete the word 'OWNERS/' and insert after the word 'OCCUPIER' the words 'OR ADULT PERSON'; and
- (b) After the requirement of 'Date and time of visit' insert the following new requirement:
 '.....
 Purpose of visit'."

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

If I may say so, I think that the amendments speak for themselves.

Question proposed.

Question put and agreed to.

SPECIAL SELECT COMMITTEE REPORT

Integrity in Public Life (No. 2) Bill Constitution (Amdt.) (No. 5) Bill and Constitution (Amdt.) (No. 6) Bill

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. Vice-President, I beg to move,

Be it resolved that the Senate take note that the Report of the Special Select Committee of the Senate appointed to consider and report on the Bills entitled "An Act to provide for the establishment of the Integrity Commission; to make new provisions for the prevention of corruption of persons exercising public functions; to preserve and promote the integrity of public officials and institutions, and for matters incidental thereto; An Act to amend the Constitution of the Republic of Trinidad and Tobago; and An Act to amend the Constitution of the Republic of Trinidad and Tobago."

Mr. Vice-President, at a sitting of the Senate on Tuesday, November 9, 1999, it was agreed that a Special Select Committee of the Senate be appointed to consider and report on the Integrity in Public Life (No. 2) Bill, 1999, and the Constitution (Amdt.) (No. 5) Bill, 1999; the Constitution (Amdt.) (No. 6) Bill, 1999, and recommit these Bills to a Committee of the whole."

The committee comprised Brig. Joseph Theodore, Chairman; Mrs. Agnes Williams, member; Mr. Philip Hamel-Smith, member; Dr. Eric St. Cyr, member,

and Mr. Danny Montano, member. It was evident during the debate that the above-named Bills caused numerous concerns among members, and it was felt that the concerns expressed could be more adequately dealt with by a Special Select Committee. Your committee held meetings on four occasions: November 25; December 2; December 9, and December 16, and was assisted in its deliberation by Mrs. Lorraine Lutchmedial, Secretary to the Law Commission.

At the end of its deliberations, your committee agreed that the Bill did not make adequate provisions to strengthen the present legislation to empower the Integrity Commission to exercise greater control and oversight with respect to activities of persons performing government functions. Your committee, however, felt that it was not competent to make the type of amendments to the Bill that it thinks are required, as the concerns expressed by members were wide and varied and might impinge on other pieces of legislation.

Your committee, therefore, is of the view that the Bill should not be further proceeded with, and wishes to report that it did not make any amendments, but has stated the following areas that have caused your committee a great deal of concern. Areas of concern are listed; there were 10 items:

- (1) The security and identity of members of the public who give information;
- (2) How information received from the public should be dealt with, that is, the screening and sifting process;
- (3) The standard of criteria for the initiation of an inquiry;
- (4) How inquiries are to be dealt with;
- (5) The powers of investigation of the commission and the investigative process;
- (6) The power of the commission to make requests of external governments to provide information from the bank records and accounts of local persons in foreign countries;
- (7) The lack of power of the Director of Public Prosecutions and the police to access persons' income tax returns, bank records and accounts;
- (8) Availability and access of funds for investigation which should be carried out by experts to operate both in Trinidad and Tobago and abroad;

Special Select Committee Report
[SEN. BRIG THE HON. J. THEODORE]

Tuesday, October 3, 2000

- (9) The application of sanctions in cases where persons who have been requested to provide information in accordance with the provision of the integrity legislation, failed to provide the information; and
- (10) The ability of the police or any other authority to deal with high-level corruption which may need forensic expertise and so forth.

Mr. Vice-President, based on the recommendations, the committee recommended that the Attorney General and Minister of Legal Affairs take the concerns expressed by your committee into consideration. I am pleased to report that upon referring these concerns to the Office of the Attorney General that amendments were prepared to address the concerns that were brought to his attention, and under Standing Order 57 the hon. Attorney General will propose amendments to the Motion at the appropriate stage of the proceedings.

Mr. Vice-President, I beg to move.

Question proposed.

The Attorney General and the Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President I am grateful for the permission to make a contribution in this matter.

I think I can start off by saying that the Government would like to put on record its thanks to the Parliament for the assistance it has provided in trying to formulate legislation in this area. Both the Opposition and Independent Benches must be thanked for trying to assist the Government to come up with some of the solutions to reform the integrity laws in Trinidad and Tobago.

When I got the report of the Joint Select Committee, I decided that with the help of the Law Commission I would try to redress the concerns of the members, both the concerns they expressed in the report and the concerns which they expressed during the debate. So the amendments which I will propose would be amendments which both the Opposition and Independent Senators have asked for, either from the report or the debate. We have done that in order to deal with this important topic of reforming the laws with respect to integrity.

This Parliament has been trying to do it since 1994. You would recall that as a result of a motion by the then Opposition—which is this Government when it was in Opposition—there was a Senate resolution calling for the reform and review of integrity legislation.

3.45 p.m.

Based on that, there was a Green Paper prepared for the presentation to Parliament. This Green Paper was then laid in both Houses of Parliament in March 1996 and a Joint Select Committee was established to consider this Green Paper. It was published in April 1996 for public comment, and based on the Green Paper and public comments, three draft bills were drafted in order to assist the Joint Select Committee in coming to recommendations and to assist in the expedition of the work.

In November 1997, there was the report of the Joint Select Committee and this was laid in Parliament along with amended draft bills? In January 1998 the draft bills were amended to reflect the recommendations of the Joint Select Committee and the Bills were laid in Parliament. In September 1998, the report of the Joint Select Committee was debated in the House of Representatives and the Parliament noted the recommendations of the Joint Select Committee's report.

Mr. Vice-President, in June of 1999, the Senate resolved that the Bill be forwarded to a Special Select Committee and in December 1999, the report of the Special Select Committee was laid and, as the hon. Minister of National Security, Sen. The Hon. Brig. Joseph Theodore has stated that report was considered and he mentioned the concerns and what were the recommendations.

Mr. Vice-President, I think we would all agree that this is an area in which the Parliament should find a way for a government to go forward in respect of these reforms. The best way to do this I think—one would remember that these three pieces of legislation, the cumulative effect was that they would establish higher standards of accountability and transparency. Some of the measures which the three Bills attempted to achieve were:

1. By widening the category of persons caught by the Integrity legislation, empowering the Integrity Commission to issue a disclosure statement so as to allow members of the public to ascertain conflict of interest situation by vesting the service commissions with the authority to impose standards of conduct on their officers.
2. Creating the offence of illicit corruption, that is to say, if for example a public officer, or a Minister, by what you see of him, has sudden accretion of wealth, then obviously that is a matter in which notice can be taken and he can be asked to explain how he got these additional possessions.
3. By investing the Commission with the power to mandate law enforcement agencies to assist in investigations.

4. By imposing severe penalties for offences involving non-disclosure.
5. By putting in place a code of conduct which would provide a framework against which official conduct may be judged.
6. Finally, by creating a wider role for the Integrity Commission by enabling that body to act as an advisory commission both to the Parliament and the Service Commission.

Mr. Vice-President, there were matters which were raised during the debate and some of these matters included that there should be the exclusion of Senators from the purview of the legislation. There were questions as to the declaration of family assets. There were objections to that and whether persons appointed by the Judicial and Legal Service Commission should fall under the scrutiny of the Integrity Commission and there was the question of the need to give more teeth to the system so that corruption can be investigated and punished.

The major criticism leveled against the Bill was that there were no effective provisions for investigating and monitoring corruption, and one of the suggestion which came out of the debate was that consideration should be given to the possibility of establishing an independent office whereby allegations of corruption and misconduct can be investigated upon complaint from a member of the public. That obviously was an additional machinery because what we had before the Committee was the question of reforming integrity legislation to give more powers to the Integrity Commission and to be able to give it more teeth.

In addition to that, they said we should consider having a permanent independent commission to investigate corruption and, obviously, they were talking in terms of places like Hong Kong and Singapore where you have such a permanent independent commission. May I say, we at the ministry have looked at that situation and I already have a Bill drafted which I hope to take to Cabinet shortly in respect of those reforms which are being advocated by the Senate. So what we are trying to do here is if the Members of the Independent Benches or the Opposition believe that these are the mechanics which should be put in place, machinery to investigate corruption, we would like to put it in place because we would like to have institutions to deal with these matters.

Mr. Vice-President, it would be observed that very similar concerns are expressed in the select committee's report. On page 3 of the report, the Committee listed as a cause for great concern the powers of investigation of the commission and the power of the commission to make request for information in

relation to bank records and account of persons and the need for sanctions where persons who have been requested to provide information failed to do so and the ability of the police and other authorities to deal with high level corruption.

In order to address these concerns and to accommodate the many reform suggestions which have been put forward, the Government has proposed a number of amendments to the Integrity in Public Life Bill and the Constitution (Amdt.) Bill which would ensure the provision of an adequate institutional mechanism to investigate and monitor corrupt and dishonest conduct.

The amendments which are being proposed would allow the Integrity Commission to exercise all the powers of an anti-corruption agency. The new Part V being proposed in the list of amendments would effectively strengthen the commission's powers in the areas of investigations, prevention of corruption and afford the commission greater access to information. These amendments are being drafted to address the many concerns of the select committee listed on page 3 of the report. It would allow any member of the public under clause 32 to make a complaint to the commission if there is a contravention of any of the provisions of the Act or an offence is being committed under the Prevention of Corruption Act. It is to be noted that very serious penalties are imposed where frivolous, false or misleading reports are made to the commission. I wish to point out also that under the proposed clause 33, the commission is empowered to initiate investigation at its own discretion.

Provision is made for the appointment of investigating officers and the commission and they would be empowered under clause 9 to appoint and employ such persons as maybe necessary for the carrying out of these particular functions. Very wide powers are given to the commission to access information and to call for documents and heavy penalties are imposed for failure to comply.

Mr. Vice-President, you will recall that serious criticisms were made against sections of the Bill which sought to empower the commission to sit as a Commission of Enquiry in order to conduct investigations. These have been deleted and will be replaced by a new Part V. The committee also raised concerns with respect to the identity of members of the public who give information, and the powers of the police and the Director of Public Prosecutions to investigate and prosecute corruption. This calls for the implementation of a whistle-blower legislation and consideration is now being given to reviewing the Prevention of Corruption Act to accommodate those concerns.

Special Select Committee Report
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

I also wish to advise that the concerns raised in numbers 2, 3 and 4 of the report relating to the manner in which information is screened and the criteria to be used for the initiation of enquiry would be more appropriately dealt with by regulation to the Act and this is provided for in the list of amendments in the proposed new clause 40.

Amendments have also been proposed to accommodate the Register of Interest which was called for during the debate, and one would observe that the powers of the commission under clause 5 have been expanded at paragraphs (f), (g) and (h) so as to allow the commission to investigate not only individuals falling within the purview, but to also examine the practices and procedures of public bodies and to advise on corrupt practices.

Mr. Vice-President, if these amendments to the Integrity in Public Life Bill are accepted, they would of course, necessitate amendments to the Constitution (Amdt.) Bill as well. You will recall that it was necessary to amend sections 138 and 139 of the Constitution if we are to authorize Parliament to increase the powers of the Integrity Commission and to allow the commission to carry out additional functions, apart from those already prescribed under these sections. The further amendment to section 138 would increase the ambit of the commission to include the investigation and monitoring of corrupt or dishonest conduct.

Clause 5 of this Bill would also be amended and it is now the intention to replace the public disclosure statement with a Register of Interest. Perhaps, I should further draw to Members' attention, the simple amendment to paragraph (c) of clause 4. As persons appointed by the Judicial and Legal Service Commission are now to be included as persons exercising public functions, it is no longer necessary to particularize each commission under the Constitution; service commission means those commissions.

Mr. Vice-President, corruption cannot be dealt with on a single front. The mere existence of legislative provisions which seek to punish corruption and dishonesty and which empower certain watchdog bodies to oversee governmental actions would not by themselves alone make governments accountable. The Government has recognized that but it also recognizes that it is impossible to deal effectively with corruption unless the necessary legal infrastructure and legal framework are in place in order to ensure that proper investigation, detection and prosecution can be effective.

When we look at all the concerns of the Members of the Committee, we have come up with proposals in order to redress these concerns and even concerns

raised during the debate of these matters. The Law Commission has identified those matters, they are on a chart and we have said that what you want in order to have this measure in place, we will put it together because we want your support to put this legal framework in place.

Mr. Vice-President, allegations of corruption are probably one of the easiest set of allegations to make and when they are made, they can do untold damage to persons, institutions and to the public interest. If they are made and there are no effective mechanisms to investigate them, and the law is insufficient, or inadequate or impotent to deal with these allegations, then the public interest is adversely affected.

Corruption obviously means somebody taking a bribe—whether it is a conflict of interest—in order to do a favour. You hear, for example, allegations of corruption in the airport, in the desalination plant, whatever it is; you hear it all over the place. You have also heard allegations of corruption in previous governments. What this administration has done, even though it does not have the support of the Opposition at times—All over the world, it has been recognized that if you are serious in dealing with corruption you just cannot go and lock up people, you have to have evidence. If you lock up people with no evidence, then obviously you are, in effect, taking a step backwards in the fight against corruption.

4.00 p.m.

What you have to do is set up machinery so that allegations can be investigated and the Government can become accountable. Mr. Vice-President, what is not being said, and what, as a matter of fact, I intend to say to the country from village to village, and from town to town is that there is no Government in the world, in the period of five years, which have created legislative and administrative institutions to make Government more accountable and more open and transparent. [*Desk thumping*]

Let us start with the freedom of information law. That is a right of a member of the public to get information from all aspects of Government and the Opposition voted against that Bill. The Opposition in this country voted against that Bill. A Bill to make Government accountable to the people. Mr. Vice-President, a Constitutional (Amdt.) Bill which created Parliamentary Committees, Independent and Government, to scrutinize and monitor every Government Minister; to call for every record on a contemporaneous basis, to investigate right away any allegation of corruption. The Opposition voted against that Bill. But the Opposition would make allegations of corruption. Mr. Vice-President, that is not all.

Special Select Committee Report
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

This Government also passed an Equal Opportunity (No. 2) Bill. And that Bill binds every Government Department; every state entity, and that Bill makes Government accountable; that Bill makes state authorities accountable so that public officials would have to account for their conduct. *[Desk thumping]* Here it is, in 1995, it was being recognized that the law could not deal with corruption and the Government of the past sat down and did nothing about it, in the light of all the allegations made. And one of the first things we did, apart from all those measures, is that we came to the Parliament and we said, “Listen, our hands are clean if you want to take us, take us; investigate us and if you are not happy with that, lock us up!” And we brought measures in order to bring and improve the integrity legislation in this country. Mr. Vice-President, this is a very serious matter.

Here it is, that the Opposition is prepared to go in every nook and cranny and say, “Corruption! Corruption! Corruption! But when they get an opportunity to support the law, to put the framework in place to investigate corruption—Mr. Vice-President, if they really wanted to investigate the airport they could have had a Committee investigate the airport. They could call the Airport Manager; they could call the Minister; they could call everybody. But they do not want that! They know that they are only making spurious allegations. *[Desk thumping]* *[Interruption]*

Sen. Shabazz: Mr. Vice-President, this is just to put balance. The Hon. Attorney General said that the Opposition objected to a number of Bills that were not passed. He said that his Government passed the Equal Opportunity (No. 2) Bill. Could he please say, too, that we agreed to it and that the Parliament passed the Equal Opportunity (No. 2) Bill.

Hon. R. L. Maharaj: Mr. Vice-President, I do apologize. The reason why I said the Government passed because I know also that the Independent Senators supported it. And I do apologize. It was a mistake. It was a slip of the tongue. But I want him to know that his party in the other place is saying that they do not support the Equal Opportunity (No. 2) Bill. So the PNM does not know whether they want to support it or not. But I must thank Sen. Shabazz in the Senate for giving us the support for the Equal Opportunity (No. 2) Bill. *[Desk thumping]*

I want to put on record, therefore, that we appreciate the support of the Opposition in the Senate for supporting the Equal Opportunity (No. 2) Bill, although the Opposition in the other place did not support the Bill. It is my duty also, on a debate like this—because I am coming at the end to show how

important it is for us to address our minds to this question. It can become a very emotional question but it is sometimes justified when allegations are made against Governments and public officials and the same people who are making the allegations are not prepared to support the machinery to investigate them then it becomes a serious issue.

Mr. Vice-President, during the Budget Debate the Opposition made a lot of allegations of corruption and I decided, as Attorney General, I could not sit down in the face of what they were saying, because they were saying, "that they had evidence and if they have an opportunity they would produce the evidence." I had a meeting with the Acting Minister of National Security at the time, because the Minister was out of the country, and I asked him to call in Mr. John Grant, the Deputy Commissioner of Police, crime. The meeting was held in the Committee Room of the Parliament and I told Mr. Grant and the Acting Minister of National Security that these are the allegations which are being made: airport this and that. My advice is to consider having an anti-corruption squad and to investigate all these matters. I would give him the *Hansard* of what was said and he can go and talk to the Members of Parliament who made these allegations and investigate them. And I will give all possible assistance as Attorney General.

The Attorney General made it possible, in consultation with the Minister of National Security, and provided a forensic international expert in corruption. Mr. Bill Linguist is the man who investigated the O'Halloran scandal. I provided him to assist the police and to take whatever evidence. Mr. Vice-President, I am saying this because if there is evidence, let them produce it; but if there is no evidence, I would hope that they would go to the population and say that they made an error.

If it is that they can sit in this Parliament and make these kinds of allegations and are not prepared to produce the evidence, when they have an opportunity, not to produce it to a Minister or a politician, but to produce it to the police. Unless they do not have confidence in the police; unless they do not have confidence in the Director of Public Prosecutions; they do not have confidence in Mr. Bill Linguist. Say so! Because he did not have confidence in a Committee of Parliament. They voted against that. In the other place their party voted against an Equal Opportunity Commission. They did not have confidence in that. They did not have confidence in a freedom of information legislation where the members of the public can go and get information.

Mr. Vice-President, we are coming again. Normally, we could have taken the easy road; we could have said, "Well, all right, the Select Committee of the

Special Select Committee Report
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

Senate has said that we must consider these matters and the Attorney General must consider it. The Law Commission has spent long hours; night and day, going through these matters in order to try and see if we could get consensus so that we could give to the people of this country a legislative framework, so that the Integrity Commission can be more effective, it can have teeth, and it can discharge its duty in the public interest.

Mr. Vice-President, I must thank you very much.

Sen. Danny Montano: Mr. Vice-President, it was interesting to hear the hon. Attorney General and Minister of Legal Affairs at this point behaving in the way he just behaved, the second time that this Bill has come to this Chamber.

4 10 p.m.

I am sure that you, Mr. Vice-President, and other Members of this honourable Senate would remember the occasion when it was brought here the last time it fell to me to make the first response to the hon. Attorney General who I recall presented the Integrity in Public Life (No. 2) Bill back in 1999. The history would show it was very clear that the Bill failed. The Bill failed because at that time, and certainly I have reason to believe that, the Government still is of the view that they were really not serious about dealing with the question of integrity or corruption [*Desk thumping*] and I will show you why it is still an issue.

Mr. Vice-President, you would recall that when I made my contribution I was concerned about the so-called powers of the House of Representatives to investigate Members. I was concerned also about the lack of the powers of the commission to investigate, based on any information other than the returns that were filed by a Member of Parliament. I said no, there had to be other standards by which an investigation should be started. It was along those lines that I spoke and I had done a fair amount of homework on the issue, and it was generally felt so by other Members of this Senate. In fact, the Bill did fail. It went to the committee and the committee felt that the issues that I had mentioned were very serious and, in fact, there were other issues that were raised and the report, as you see it today, was made.

Mr. Vice-President, it is a sham and it is a shame that the Attorney General can come here today and pretend, after five years, that they are really serious about doing anything and he thinks that the allegations of corruption are silly, that they are frivolous. [*Sen. Montano's microphone's light went off*] They can turn me off but I have a loud voice, Mr. Vice-President, [*Laughter*] and I will be

heard. The Attorney General himself mentioned the airport but the first time I heard the question of corruption in that business came from the Deyalsingh report. [*Desk thumping*] So, Mr. Vice-President, that is not a frivolous issue.

Then I seem to recall that after that fracas, when the contracts were awarded by Nipdec to whoever it was, again there was correspondence that was in the media, again allegedly from the Attorney General's office, where he had allegedly advised that the contracts were improper and void or voidable or whatever. No, Mr. Vice-President, we did not just make these things up out of thin air. There was a question of Bear Sterns and a Petrotrin deal. I have been in touch with Bear Sterns and they have told me it is not so easy. It may be easy now but it was not so easy then. They had certain issues to deal with.

They told me straight. They said, "If you can get your Parliament to bring us here so that we could not be libelled or anything of the sort, that we would have some measure of protection, we will come and we will speak to you". I said, "Is there any substance to the allegations that have been made?" They were the allegations with this boy, Ken Soodhoo, Mr. Vice-President, and certain allegations involving a Minister and a request for a bribe. When I spoke to counsel there he told me, "Senator, there is something in the mortar and we will come, provided that it is a formal request from the state or the Government". But, Mr. Vice-President, how was I to go about doing that? It could not happen, and that was in the early days.

Then, Mr. Vice-President, do you want to talk about the desalination plant? We heard reports about how holding companies were set up in the Cayman Islands. What for? We have just had a Proceeds of Crime Bill to deal with, up to a point, the banking secrecy laws. Now, we know that the banking secrecy laws are very restrictive in the Cayman Islands. Why would anybody want to form a holding company in the Cayman Islands to do business in Trinidad or Tobago, unless there was something improper that was going on? When one looks at the financial justification for the desalination plant, of course it screams at the population that something is wrong [*Desk thumping*] and if they do not see that then they just have to be silly or crazy or part of the deal. That is the point. We are not standing on a platform. We are in the Parliament, and I feel that I can stand here and I can shout just as loud as the hon. Attorney General if he wants to.

Mr. Vice-President, to go on, let me tell you something else. The last Friday of July this year somebody I know very well, whom I trust implicitly, was in a bar. It was the last Friday and he was on his way home, some friends had invited him into a bar and he and his friends were having a few drinks. In came a well-

Special Select Committee Report
[SEN. MONTANO]

Tuesday, October 3, 2000

known, popular Minister with a young lady, who was not his wife, on his arm. He went into the bar and he sat down. He made a big parade about the table that he wanted to sit to and the tablecloth had to be moved from another place to where he was sitting. He sat there and, from all accounts, he was slightly intoxicated. He proceeded to fondle the young lady in the presence of the whole bar, made a big brouhaha about the whole affair and when he left, Mr. Vice-President, he pulled out a wad of hundred dollar bills that my friend said was at least that [*Indicating*] thick. Now that would have to be more than a Minister's salary. That is the point. [*Interruption*]

Mr. Vice-President, I will tell you something else and I would hazard a guess that the Attorney General already knows this because I said it at the committee when the committee met. Three weeks before my son was killed in a car crash last year, he came to dinner one evening and he told us this story. He said that a friend and himself had managed to break into the computers of one of the local banks. They picked up a bank account belonging to a senior Government Minister at the very highest levels. The account had a balance of \$12 million in it. That Government Minister is not known to be associated with any big business. It had been receiving deposits every few months of a million dollars and change.

Now, Mr. Vice-President, under this sort of legislation, matters like that should be investigated, but let us see if, in fact, it can be because perhaps now, having already let the cat out of the bag, you know, the tracks have been covered. Nevertheless, let us see whether, in fact, this Bill would actually achieve anything, if I could make such a report to the commission, as I would like to. Hear what it says in clause 32(2):

“Any person who...causes to be made a false report to the Commission or misleads the Commission by giving false information...shall be guilty of an offence and liable on conviction to a fine of two hundred and fifty thousand dollars and a term of imprisonment not exceeding five years.”

So Mr. Vice-President, the point of the matter is, if it turns out that the investigator Lindquist, or whoever it is, cannot find what my son found, then I am liable for a fine of \$250,000. Never mind the fact that it was made in the utmost good faith and in the belief that it is—[*Interruption*]

Mr. Maharaj: Would the Senator support the Bill if I deleted that clause?

Sen. D. Montano: Unquestionably, Mr. Vice-President, without any question at all. But the point of the matter is, I do not want it deleted, what I want to see

done is that this clause is changed so that it reads instead, “If you make a report knowingly and mischievously”.

Mr. Maharaj: Well, propose the amendment.

Sen. D. Montano: I shall do so.

Mr. Vice-President: I think it is convenient at this point to try to bring the focus back to where we are. The issue that is before us right now is Motion No. 4, which is basically to adopt the report of the Special Select Committee. I have allowed some latitude in the debate but I think we have gone off the track that we are supposed to be on and that basically is a Motion to adopt the report. For instance, any references to the amendments—the amendments are not properly before us as yet. The amendments, I assume, would be raised at committee stage and would be dealt with there. In fact, much of the content of the debate of late deal with issues that, in fact, would surface when the specifics that are in the amendments in fact surface in the committee. So I am inviting Senators to reflect on the fact that the Motion we are on here, we are not having another debate.

I cannot entertain another debate on the Bill. The debate on the Bill has already gone by. The debate that we have in front of us is on the question of adopting the report and therefore I want to invite the present speaker, and those who follow, to look at it from that point of view. However, when we get into committee, accepting that the amendments that appear to be proposed at that level are quite voluminous, we will quite obviously be entertaining significant debate on certain issues as we go through with them. Take that into account as you proceed with your contributions. [*Desk thumping*]

Sen. D. Montano: Thank you, Mr. Vice-President. I was, in fact, responding to the hon. Attorney General because, while he did not go through these amendments clause by clause, he certainly did give us an idea as to what they contained and, therefore, it was relevant. The point I was making was, I still felt that after everything was said and done they still did not seem to be serious about this whole business because no one would ever file a complaint knowing that if, for some reason, it was not proved—it might be true, it might, just might, not be proved—then he is liable and there is a strict liability there. I said, “Well, that cannot—I mean, I know that the Attorney General is not a careless man. So I said, “Well, that cannot be an oversight. That would have to be a matter of policy. I said, “No, that cannot be right”. So, Mr. Vice-President, I take your point but the fact of the matter is he did tell us what it was all about.

Special Select Committee Report
[SEN. MONTANO]

Tuesday, October 3, 2000

Vice-President, to wind up, because I was going to wind up in any event—*[Interruption]* to wind down, close down, *[Laughter]* leave. The point is that the thinking here or the large part, the significant part, of what is inside here came from this side of the House. *[Desk thumping]* I want this honourable Senate to know that we on this side were waiting, because we have legislation that was very similar, waiting to drop the first week that we took office. *[Desk thumping]* *[Interruption]* I am hearing that could be as late as February. I do not know. I am not the Prime Minister and I have no crystal ball. The longer they take the worse it gets. However, the point is that this is long overdue and it is passing strange and somewhat amusing that it comes right at the end of the UNC five-year term.

Knowing that the hon. Attorney General is a very ambitious person, I wonder how he intends to use this legislation. I really wonder, especially in view of the comments that I made a little while ago. He may very well know what I am talking about. He may very well use that information for his own purposes. So be it, as long as the right thing gets done, Mr. Vice-President. As long as truth and honesty and integrity prevail *[Desk thumping]* in the society, I do not care who does it. I do not care if it is PNM, UNC or NAR, or anybody else, as long as truth and integrity prevail. *[Desk thumping]*

4.25 p.m.

It is for that reason that I was unafraid last year and I am unafraid now to propose the changes that have been made here and to support them if they are done in the way I asked. We are unafraid to do that because we are here, for the time being, as the watchdogs and the guards of the people and we will execute our duties faithfully always.

I thank you, Mr. Vice President.

Sen. Rev. Daniel Teelucksingh: Mr. Vice-President, notwithstanding the advice and counsel you gave us a while ago as to the direction of our contributions to the debate on this Motion, I most respectfully ask permission to share a concern arising out of the study of the Bill, this very significant piece of legislation. Certainly, we feel encouraged at another effort by the Government to prepare meaningful integrity legislation. There must have been something wrong with the 1987 Integrity in Public Life Act and, at least, I am pleased with the new effort of the Government to produce enhanced legislation concerning integrity matters.

I raise a question, Sir, that has always bothered me since we got into the discussion in early 1987 on that important law and now that we are continuing in

the year 2000, with your permission, Mr. Vice-President, I want to look at one of the amendments to clause 5(j):

"To carry out programmes of public education intended to foster an understanding of standards of integrity."

Mr. Vice-President, I wonder if, in fact, we could deal with that specific comment at the committee stage. If there is anything that refers, I invite you to look again at the report that is the subject of what we are looking at and if, in fact, anything is triggered from the contents of that report, feel free to include it in your contribution.

Sen. Rev. D. Teelucksingh: Thank you very much for your guidance.

I ask a question and raise this with the hon. Attorney General. For too long we have been examining the question of integrity as far as parliamentarians and other persons holding public office are concerned. I ask: What about the private sector in Trinidad and Tobago? All our legislation—and so much time we have spent on the question of integrity—have been focussed on parliamentarians and those who hold high office in the government service. This is the question I ask and which I have always asked: Why integrity legislation for a select group in this society? The question I ask is: Can companies and other prominent citizens be monitored in order to ensure integrity? Can the question of integrity, honesty, transparency and accountability be standards expected at all levels in Trinidad and Tobago? We need to look at that.

If, Mr. Vice-President, integrity is about morality in public life as expected of prominent state employees, it is my contention that it is desirable that we have integrity legislation to encompass the private sector if our intention is to educate our people and to carry out programmes of public education intending to foster an understanding of standards of integrity, then we need to look beyond the parliamentarians.

Mr. Vice-President, as it seems as though it is common not only now, but in the past, that people prefer to count high-priced cars, top-of-the-line motor cars parked on certain days around the Red House and conclude that parliamentarians are doing well and wonder why, and call for accountability and assets declaration. If so, think again and look outside the public service and see the abundant symbols of affluence and luxury elsewhere in the society. Nobody asks a question. In fact, I will tell you something, Mr. Vice-President. Benzes, Volvos and BMWs are so commonplace in Trinidad and Tobago, they may not be indicative of wrong-doing.

Mr. Vice-President, if, as a nation, we are serious about integrity, then let us revisit such legislation as the Income Tax Act, the Securities and Exchange Ordinance and the Companies Act. Let us look again at these to also challenge the private sector to have integrity as a part of their corporate and individual mission statements to ensure that that is followed.

Mr. Vice-President, I know the hon. Attorney General made reference to it, but it was a good reminder to many members of the public, looking at one of the newspapers on September 30, which reminded us of an attempt that was made 10 years ago to investigate matters of corruption with respect to bribes and secret commissions. Not only did a Minister of Government figure in the investigations at that time, but three companies were involved.

Sen. Dr. St. Cyr: Oil companies?

Sen. Rev. D. Teelucksingh: Yes. An oil company. They had interest in Trinidad and Tobago. The Tesoro Petroleum Corporation of Texas, McDonnell Douglas Corporation and Sam P. Wallace Corporation. The question I ask the hon. Attorney General—we have to ask and members of the public have to ask: Are companies in Trinidad and Tobago corruption free? Do you know that it was the Tesoro Petroleum Corporation that reimbursed and gave this Government some money, some million? I am subject to correction there.

There are loud accusations of corruption in certain government projects today. The hon. Attorney General made reference to two of them. I ask a question and I hope when the investigations are being made in response to the comments made by the hon. Attorney General, the anti-corruption squad, I hope they will be given authority not only to investigate people in the public service, people in the National Insurance Property Development Company, for example, and Members of Parliament, that they will be given the authority to investigate all and everybody—members who work for the Government and all those who are in the private sector—involved in the construction of the airport, that they will fall within this net of investigation when the time comes. I think they all should be made accountable and subject to the demands of integrity and transparency.

Mr. Vice-President, I will close with this. I know you have given me a lot of latitude on this point. I have been worried over this. Our integrity legislation is extremely narrow and discriminates. Money and corruption go together. That is very important. If this is an anti-corruption Bill, we also look at the question of money, particularly, Mr. Vice-President, accountability as far as the public purse is concerned.

I mention as a warning, the oil windfall, with favourable prices on the world market, increased industrial activity driven by foreign investors and, possibly, maybe the largest oil and gas field discovery in our history. This is the people's patrimony and this will be monetized. I think we need to send out a message loud and clear, that this new boom, the new wealth of Trinidad and Tobago must be protected from corrupted hands.

I return to the theme that money and corruption, or corruption and money go together. We need new anti-corruption laws, hon. Attorney General, to close the doors to those who may repeat the sins of the past and who will be tempted, as in the past, to funnel the nation's funds to Swiss bank accounts; accounts in Caracas, Toronto, Panama and God knows where.

Sen. Ramnath: Are you talking about the PNM?

Sen. Rev. D. Teelucksingh: Today, the art of money laundering and such agencies as offshore banking, are available to individuals, companies and corporations, not only to government officials and parliamentarians. I hope that the next step in integrity legislation will target the private sector and we will enshrine integrity among all the ingredients for a just and moral society.

I thank you very much, Sir.

Mr. Vice-President: Any more contributions? Sen. Dr. St. Cyr?

Sen. Dr. St. Cyr: No.

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. Vice-President, as a member of the Select Committee which looked into the concerns that were raised on this Bill, I am glad to see that the amendments have been so extensive. I am sure, as pointed out by Sen. Danny Montano, that the support for the amendments would be forthcoming, because our main concern in the Select Committee was to give to the Integrity Commission, to use the expression "some more teeth", so that in investigating allegations of corruption, it would have the ability to do so. For what it is worth, I am sure that the Report of the Committee would find favour and at another stage, Mr. Vice-President, we will address the amendments.

I thank you.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, I beg to move that the Motion be amended by substituting for the word "adopt" appearing in line 1, the words "take

Special Select Committee Report
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

note of", and after the word "Tobago" appearing in line 9, the words "and recommit these Bills to a committee of the whole Senate". This is being done in accordance with Standing Order 57.

Question, on amendment, put and agreed to.

Mr. Vice-President: As a result of this, the Bills will now be committed to a committee of the whole Senate, but I propose to take the tea break before the sitting of the committee. I suggest we break here and reconvene at 5.15 p.m., at which stage we will go into committee. The sitting is suspended until 5.15 p.m.

4.37 p.m.: *Sitting suspended.*

5.17 p.m.: *Sitting resumed.*

Mr. Vice-President: Hon. Senators, the Motion that was carried before the tea break was that we recommit the three Bills to a committee of the whole Senate. The Senate will now resolve itself in committee to consider the Integrity in Public Life Bill clause by clause. We will, in fact, do the other two Bills that form part of the Motion, independently.

INTEGRITY IN PUBLIC LIFE (NO. 2) BILL

[Second Day]

Order read for resuming adjourned debate on question [November 9, 1999]:

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: Everyone should have in front of them the original Bill as previously presented.

Hon. Member: Which one are we dealing with?

Mr. Chairman: The Integrity in Public Life (No. 2) Bill, 1999. The Attorney General has circulated amendments and then we have one amendment circulated by Sen. Montano. The Bill constitutes 43 clauses in five parts and two schedules. We have a number of amendments to a number of clauses, and I propose going clause by clause.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 2 be amended as follows:

“In clause (2)—

A. Insert in alphabetical order the following definition:

‘investigating officer’ means a person authorised by the Commission to exercise the powers of an investigating officer under this Act’;

B. In the definition of ‘person in public life,’ delete the word ‘first’; and

C. In the definition of ‘persons exercising public functions’ include after the words ‘Public Service’ the words ‘Judicial and Legal Service.’”

The amendment to clause 2 takes on board the suggestions which have been made. I do not know if Senators want me to go through them. I know that we have read them.

Mr. Chairman: No, I do not propose having all the amendments read, but we will go slowly to accommodate persons perusing the amendments. The amendment to clause 2 is broken into three bits, it is the interpretation clause. Is everyone comfortable with it?

Question put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Clauses 3 and 4 stand part of the Bill.

Clause 5.

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

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

“A. In subclause (1), delete paragraphs (d) to (f) and substitute the following paragraphs:

‘(d) compile and maintain a Register of Interests;

(e) Receive and investigate complaints regarding any alleged breaches of this Act or the commission or any suspected offence under the Prevention of Corruption Act;

(f) Investigate the conduct of any person falling under the purview of the Commission which, in the opinion of the Commission, may be considered dishonest or conducive to corruption;

- (g) Examine the practices and procedures of public bodies, in order to facilitate the discovery of corrupt practices;
 - (h) Instruct, advise and assist the heads of public bodies of changes in practices or procedures which may be necessary to reduce the occurrence of corrupt practices;
 - (i) Carry out programmes of public education intended to foster an understanding of standards of integrity;
 - (j) Perform such other functions and exercise such powers as are required by this Act.’
- B. In subclause (2) delete the full stop and insert a semicolon after paragraph (b); and
- C. Insert after paragraph (b), the following paragraph:
- ‘(c) shall have the power to authorise investigations, summon witnesses, require the production of any reports, documents, other relevant information, and to do all such things as it considers necessary or expedient for the purpose of carrying out its functions.’”

Clause 5 starts at the bottom of the first page of the circulate draft. It has to do with the functions of the commission, and it deals with the question of compiling and maintaining the Register of Interests *et cetera*. It empowers the commission under (f), (g) and (h) to deal with corruption. This is to give effect to the recommendations which have been made.

Sen. Mahabir-Wyatt: Mr. Chairman, can I just ask one question of the Attorney General? I am just wondering if in little (h), or is there any place in here that takes up the point in the report about trying to find out—I think it was No. 6: power of the commission to make requests of external governments to provide information and so forth—I did not know that that was possible in local legislation. I am wondering if this particular provision covers it. It is just a matter of information.

Mr. Maharaj: No, I do not think that this will cover that, because this is to instruct, abide and assist the heads of public bodies of changes in practice or procedures which may be necessary to reduce corrupt practices. You are talking about getting information, is that not so?

Sen. Mahabir-Wyatt: So it would not fall under here? Okay.

Mr. Chairman: Just to mention that the amendment in (c) of the Attorney General's circulated amendments, is an amendment to subsection (2) of section 5. It is not made clear, but I assume it is to subsection (2). So subsection (2) will now have an A, B and C.

Mr. Maharaj: I do not know whether in relation to what Sen. Mahabir-Wyatt just asked that (c), with the production of any documents, reports or any relevant information, if that may assist.

Sen. Mahabir-Wyatt: Yes it is here; I realize that where it says: "and to do all such things" it would come under that.

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

Clauses 6 to 8 ordered to stand part of the Bill.

Clause 9.

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

Mr. Maharaj: Mr. Chairman, I beg to move that clause 9 be amended as follows:

- "A. In subclause (3), insert at the end thereof the following words 'and the president may create such different grades of investigating officers as he thinks fit.'; and
- B. Insert after subclause (4), the following:
 - '(5) The Commission shall appoint or employ, on such terms and conditions as it thinks fit, any such other officers and employees as it thinks necessary for the proper carrying out of its functions under this Act;
 - (6) The appropriate Service Commission may approve the transfer of any officer in the Public Service to any office within the Commission and any public officer so transferred, shall, in relation to gratuity, pension or other allowances, be treated as continuing in the service of the Government.'"

This amendment has to do with remuneration and staff, and there are some additional powers to employ, on such terms and conditions, any other officers—employees that are thought necessary—and to approve the transfer of officers.

Mr. Chairman: Did everyone get that?

Question put and agreed to.

Clause 9, as amended, order to stand part of the Bill.

Clause 10 ordered to stand part of the Bill.

Clause 11.

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

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

- “A. In subclause (6), insert after the words ‘section 13,’ the words ‘or fails to file the statement of registrable interests under section 14,’; and
- B. Insert after subclause (6), the following subclause:
 - ‘(7) The Commission may, at anytime after the publication referred to in section 6, make an *ex parte* application to the High Court for an order directing such person to comply with the Act and the court may, in addition to making such an order, impose such conditions as it thinks fit.
 - (8) A person who fails to comply with the directions of the Court commits an offence and is liable on conviction to a fine of one hundred and fifty thousand dollars.’”

The amendment is to empower the Commission to make an application to the High Court, *ex parte*, for an Order that the Act is complied with, and for the court to make such conditions as it thinks fit. If a person fails to comply with the direction of the court, an offence is committed. This has to do with where the person has failed to file his declaration of assets.

Mr. Chairman, you would recall that under the existing law, it is just gazetted and there is no power to do anything, so this gives an empowerment to get an order from a judge for him to comply with it.

Question put and agreed to.

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

5.30 p.m.

Clause 12.

Question proposed, That clause 12 stand part of the Bill.

Sen. Mahabir-Wyatt: Mr. Chairman, I have a very minor point but I am wondering in amending subclause (1), should it read:

“A declaration required under this Act, shall include such particulars as are known...”

Or do you leave the word “such” out because I notice under that under the existing 12(1) it says: “shall include particulars as are known”, and not “such particulars”. It reads funny, grammatically, but it is in both places and I was not sure whether it is correct or not. It is usually “such particulars as are known” or “those particulars that are known.” It is a small point.

Mr. Maharaj: I think that this expertise in drafting is now spreading from Sen. Dr. McKenzie seat to Sen. Mahabir-Wyatt. I think that is acceptable.

Sen. Prof. Kenny: Mr. Chairman, the word “dependent” is spelt in two different ways in the same amendment. Under A (1) it says “dependant” and if you go down to (b) it says “dependent” children. We ought to use one spelling.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 12(1) be amended as follows:

“A declaration required under this Act shall include such particulars as are known to the declarant of the income, assets and liabilities of himself, his spouse or his dependent children.”

12 A. Delete subclause (1) and substitute the following:

“ (1) A declaration required under this Act, shall include such particulars as are known to the declarant of the income, assets and liabilities of himself, his spouse and his dependent children; and

B. Renumber subclauses (2) to (4) as (3) to (5) and insert after subclause (12) the following:

(2) Notwithstanding subsection (1), where—

- (a) the spouse was not ordinarily living with the declarant for a continuous period of six months during the period in relation to which the declaration was made; or
- (b) a dependent child was not ordinarily living with the declarant at any time during the period in relation to which the declaration was made,

the particulars required to be furnished under subsection (1) shall be limited to assets held by the spouse or child in trust for, or as agent of the declarant, except that nothing in this section shall be construed as precluding the Commission from requiring a declarant any additional particulars.”

Question put and agreed to.

Clause 12, as amended, ordered to stand part of the Bill.

Clause 13 ordered to stand part of the Bill.

Clause 14.

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

Mr. Maharaj: Mr. Chairman, I beg to move that clause 14 be amended as follows:

14

Delete; substitute the following:

“Register of Interests 14(1) A person in public life shall file with his declaration under section 11, an additional statement of registrable interests in the

prescribed form which shall contain the information required by subsection (3).

The Registrar of the Commission shall compile and cause to be entered in a Register of Interests, all information furnished pursuant to subsection (1) and shall at the request of any member of the public, permit the inspection of such Register.

- (2) A statement of registrable interests filed under subsection (1) shall contain information relating to a person in public life in respect of—
 - (a) particulars of any directorships held in any company or other corporate body;
 - (b) particulars of any contract made with the State;
 - (c) the name or description of any company, partnership or association in which the person is an investor;
 - (d) a concise description of any trust to which the person is a beneficiary or trustee;

Integrity in Public Life (No.2) Bill
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

- (e) beneficial interest held in any land;
 - (f) any fund to which the person contributes;
 - (g) particulars of any political, trade or professional association to which the person belongs;
 - (h) particulars relating to sources of income; and
 - (i) any other substantial interest whether of a pecuniary nature or not, which he considers may appear to raise a material conflict between his private interests and his public duty.
- (3) A person in public life shall notify the Registrar of any changes which may occur in his registrable interests, within six weeks of such change occurring.
- (4) Nothing in this section shall be taken to require disclosure of the actual amount or extent of any financial benefit, contribution or interests.”

Clause 14 deals with the Register of Interest for public inspection so that the interest can be available for public inspection. It specifies what are the particulars to be registrable. This, as you know, when it was being debated, would be able to

Integrity in Public Life (No.2) Bill

Tuesday, October 3, 2000

empower the public to ascertain whether there are conflict of interests. This is something which, if I remember correctly, has been strongly advocated by the Independent Bench.

Sen. Montano: Mr. Chairman, I did not have a problem with this section but frankly subclause (3) (f) beats me. I did not understand what that was supposed to mean.

Mr. Maharaj: What is that? I agree with the Senator.

Sen. Mahabir-Wyatt: I think that was the political funds we were talking about when we had the debate.

Mr. Maharaj: The intention is to cover instances if there are any contributions made to any fund like charity.

Sen. Mahabir-Wyatt: As I recalled, the debate was talking about political funds. If you are making contributions to a political party and the question was whether this should be disclosed or not. I do not know whether this covers that but that is what the discussion was about.

Sen. Montano: Does that mean contributions that he makes to the fund or contributions that are made to the fund on his behalf? I do not understand what the objective is here.

Mr. Maharaj: It is a person in public life who makes contribution to a fund.

Sen. Mahabir-Wyatt: Any fund to which the person makes contributions, you mean.

Mr. Maharaj: For example, it is the person who is under any directorship, particulars of any contract made, any company partnership, and all those matters so if anyone wants to know if there is conflict of interest, there is this Register of Interests in which they will have all these interests.

Sen. Mahabir-Wyatt: Then would it not read: "Any fund to which the person makes contributions?" Would that solve your problem, Sen. Montano?

Sen. Montano: Yes that would help me.

Mr. Maharaj: Any fund to which the person contributes.

Sen. Montano: I want to get back to clause 14. It still strikes me as being a little ambiguous in the sense that if it is an investment fund of its own, it is going

Integrity in Public Life (No.2) Bill
[SEN. MONTANO]

Tuesday, October 3, 2000

to be on his statements of assets and liabilities. Do we want to narrow it and say “any political or charitable fund” or is it just “fund”?

Mr. Maharaj: What is the intention? As I understand it from the debate, what was being asked for and what seems to be in some of the conventions that countries that have adhered to this is that in dealing with these matters we must be able to have a disclosure in respect of any contribution which is being made to any fund which will cover any situation.

Sen. Montano: I do not want to narrow it. I just want to make sure that it is properly understood by the people who are going to use this. Because, I am not sure that it will be properly understood.

Mr. Maharaj: I can assure you that the Law Commission has looked at it. They have made one recommendation which we have come with here. The intention is really to any fund to which the person contributes.

Sen. Prof. Ramchand: Mr. Chairman, does it mean that if a person makes a contribution to this fund, this fund is part of his wealth?

Mr. Maharaj: No. If a person makes a contribution to the fund, it is a contribution which should be known to determine whether there is any conflict of interest. Not the amount or anything like that. If, in the light of what you have said it has been operating in my mind that since his assets would be disclosed it may be that you can narrow it—narrow is the wrong word—to any political or charitable fund.

Sen. Montano: It seems to me that if we do that, we are telling them exactly what we want them to do.

Mr. Maharaj: I will be happy to go with that because the investment and his assets would be—

Sen. Mahabir-Wyatt: The assets come in under (i) anyway.

Mr. Maharaj: Can we put: “Any charitable or political fund to which the person contributes.”

Sen. Prof. Ramchand: Mr. Chairman, I do not know if we would have to work on it and find something that would indicate any fund, the contribution to which might involve a conflict of interest.

Mr. Maharaj: I think the people who have to operate it would have to know what political means, and we have an idea of what charitable means. I think we

can go with that and see how it works. If there are problems any government could come back to the Parliament. Let us say the person is a Minister and the person says that he wants to get Cabinet to agree to forgive the debt of this charity it must be something that he has disclosed. What has happened with integrity legislation it is not to say that people cannot do things like this, but if there is a conflict, for people to know that there is a possible conflict.

Sen. Prof. Ramchand: Any charities that support this?

Mr. Maharaj: It is an idea to know exactly what moneys are going in. It does not say support, any fund that he contributes to.

Sen. Prof. Ramchand: There might be a conflict of interest if he does not give them money but he still supports them.

Mr. Maharaj: How are you going to check that?

Sen. Prof. Ramchand: We are asking him to declare it.

Sen. Mahabir-Wyatt: Why should you have to declare it? Mr. Chairman, is there a reason you should have to declare it? What is there in terms of integrity that you should have to declare charitable contributions? You can give money to a beggar on the street. That is a charitable contribution. This can become totally unworkable.

Mr. Maharaj: That is the same point Sen. Kuei Tung has been making.

Sen. Kuei Tung: I certainly did not see any difficulty in disclosing any contributions you make to a fund as long as the word "fund" appears. It could be a mutual fund, an investment fund. It could be the Guardian Neediest Fund. I did not have a difficulty with it, but when you narrow it to political and charitable, then I start to ask myself why are you narrowing it to charity? Nobody questions anybody's charitable notions when you are in public life. Am I right, Sen. Dr. St. Cyr?

I cannot see a conflict in you saying you want to be charitable. I think when you want to be greedy then you create conflict. I would leave it loose as fund and let the Integrity Commission decide how far they want to press it, rather than narrow it because, the minute you narrow it, then the only one that you are going to end up being is either a questionable fund in which case it escapes both political and charitable; questionable, being I could put money into a fund in the Cayman Islands and that does not fall under political or charitable. I would prefer not to narrow it, but to leave it wide so that the Integrity Commission can decide

what kind of contributions it wants to determine and they can give examples including investment funds.

As Minister of Finance, if I were investing in a specific mutual fund, I am in a position as the Minister of Finance to ensure that particular fund is well taken care of in several ways, whatever way I want to do either in terms of inducements to investments or improving rates of returns for government bonds or things like that.

5.45 p.m.

Obviously, if even I was making a contribution to a mutual fund the Integrity Commission may very well ask me: What it is they did? At least I have to disclose it. I really do not like narrowing to political and charitable. Sorry.

Sen. Montano: I take your point but the problem I have with it is, quite frankly, the logic escapes me, because I cannot see how anybody is going to run into a conflict when they are making a payment to whatever fund it is. It seems to me that the conflict could only arise if somebody else is making a contribution to a fund on his behalf. Whatever fund the person in public life has on his own, is going to turn up on his assets. So whatever contributions he makes, whether he has to disclose that I do not have a problem but he has to disclose it on his assets and liabilities statements in any event.

So I just really fail to understand how that clause is intended to operate. If he makes a contribution to a charity, how could that possibly be in conflict with anything that he is doing as a public servant? I just do not understand what it means. That is why I said in the beginning, is it intended, really, that his contributions be made to a fund on his behalf; a fund that somehow he would have an interest in.

Sen. Kuei Tung: Quite frankly, Sen. Montano, I thought (i) was the capture phrase that would really catch any pecuniary—so that I thought that “f” was really included in “i” in a true sense. And that “f” could easily be included in “i” as part of its declarations. So that I do not see any difficulty in removing “f”.

Sen. Prof. Ramchand: Mr. Chairman, any fund through which contributions are made might have been thinking about contributions being made on his behalf by somebody with whom he is involved. That is why that tense was used. Rather than saying, “any contributions that he makes.” If there is a fund to which money is being paid on his behalf by somebody.

Sen. Montano: That is why I really wanted to get it clear as to what this clause means. We may have to work on it.

Mr. Maharaj: I have been advised that we should have reservations in deleting “f” in any event, because “i” deals specifically with “conflict of interest”. But “f” deals with a person in public life who, in public life, is donating money to many charities; the question would arise as to where he is getting this money from, and therefore, it has to do with that.

Sen. Daly: Mr. Chairman, if he was given all this money and the source of money was “junk bonds” for which he was being sentence, I think it was very salutary.

Mr. Maharaj: So what do we do? Would we leave it?

Hon. Senators: Yes.

Mr. Chairman: In what form are we leaving it?

Sen. Kuei Tung: At least it would be clearer. Right now it is ambiguous.

Mr. Maharaj: Let us leave it as “any fund to which the person”—

Mr. Chairman: Okay, we are back to where we were.

Sen. Ramchand: Mr. Chairman, so we are changing the funds to which he makes contributions?

Mr. Maharaj: Yes.

Sen. Ramchand: The argument I was suggesting that maybe people are laundering money there for him.

Mr. Maharaj: In this day and age of “pipe” I would ask you not to use the word “pump”. *[Laughter]*

Sen. Kuei Tung: Let me ask in a practical sense. I have gone in a different direction now. If he fails to disclose any fund to which contributions are made on his behalf, he could claim he never knew anybody was making contributions to any fund on his behalf. And how is the Integrity Commission going to know if he fails to make a declaration. That does not make sense to me. That is putting the Integrity Commission in an awkward position because everybody is going to routinely say, “no, no, no, nobody is making any contribution. I think we have lost *[Interruption]* Because you could set up someone—am I right, Sen. Daly—by saying, “Look, nah man, this man did not declare and I am making his contribution for him.” *[Laughter] [Interruption]*

Sen. Daly: Verbal ones. I spend too much time here to have money to contribute.

Sen. Mahabir-Wyatt: Mr. Chairman, are we back at any fund to which the person contributes?

Mr. Chairman: Yes.

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

Clauses 15 to 22 ordered to stand part of the Bill.

Clause 22.

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

Mr. Maharaj: Mr. Chairman, I beg to move that clause 22 be amended in terms of the circulated draft.

22

In subclause (1) delete the words “A person in public life may elect at his own option” and substitute the words “Where it appears to the Commission that a breach of this Act may have been committed or a conflict of interest may have arisen it shall order a person in public life.”

The effect of this is that the Integrity Commission can now mandate the person to have his assets placed in a management trust, in cases where there could be a conflict of interest.

Sen. Mahabir-Wyatt: Mr. Chairman, does this preclude him from doing it at his own option? Because it is replacing those words. It is not including them but it is replacing them. In other words, instead of saying, “a person in public life may elect at his own option”. Or, it would appear to the Commission that it should be left with the “(i).” Is it supposed to replace it? Anybody could do that at their own option.

Mr. Maharaj: Yes, but I think we could probably—

Sen. Mahabir-Wyatt: Because it says here, “on such terms and conditions as a Commission considers it appropriate.” If you are doing it on your own option, does it mean that you can just trot off to the Commission and say, “Look, I want to do this,” and the Commission, without us putting this in the Act, has the right to do it.

Integrity in Public Life (No.2) Bill

Tuesday, October 3, 2000

Mr. Maharaj: Yes.

Sen. Mahabir-Wyatt: Well, in that case, okay, fine. I just wanted that reassurance.

Sen. Prof. Ramchand: Mr. Chairman, I feel the person is being deprived of a right here.

Mr. Maharaj: I agree. I think we should go the route. It should be “additional”. Just give me a minute.

Sen. Montano: Mr. Chairman, I do not think it needs changing at all because there is nothing to stop anybody from putting his assets in a trust. [Laughter] If, in fact, anybody wants to put their assets in a trust.

Sen. Prof. Ramchand: If it merely says, “the Commission may ask him to do so.” That makes no reference to the fact that he has the right to do it on his own. I can see that too.

Mr. Maharaj: We are not taking away a right, you know.

Sen. Prof. Ramchand: No, it is because we are deleting it looks as if we are taking away a right.

Mr. Maharaj: So we could probably leave it.

5.55 p.m.

Mr. Maharaj: We are not taking away a right.

Sen. Prof. Ramchand: No. Because we are deleting here, it looks as if we are taking away a right.

Mr. Maharaj: So we could probably leave it.

Sen. Prof. Ramchand: Right. It is only the post we are deleting here.

Clause 22, as amended, ordered to stand part of the Bill.

Clauses 23 to 29 ordered to stand part of the Bill.

Clause 30.

Question proposed, That clause 30 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 30 be amended in terms of the circulated draft as follows:

“In subclause (1) insert after the words ‘Teaching Service’, the words ‘Judicial and Legal Service’.”

Integrity in Public Life (No.2) Bill
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

But I want to stress that this is as a result of the representations made by Independent Senators.

Question put and agreed to.

Clause 30, as amended, ordered to stand part of the Bill.

Clause 31.

Question proposed, That clause 31 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 31 be amended in terms of the circulated draft as follows:

“Delete; substitute the following:

‘Commission
to report breach
of this part

31(1) The Commission shall report any breach of this Part to the appropriate House of Parliament, Service Commission Board or other Authority and to the Director of Public Prosecutions setting out such details and particular as it thinks fit.

(2) The appropriate House of Parliament, Service Commission, Board or other Authority may take such disciplinary action in relation to a report made pursuant to subsection (1) as it thinks appropriate in any particular case.’”

Question put and agreed to.

Clause 31, as amended, ordered to stand part of the Bill.

Clause 32.

Question proposed, That clause 32 stand part of the Bill.

Mr. Maharaj: Could we do clauses 32 to 35?

Mr. Chairman: Well, we have a circulated amendment by Sen. Montano. Sen. Montano, the Attorney General’s amendment is to delete clauses 32 to 34.

Sen. Montano: Yes, but my amendment is to the new clause 32.

Mr. Chairman: So we could take the original clause 32.

Integrity in Public Life (No.2) Bill

Tuesday, October 3, 2000

Question put and agreed to.

Clause 32 deleted.

Clause 33.

Question proposed, That clause 33 be amended.

Mr. Chairman: Again we have an amendment to delete the clause.

Sen. Mahabir-Wyatt: Mr. Chairman, clauses 32, 33 and 34 are amended?

Mr. Chairman: Clause 33 is to be deleted.

Mr. Maharaj: We are renumbering.

Sen. Mahabir-Wyatt: So, clauses 32, 33, 34 and the heading are to be deleted?

Mr. Maharaj: Yes.

Sen. Mahabir-Wyatt: Thank you.

Mr. Chairman: Clauses 32, 33 and 34 are being deleted. We are on clause 33 right now.

Question put and agreed to.

Clause 33 deleted.

Clause 34.

Question proposed, That clause 34 be amended.

Mr. Chairman: The amendment requires the deletion of clause 34. Any comment?

Question put and agreed to.

Clause 34 deleted.

Clause 35.

Question proposed, That clause 35 stand part of the Bill.

Mr. Maharaj: We now have to consider clauses 32 to 34 because clauses 35 and 36 are renumbered.

Mr. Chairman: This is now clause 35?

Mr. Maharaj: Yes. Having deleted clauses 32 to 34, we are now introducing the new clauses 32 to 35.

Mr. Chairman: Clause 35 is renumbered as 36. We are going to include new clauses 32, 33, 34 and 35. Seeing that they are new clauses, maybe we will leave them for last, which is how we normally deal with it, and we would go on to the First Schedule.

Question put and agreed to.

Renumbered clauses 36 to 40 ordered to stand part of the Bill.

Renumbered Clause 41.

Question proposed, That renumbered clause 41 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 40 be amended in terms of the circulated draft.

Sen. Dr. McKenzie: Mr. Chairman, I think that should be 41. The old clause 40 would be 41 now.

Mr. Maharaj: I am amending the old 40.

Sen. Dr. McKenzie: Oh, well it would be 41 as renumbered, right?

Mr. Maharaj: Yes, you are correct. Mr. Chairman, I beg to move that clause 41, renumbered, be amended in terms of the amendment that is put on the circulated draft at the side of clause 40 as follows:

“In subclause (1) delete paragraph (d), and insert after paragraph (a) the following paragraphs:

- ‘(b) the standard or criteria for the initiation of such enquiries;
- (c) prescribing the manner in which information received from the public would be assessed and verified;
- (d) the form of declaration to be submitted and any additional forms which have been prescribed or which may become necessary.’.”

Mr. Chairman: Has everybody got that? The circulated amendments that are made to clause 40 are now the new renumbered 41 so what we are considering are those amendments.

Question put and agreed to.

Integrity in Public Life (No.2) Bill

Tuesday, October 3, 2000

Renumbered clause 41, as amended, ordered to stand part of the Bill.

Renumbered clauses 42 to 44 ordered to stand part of the Bill.

First Schedule.

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

Mr. Maharaj: Mr. Chairman, can I ask Senators to look at the amendment which was circulated, the last amendment, first column, First Schedule?

Mr. Chairman: I presume we would still be required to delete the word “First”?

Mr. Maharaj: We are deleting the word “First”.

Mr. Chairman: Okay, so the first amendment to the First Schedule is to delete the word “First”. So it just says “Schedule”. There is a second amendment that is circulated by the Attorney General.

Mr. Maharaj: Which says:

“B. In item 7, insert after the words ‘as prescribed’, the words ‘in accordance with section 138(2) of the Constitution’.”

Section 138(2) of the Constitution, I should read it to Senators:

“The Commission shall be charged with the duty of—

- (a) receiving, from time to time, declarations in writing of the assets, liabilities and income of members of the House of Representatives, Ministers of Government, Parliamentary Secretaries, Permanent Secretaries and Chief Technical Officers;
- (b) the supervision of all matters connected therewith as may be prescribed.”

It is bringing it in conformity with the powers given to it under the Constitution.

Mr. Chairman: So the seventh item on what would now be the Schedule, would read:

“Members of the boards of statutory bodies and State Enterprises as prescribed in accordance with section 138(2) of the Constitution.”

Has everybody got that?

6.10 p.m.

Sen. Dr. McKenzie: I know that but, Mr. Chairman, under clause 4, we had “Members of the Tobago House of Assembly”. Do we include, because we wondered whether it would be the elected Members and secretaries, or whether it should be everybody—all the councillors also.

Mr. Maharaj: I am sorry.

Mr. Chairman: She wants to know whether “Members of the Tobago House of Assembly” means all members or the elected Members.

Mr. Maharaj: It would be all members, but I should let you know that we would still—remember, we have to amend the Constitution and in that amendment, it spells out in greater detail, too. But, members here would mean all members.

Question put and agreed to.

First schedule, as amended, ordered to stand part of the Bill.

Second Schedule.

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

Mr. Maharaj: I beg to move that the whole of the Second Schedule be deleted.

Question put and agreed to.

Second Schedule deleted.

Mr. Chairman: We revert to clause 32. We have four new clauses 32, 33, 34 and 35. They form part of the circulated draft under new “Part V—Power of Investigation”.

New Clause 32.

Mr. Maharaj: Mr. Chairman, I propose a new clause 32 which reads as follows:

- | | | |
|------------|----|--|
| Complaints | 32 | (1) A member of the public who wishes to allege or make a complaint that a person in public life or any person exercising a public function— |
| | | (a) is in contravention of this Act; or |

- (b) in relation to the Register of Interests, has a conflict of interests; or
- (c) is committing or has committed an offence under the Prevention of Corruption Act,

may do so in writing to the Commission.

- (2) Any person who makes or causes to be made a false report to the Commission or misleads the Commission by giving false information or by making false statements or accusations shall be guilty of an offence and liable on conviction to a fine of two hundred and fifty thousand dollars and a term of imprisonment not exceeding five years.

New clause 32 read the first time.

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

Mr. Maharaj: May I suggest that we deal with Sen. Montano's amendment first, so we could sort it out.

Mr. Chairman: Okay. Let us get new clause 32 on record. We have a circulated amendment by Sen. Montano.

Sen. Montano: Mr. Chairman, I beg to move the following amendment to new clause 32(2) as under:

Insert after the word “who” in line 1 the words “knowing it to be false and mischievously”.

As I was indicating, I think it is only reasonable that if it turns out that a person who makes a report about something that he alleges is wrong and unproved, it does not mean that the statement is untrue. It just means that it is unproved but, according to this, there would be a strict liability, so really, it would seem to be reasonable—I wanted to make the amendment so that the person who, knowing it to be false, and mischievously makes the report—

Mr. Maharaj: Would it be better to say who, knowingly, or maliciously, or wilfully? Any person who knowingly—knowingly will cover situations where it

Integrity in Public Life (No.2) Bill
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

is wilful because if you know it and you still do it, it is wilful. Maliciously—that is the expression that has been used in some of the—it really does not matter. It is knowingly, any person who knowingly makes or causes to be made a false report. If you know it is false and you are making it.

Sen. Montano: Well, I considered that. Does knowingly mean that he knows it is not true?

Mr. Maharaj: No. It says here any person who makes or causes to be made a false report. In other words, he knows that it is false and he makes it and he knowingly causes a false report to be made. The way it is now, if he makes a false report, he can get into difficulties, but you want to put a situation where he knows that it is false and he makes it.

Sen. Dr. McKenzie: How would you know it is false?

Sen. Montano: You see, what I wanted to get away from was he might not be absolutely certain that it is true but, in the public interest, it might be worthwhile to investigate the issue, therefore, that is why putting the word "mischievously"—

Mr. Maharaj: That is why putting the word "maliciously" is the right word, if I may say so.

Sen. Montano: If you put a different standard on it, it means he is doing it to cause mischief.

Mr. Maharaj: Because "maliciously" means that you will have to prove that he intended—

Sen. Montano: To cause harm and not to do good as it were.

Mr. Maharaj: I have been told that it might be harder to prove, but one has to be fair with this because if you put "maliciously", I would not say you will never prove it but you will have to prove that the man had an intention to cause harm and he knew, or he was reckless.

Sen. Montano: With malice aforethought. Yes. That has a specific meaning in law.

Mr. Maharaj: Whereas, if you put "wilfully", it would cover many situations and I believe in this, you want to also encourage people but you also want to protect them in case they make an error.

Sen. Montano: Correct.

Mr. Maharaj: I will suggest maliciously.

Sen. Montano: I will go with that.

Mr. Maharaj: Knowingly and maliciously.

Sen. Dr. McKenzie: Mr. Chairman, while I agree with that, my question is: Would you come to the conclusion that it was malicious because it was not proved? That is my thing, because some technical lawyer could. What I am saying is, let us say I said you stole my pen and you could prove that, technically, it was not a robbery. But in any case you could not prove. Because you could not prove the accusation, does it mean that you made a malicious thing? This is my question. Does it have to be proven to be not malicious?

Mr. Maharaj: I think "maliciously" might—I think I would end up going back to your word "maliciously".

Sen. Montano: No my word is "mischievously".

Sen. Kuei Tung: Maliciously means you now have to prove.

Sen. Montano: Yes. But, knowingly and wilfully is the same thing. It is the mischief behind it that you really want to get at when there is mischief intended, when the guy really brought a frivolous accusation and he did it only to create harm and mischief. That was the idea. You might do it knowingly and wilfully and you are not absolutely certain that it is true or false as the case might be, but it is not mischievously.

Sen. Rev. Teelucksingh: Can we keep both words? "Any person who 'knowingly' and 'maliciously' makes" and so forth.

Mr. Maharaj: Knowingly or mischievously. Maliciously, you would be able to prove.

Mr. Chairman: So we take the first amendment as circulated by Sen. Montano to include—

Sen. Montano: I think with respect, it should be "knowingly and" not "or", because then you are separating the two issues with "or". In fact, you could charge him separately because he knowingly did it, or he mischievously did it. There are two separate situations "knowingly and mischievously".

Mr. Maharaj: Mischievously means you must know.

Sen. Dr. McKenzie: But, Mr. Chairman, how will you know? Who determines whether it was malicious? Because, I may feel that I am really sincere in the accusations I am making and I am saying that the accusation that I would be malicious, mischievous or whatever, with a false report would come from the person who is investigating me.

Mr. Chairman: I think the time has come for a Procedural Motion. We have to revert back to the Senate. We will come back to the committee in a while.

Senate resumed.

PROCEDURAL MOTION

The Minister of National Security (Sen. Brig. The Hon. J. Theodore): Mr. Vice-President, in accordance with section 9(8), I beg to move that the Senate continue to sit until the conclusion of debate on Bills shown on the Order Paper: the Children's Authority Bill, 1999; the Children (Amdt.) Bill, 1999; the Adoption of Children Bill, 1999; the Miscellaneous Provisions (Children) Bill, 1999 and the Children's Community Residences, Foster Homes and Nurseries Bill, 1999.

Question put and agreed to.

INTEGRITY IN PUBLIC LIFE (NO. 2) BILL

Senate in committee.

Mr. Chairman: Okay. We are back in committee and we have, first of all, to consider the amendment circulated by Sen. Montano which would read as follows:

"knowingly and mischievously" to be included between the words "who" and "makes" in line one of subclause (2) of clause 32.

Question, on amendment, put and agreed to.

Mr. Chairman: We have new clause 32 because we have deleted the other. The question before us is that we adopt new clause 32 as circulated by the Attorney General and as amended by Sen. Montano now stand part of the Bill.

Question put and agreed to.

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

Question put and agreed to.

New Clause 32, as amended, added to the Bill.

Sen. Prof. Ramchand: Sir, could you read the new one?

Mr. Chairman: Can I read it? We can read it at our own leisure. Then we have other circulated amendments by the Attorney General.

Mr. Maharaj: Mr. Chairman, can we do 33, 34 and 35?

Mr. Chairman: With leave of the committee, we take all three clauses *en bloc*.

Mr. Maharaj: I beg to move that clauses 33, 34 and 35 be amended in terms of the circulated draft.

Sen. Montano: I had a small suggestion to clause 33, however, a very small one.

6.25 p.m.

New clause 33.

Mr. Maharaj: Mr. Chairman, I propose a new clause 33 which reads as follows:

“Power of Commission To investigate	33.	The Commission— (a) may on its own initiative; or (b) shall upon the complaint of any member of the public, Consider and enquire into any alleged breaches of the Act or any allegations of corrupt or dishonest conduct.”
---	-----	---

New clause 33 read the first time.

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

Question put and agreed to.

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

Question put and agreed to.

New clause 33 added to the Bill.

New clause 34.

Mr. Maharaj: Mr. Chairman, I propose a new clause 34 which reads as follows:

- “Special powers of investigation 34(1) In carrying out its function under section 33, the Commission may—
- authorise an investigating officer to conduct an inquiry into any alleged or suspected offence;
- (a) require any person in writing to produce, within a specified time, all books, records, accounts, reports, data, stored electronically, or otherwise, or any other documents relating to the functions of any public or private body;
 - (b) require any person, within a specified time, to provide any information or to answer any question which the Commission considers necessary in connection with any inquiry or investigation which the Commission is empowered to conduct under this Act;
 - (c) require that any facts, matters or documents relating to the allegations or breach be verified or otherwise ascertained by oral examination of the person making the complaint;
 - (d) cause any witness to be summoned and examined upon oath.

- (2) Where, in the course of any inquiry the Commission is satisfied that there is a need to further expedite its investigations, it may exercise the following powers:
- (a) require any person to furnish a statement in writing—
 - (i) enumerating all movable or immovable property belonging to or possessed by him in Trinidad and Tobago or elsewhere, or held in trust for him, and specifying the date on which each such property was acquired and the consideration paid therefore, and explaining whether it was acquired by way of purchase, gift, inheritance or otherwise;
 - (ii) specifying any monies or other property acquired in Trinidad and Tobago or elsewhere or sent out of Trinidad and Tobago by him or on his behalf during a specified period;
 - (b) require any person to furnish, notwithstanding the provisions

of any other written law to the contrary, all information in his possession relating to the affairs of any suspected person being investigated and to produce or furnish any document or true copy of any document relating to the person under investigation and which is in the possession or under the control of the person required to furnish the information:

- (c) require the manager of any bank, or financial institution in addition to furnishing information specified in paragraph (b), to furnish any information or certified copies, of the accounts or the statement of accounts at the bank or financial institution of any person being investigated.
- (3) A person who fails or refuses to disclose any such information or to produce any such documents commits an offence and is liable to a fine of one hundred and fifty thousand dollars and imprisonment for a term of three years;
 - (4) Any person who knowingly misleads the Commission, or an investigating officer of the Commission, by giving false information, commits an offence and is liable on conviction to a fine of two hundred and fifty

thousand dollars and imprisonment for a term of five years;

- (5) Where after the conduct of an investigation the Commission is satisfied, that there are reasonable grounds for suspecting that an offence has been committed, it shall make a report to the Director of Public Prosecutions who may take such action as he thinks appropriate’.”

Sen. Montano: Mr. Chairman in 34(2)(c) where it says:

“require the manager of any bank, or financial institution...”

I think we would be negligent if we left that out, and down in line 4 where it says:

“to furnish any information or certified copies, of the accounts...”

I think we should include “or deposits, notes, investments, securities”, I do not think we should be so narrow to use the word “accounts”.

Sen. Mahabir-Wyatt: Could you say that again?

Sen. Montano: Deposits, notes, investments, securities, or the statement of accounts at the bank or financial institution.

Mr. Maharaj: I do not have a problem, but it seems to me that the word “accounts” would cover that information, otherwise wherever you put “accounts” you would have to go with this extended meaning. It seems to me that if you have to get information about the accounts, it means any deposits or securities in relation to that person, because it says:

“furnish any information or certified copies, of the accounts or the statement of accounts at the bank or financial institution of any person being investigated.”

Sen. Montano: I would guided by the draftspersons.

Mr. Maharaj: I am told that there is a danger in particularizing, because any other form of accounts that you do not include you could omit, and then the

Integrity in Public Life (No.2) Bill
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

lawyer would be able to argue that the Parliament intended it to have such a narrow meaning. It did not intend to do that.

Sen. Montano: I quite agree; I just thought the word “accounts” was very specific and very narrow; where I come from it is very specific and very narrow.

Mr. Maharaj: The word “accounts” in its legal context could mean any—

Sen. Montano: I would only suggest that, again, where we use the word “bank” we would say “or financial institution”.

Mr. Maharaj: I agree with that.

Sen. S. John: Mr. Chairman, in the third to last line the word “statement” is singular, it should be plural.

Mr. Maharaj: It should be “statements of account”. Have you got that?

Mr. Chairman: We are considering new clause 34. We have a suggested amendment to new clause 34(2)(c). There are three amendments: in the first line extend the line to read “any bank or financial institution”. In the third to last line change “statement” to “statements”, and in the penultimate line—

Sen. Mahabir-Wyatt: Mr. Chairman, should that not be “statements of accounts, I can have more than one account in one bank; I do, in fact.

Mr. Maharaj: We have it here “statements of account”.

Sen. Mahabir-Wyatt: Of account or accounts? Suppose you have several accounts? [*Crosstalk*]

Mr. Chairman: Okay, statements of accounts, two “s”; and then on the penultimate line, “bank or financial institution”. Has everybody got that?

New clause 34 read the first time.

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

Question put and agreed to.

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

Question put and agreed to.

New clause 34 added to the Bill.

Mr. Maharaj: Mr. Chairman, I cannot help but say that one notices those who are in the private sector and those who are in the government sector. In the

Integrity in Public Life (No.2) Bill

Tuesday, October 3, 2000

private sector there are accounts, in the government sector you simply account.
[Laughter]

New clause 35.

Mr. Maharaj: Mr. Chairman, I propose a new clause 35 which reads as follows:

“Insert after clause 34, the following—

Protection of Information	35.	The records of the Commission and any information revealed by a witness or by the production of documents, shall not be disclosed, other than to such extent as may be necessary for the purpose of proceedings in any court relating to a charge under this Act, the Prevention of Corruption Act or any other written law.”
------------------------------	-----	---

New clause 35 read the first time.

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

Question put and agreed to.

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

Question put and agreed to.

New clause 35 added to the Bill. [Interruption]

Preamble ordered to stand part of the Bill.

Sen. Rev. Teelucksingh: Mr. Chairman, I want to ask a layman’s question just for simplification to the hon. Attorney General. I do not know if it is a convention, tradition or if it is written in some of our laws, but why after five years if a matter of some allegation of corruption comes up the Commission cannot investigate it? Could you simplify that for me? Why five years? There are two places where five is written. That is why I said to simplify it for me as a layman. There are one or two references to five years. In clause 21 there is one reference to five years, and there is another one in clause 16(3) where it says you cannot commence an inquiry and so forth. I did not want to raise it at the time, I just wanted you to explain why this, and from whence did it come?

Mr. Maharaj: The Integrity Commission had to start somewhere. For example, the police can investigate whether a crime has been committed, because there is no time limit in the commission of an indictable crime. In cases of summary offences, there are time frames. The Integrity Commission is not expected to investigate crimes for many years back. Normally the life of a Member of Parliament is five years at a time, therefore, they had to have some period of time; that is the only thing I can suggest.

It does not prevent the Integrity Commission—if, for example, they are of the view that reasonable cause is showing that a crime has been committed, like any other individual—from passing the information to the police for them to investigate. It does not mean that a person cannot be prosecuted for a criminal offence, if he committed it five or 10 years ago.

In respect of the other matter regarding the private sector that the Senator raised—probably I should just mention it now—the Integrity in Public Life (No. 2) Bill is to deal with persons in public office. The law of corruption is supposed to deal with persons in both public and private. At the present time, there is no restraint. Persons in the private sector can be investigated and prosecuted. The police has the power, if they have reasonable cause to search, to go to a judge under the Prevention of Corruption Act to get an order to get documents and so forth, and they can be prosecuted, so it is not a question of not having the power to do it.

Investigation of corruption is not an easy matter. There have to be paper trails, there are questions where money is put in trust or paid over to different shell companies, so you need professional investigators. Therefore, if you need to tackle corruption seriously, obviously you will have to spend resources in having the necessary infrastructure in place in order to do it. But it is not that the law does not provide the machinery for doing it.

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

Senate resumed.

Bill reported with amendment.

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

Mr. Chairman: This Bill, however, requires a vote of not less than three-fifths of the Members of the Senate, therefore, we ask that a division be taken.

The Senate voted: Ayes 25

Integrity in Public Life (No.2) Bill

Tuesday, October 3, 2000

AYES

Kuei Tung, Hon. B.

Theodore, Hon. Brig. J.

Baksh, Hon. S.

Phillips, Hon. Dr. D.

Gillette, Hon. L.

Gangar, Hon. F.

John, Hon. C.

Tota-Maharaj, Hon. V.

Baksh, N.

John, S.

Gray-Burke, Rev. B.

John, W.

John, Ms. J.

Mahase, Dr. A.

Ramnath, K.

Montano, D.

Jagmohan, M.

Job, Ms. E.

Mahabir-Wyatt, D.

Teelucksingh, Rev. D.

Daly, M.

McKenzie, Dr. E.

Ramchand, Prof. K.

Sultan-Khan Valere, Mrs. L.

Oudit, Mrs. N.

Question agreed to.

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

CONSTITUTION (AMDT.) (NO. 5) BILL*Order for second reading read.*

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

That a Bill entitled to amend the Constitution of the Republic of Trinidad and Tobago, be read a second time.

*Question proposed.**Question put and agreed.**Bill accordingly read a second time.**Bill committed to a committee of the whole Senate.**Senate in committee.*

Mr. Chairman: As a means of identification, we have two Constitution (Amdt.) Bills, but the one that is before us here in committee is the Constitution (Amdt.) (No. 5) Bill, and it has, in addition to the Preamble, five clauses.

6.40 p.m.*Clauses 1 to 3 ordered to stand part of the Bill.**Clause 4.**Question proposed, That clause 4 stand part of the Bill.*

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

4

“A.

In paragraph (c), delete the words ‘Public Service Commission, the Police Service Commission, the Teaching Service Commission and’ and substitute the words ‘a Service Commission or’; and

B.

Insert after paragraph (c), the following paragraph:

Constitution (Amdt.) (No.5) Bill

Tuesday, October 3, 2000

(d) the monitoring and investigating of conduct, practices and procedures which are dishonest or corrupt.”

Mr. Maharaj: Mr. Chairman, since we apply now to all service commissions, the amendment is to that affect. These are the monitoring and investigating bodies which conduct practising procedures and speak for themselves.

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

- | | |
|----------------------|--|
| 5 | Delete; substitute the following clause: |
| “Section 139 amended | 5. Section 139 of the Constitution is amended by inserting after paragraph (d), the following paragraph: |
| | 6. ‘(da)’ the preparation by the Commission of a Register of Interests for public inspection.” |

Sen. Montano: I am not following you. In clause 5 there is a subclause “(da)” and in the amendment there is a new “(da)”; is one going to supercede the other?

Mr. Maharaj: Yes. There is no longer public disclosure so you now have the Register of Interests.

Sen. Mahabir-Wyatt: Is it going to be d-a “da”?

Mr. Maharaj: Do not ask me the reason but the number is correct and I am guided by Mr. Paul Griffith and sometimes I just accept it without—so I will plead with the hon. Senators to accept it. It is a drafting tradition and if we ask him to explain it, it might be too long.

Question put and agreed to.

Constitution (Amdt.) (No.5) Bill

Tuesday, October 3, 2000

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

The Preamble ordered to stand part of the Bill.

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

Senate resumed.

Bill reported with amendment.

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

Mr. Vice-President: This Bill requires a vote of not less than two-thirds of the Members of the Senate. Therefore we ask that a division be taken at this stage.

The Senate voted: Ayes 26

AYES

Kuei Tung, Hon. B.

Theodore, Hon. Brig. J.

Baksh, Hon. S.

Phillips, Hon. Dr. D.

Gillette, Hon. L.

Gangar, Hon. F.

John, Hon. C.

Tota-Maharaj, Hon. V.

Baksh, N.

John, S.

Gray-Burke, Rev. B.

John, W.

John, Mrs. J.

Mahase, Dr. A.

Ramnath, K.

Montano, D.

Jagmohan, M.

Constitution (Amdt.) (No.5) Bill

Tuesday, October 3, 2000

Job, Ms. E.

Mahabir-Wyatt, D.

Teelucksingh, Rev. D.

Daly, M.

McKenzie, Dr. E.

Kenny, Prof. J.

Ramchand, Prof. K.

Sultan-Khan Valere, Mrs. L.

Oudit, Mrs. N.

Question agreed to.

Bill accordingly read the third time and passed.

Mr. Vice-President: The result of the division: 26 votes in favour, none against, therefore the required majority was obtained and the Bill is passed.

The third Bill emanating from the Motion is the Constitution (Amdt.) (No. 6) Bill.

CONSTITUTION (AMDT.) (NO. 6) BILL

Order for second reading read.

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

That a Bill to amend the Constitution of the Republic of Trinidad and Tobago be read a second time.

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.

Mr. Chairman: This Bill has three clauses and a Preamble.

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

Constitution (Amdt.) (No.5) Bill

Tuesday, October 3, 2000

Preamble ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, without amendment.

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

Mr. Vice-President: Again, this Bill requires the vote of not less than two-thirds of all the Members of the Senate, therefore, I call for a division to be taken.

The Senate voted: Ayes 26

AYES

Kuei Tung, Hon. B.

Theodore, Hon. Brig. J.

Baksh, Hon. S.

Phillips, Hon. Dr. D.

Gillette, Hon. L.

Gangar, Hon. F.

John, Hon. C.

Tota-Maharaj, Hon. V.

Baksh, N.

John, S.

Gray-Burke, Rev. B.

John, W.

John, Mrs. J.

Mahase, Dr. A.

Ramnath, K.

Mohammed, N.

Montano, D.

Jagmohan, M.

Constitution (Amdt.) (No.5) Bill

Tuesday, October 3, 2000

Job, Mrs. E.

Mahabir-Wyatt, D.

Teelucksingh, Rev. D.

Daly, M.

McKenzie, Dr. E.

Ramchand, Prof. K.

Sultan-Khan Valere, Mrs. L.

Oudit, Mrs. N.

Mr. Vice-President: The result of the division: 26 Ayes, none against, therefore the required majority has been obtained and the Bill is passed.

Question agreed to. [Desk thumping]

Bill accordingly read the third time and passed.

RELATED BILLS

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, in moving the second reading of the Children's Authority Bill, I seek the leave of the House to debate together the other four Bills before the Senate which relate to the subject of the debate. They are: Children (Amdt.) Bill; Adoption of Children Bill; Miscellaneous Provisions (Children) Bill and the Children's Community Residences, Foster Homes and Nurseries Bill.

Question put and agreed to.

Mr. Vice-President: Hon. Senators, we will have to vote on them individually, but the debate would encompass all the Bills. When you are invited to contribute you may make one contribution on all the pieces of legislation.

CHILDREN'S AUTHORITY BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, I propose that the shortness of my

contribution would not take away from the importance of these measures. My contribution would be short because I want to put on record that there was a Joint Select Committee which considered these measures and it spent much time looking at them.

It was assisted by technical persons and the committee had someone who is very knowledgeable in these matters and who has led the crusade in Trinidad and Tobago to get the law relating to children reformed. I talk of Sen. Diana Mahabir-Wyatt. [*Desk thumping*] I pay tribute to her and thank her very much for the great assistance she provided to the committee in getting this work done.

I also want to put on the record thanks to other Members of the committee. They were:

Mr. Ramesh Lawrence Maharaj

Mr. Harry Partap

Mr. Manohar Ramsaran

Dr. Fuad Khan

Mr. Fitzgerald Hinds

Mr. Roger Boynes

Dr. Daphne Phillips

Mrs. Vimala Tota-Maharaj

The Most Reverend Barbara Gray-Burke

Mrs. Joan Yuille-Williams

Mrs. Diana Mahabir-Wyatt

Dr. Eric St. Cyr

We thank them very much for the work they assisted us in doing and I thank the Secretary of the committee and the members of the Parliamentary staff.

Mr. Vice-President, I think we all agree that the laws relating to children and related matters were very out-dated. Basically, we would be going through the Bills in committee and if anybody wants to ask any question—obviously, I am sure by the time I am finished and Sen. Mahabir-Wyatt, Sen. Mohammed and Sen. Valere are finished speaking and any other Senator who speaks, we would have an idea of what the Bill is.

The Children Authority Bill establishes a central independent authority under whose jurisdiction all matters relating to children would fall. The authority would be responsible for providing mechanisms for assuming the parental right and responsibility for children in need of care. It will also be able to assume temporary care for children who are at risk. The effect of this measure would be that all children who are before the court, or who are found to be at risk due to a number of various factors such as abuse, neglect, cruelty or who are found wandering the streets would be brought to the authority who would assume the parental responsibility and care in respect of such children without denying the parental rights and responsibility of parents.

6.55 p.m.

Also, all children who appear to be in need of care would now be temporarily kept by the proposed authority and would not be immediately taken to certified schools or unregistered children's homes as currently obtains in Trinidad and Tobago. The Bill also provides for the proper functioning of a foster care system to be established by the Minister with responsibility for social and community development. The effect of this system is that a child who requires temporary care when his family unit temporarily fails, could be lawfully cared for in another family unit other than its own until such time as the family reunites.

The Bill would require that all existing and future children's community, residences, foster homes and nurseries, obtain from the proposed authority licences to operate. The certification requirement under the Children's Act has not worked well and we are now faced with numerous uncertified orphanages out of which many reports of abuse and neglect have surfaced. With the authority being given the power to monitor community residences and other institutions, it is hoped that our children who have been placed in such residences, would be ensured not only quality care, but a safe haven from all forms of abuse.

The Bill would also require parents who are suspected of seeking to leave Trinidad and Tobago without making adequate provision for their children, to make such provision for them or they would be prohibited from leaving the jurisdiction until proper provision is made. This is to rectify the current situation with respect to "barrel children" as they are called. These children are often left with elderly grandparents, or a tantie who are unable to properly care for the children and consequently, the children usually find themselves in wrong company or on the streets.

Children's Authority Bill
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

The Community Residences, Foster Homes and Nurseries Bill, 1999, would repeal the certification requirement under the Children's Act which requires that persons who wish to receive children have to apply to the court for certification. The Bill now requires that all existing and future orphanages and industrial schools meet specific licensing requirements. All existing and future community residences would be required to apply to the proposed authority for licences to operate. Also, all community residences would now be monitored by the authority to ensure that they can adequately continue to provide care for children. The authority would also investigate all allegations of abuse or neglect that have been levied against any residence and would be able to enter any residence at a reasonable time to ensure that children are being properly cared for.

The Bill would also allow persons who wish to temporarily care for children to apply to the Minister for such approval, and on the granting of such approval the children who are sent to these persons, will be monitored by the authority. The Bill would also now provide for nurseries, in which children under the age of six are kept and looked after for the day for a reward. These nurseries would require licences to operate. Such nurseries would be monitored and regulated by the authority.

The Miscellaneous (Provisions Children Bill) 1999 is an omnibus bill which seeks to amend several Acts at the same time. The main purpose of the Bill is to amend certain laws in order to bring Trinidad and Tobago more in line with its obligations under the United Nations Convention and the Rights of the Child; and to amend certain other laws in keeping with the reform that we have been doing and which affect children.

The Convention defines a child as a human being below the age of 18 years, unless the applicable law, the majority is attained earlier. In Trinidad and Tobago the age of majority is 18 years. To comply with the requirement of the Convention, several Acts would need to be amended. The Bill, therefore, seeks to amend the definition of "child" in certain Acts, to mean a person under the age of 18 years, in compliance with Article I of the Convention on the Rights of the Child.

The Bill would also amend the Citizenship of Trinidad and Tobago Act, to allow female co-adopters who are nationals of Trinidad and Tobago to pass Trinidad and Tobago nationality onto a person who is under 18 years of age and a non-national of Trinidad and Tobago. Under that Act, the present position is that where an adoption order is made by a court, in respect of the joint adoption of a

person who is under 18 years of age, and a non national of Trinidad and Tobago, the adoptee can acquire Trinidad and Tobago nationality only if the male co-adopter is a national of Trinidad and Tobago. It is unbelievable that these things have been happening for all these years.

The effect of the proposed amendment would, in such a joint adoption where the female co-adopter is a national of Trinidad and Tobago and the male is not, allow the female to pass her Trinidad and Tobago nationality onto the young adoptee. This would remove the existing discrimination against female co-adopters.

The Summary Offences Act, Chap. 11:02 is also to be amended under that Act. A male person who commits assault or battery of a particularly aggravated nature upon a male victim under 14 years of age, or upon any female or any old, infirm or sickly person is liable on conviction to a term of imprisonment for such an offence. The proposed amendment would extend to all male victims, up to 18 years of age, the protection now afforded to females, the aged, infirm or a sickly person. So it is also to give protection to males.

The Corporal Punishment Offenders (Not Over 16) Act provides for courts to sentence persons under the age of 16 years to be whipped. This Bill would repeal that. The effect of the repeal would be to discontinue the children who are offenders and are under 16 years of age. This Bill would amend that Act to raise the age of offenders, over which the court has such power, from 16 to 18 years of age. The effect of the proposed amendment would also be that all persons over the age of 18 years would still be liable to corporal punishment, and those under 18 years of age would not be so liable. It must be emphasized that this applies to corporal punishment in prison, and we are not talking about corporal punishment in other places.

The Young Offenders Detention Act, Chap. 13:05 permits the Minister responsible for the custody of young offenders to transfer a youth who is incorrigible or exercises a bad influence on other youths at an industrial institution from that institution to a prison. This Bill would repeal that provision. The effect of the repeal would be that, as far as possible, the number of children into adult prisons would be reduced.

The Defence Force Act, Chap. 14 now permits the Defence Force to enlist young persons under the age of 18 years with the consent of parents or guardians. This Bill would amend the Defence Force Act to ensure, firstly, that no young

Children's Authority Bill
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

person under the age of 16 years may be enlisted. Secondly, where a young person is over 16 years of age but not yet 18 years of age he can only enlist with the consent of his parent or guardian.

The Age of Majority Act establishes the age of majority as 18 years, and also makes provision for ward-ship as well as for maintenance of children who are wards of court. Under that Act the court cannot make a maintenance order for the benefit of a child who is a ward of court if his parents are residing together. Further, where such a maintenance order has been granted, the order ceases to have effect where the parents have resumed living together for a period in excess of three months.

The proposed amendment to the Age of Majority Act would remove this restriction so that the court would be empowered to make maintenance orders for wards of court, and such orders would have effect regardless of the status of co-habitation of the parents.

The Family Law, Guardianship of Minors, Domicile and Maintenance Act, Chap. 46:08 to which I will refer as the Family Law Act, now provides for the guardianship, custody and maintenance of minors. Under that Act the court cannot extend the maintenance order beyond the age of 18 years if the parents of the child are residing together. Further, where such an order has been made it ceases to have effect if the parents subsequently reside together for a period of six months.

The proposed amendment would remove this restriction, thereby ensuring that a young person would not be deprived of the right to seek maintenance, when he needs financing to complete his education because his parents are residing together.

Again, under the Family Law Act, when granting a maintenance order for the benefit of a child whose parents are not married, the court is not required to have regard to the educational expectation which parents may have for that child or to the financial resources of the parents.

The proposed amendments would direct the court to consider these factors. Mr. Vice-President, the effect of this proposed amendment would be to ensure that the same factors are considered when the court grants a maintenance order to any child regardless of whether the parents are married or not.

Still, with the Family Law Act, when a Magistrate's Court in the exercise of its matrimonial jurisdiction, under Section 25 of that Act, grants a maintenance

order for a child, such an order ceases to have effect on the death of either the parents to the marriage. Also, there is no provision for the Magistrate's Court to extend an order for maintenance granted in the exercise of its matrimonial jurisdiction beyond the age of 18 years to the age of 21.

The proposed amendments would empower the magistrate when exercising the courts jurisdiction under section 25, to extend a maintenance order beyond the age of 18 years for educational purposes, or where the court is satisfied that there are special circumstances which justifies the making of such an order. Further, a maintenance order for the child will not cease upon the death of one of his parents.

7.05 p.m.

Mr. Vice-President, under the Liquor Licences Act, Chap 84:10, it is now an offence to sell any description of intoxicating liquor to any child apparently under the age of 16 years, whether for its own use or not. This Bill would amend the Liquor Licences Act by raising the relevant age from 16 to 18 years of age. The effect of this amendment would be that it would be unlawful to sell intoxicating liquor to a person under the age of 18 years.

The Children (Amdt.) Bill, 1999 seeks to do the following things: one, harmonize the Children's Act with the Children's Community Residences, Foster Homes and Nurseries Bill and the Children's Authority Bill and amend certain sections of the Children's Act to meet some of our obligations under the United Nations Convention of the Rights of the Child. It amends the definition of child and young person to mean a person under the age of 18. Previously, a child was defined as a person under the age of 16 and a young person was defined as a person between the age of 14 and 16; removing from the court the power to order a child to be whipped and making it an offence to sell cigarettes to a person under the age of 18 years.

The Adoption of Children Bill—the law governing adoption of children in Trinidad and Tobago, Mr. Vice-President, dates back to 1947 when the Adoption of Children Ordinance was enacted. As far back as 1976 the Adoption Board expressed dissatisfaction with the legislation and they made recommendations for change. Additional recommendations were also made by the Ministry of Social Development and family services. Generally the existing legislation places undue restriction on prospective adopters in relation to nationality, residence and domicile. It also discriminates against the child to be adopted, since it provides only for adoption of children who are Commonwealth citizens.

Children's Authority Bill
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

Under the existing law the Adoption Board has no discretion to waive the probationary period, and this has led to much hardship for persons who live abroad and wish to adopt children in Trinidad and Tobago. The effect of this Bill, Mr. Vice-President, would be to provide for the Adoption Board to have a discretion to waive the six-month probationary period, thus eliminating the hardship suffered by persons who live abroad and wish to adopt a child in Trinidad and Tobago. The Bill reflects the provisions contained in the Convention on the Rights of the Child and seeks to ensure that the best interest of the child is always of paramount concern.

The Bill addresses the question of overseas adoption and gives the court the power to make adoption orders whether the applicants are resident and domiciled in Trinidad and Tobago or not. The Bill seeks to remove the discrimination against a single male who, under the existing legislation, cannot adopt a child. The concept of freeing the child for adoption is introduced to allow the Adoption Board to obtain a court order freeing the child for adoption, thus making provision for the children's authority to legally assume temporary care of the child to be adopted until an application for an adoption order is processed. The Bill would provide for strict measures to be put in place to ensure that no person or agency, other than the adoption board, is allowed to make arrangements to send a child abroad for adoption.

Mr. Vice-President, there are a few other little amendments that we will move at the committee stage, but Trinidad and Tobago recently became party to the Hague Convention on the Civil Aspects of International Child Abduction. Under that convention we, Trinidad and Tobago, must have a central authority which can take charge of matters in situations where children are kidnapped—the children's authority. Recent events in Trinidad and Tobago would have demonstrated how difficult this can be and therefore the whole aim is to try to prevent courts having to determine this matter when they should not have to determine the matter, but we will deal with that at a later stage.

Mr. Vice-President, I think I ought to put on record, these reforms are unimaginable. They are reforms which could not have been achieved, apart from the work which was done at the select committee, without the support the Ministry of the Attorney General had. I want to put on record that there was a committee that I formed and three main persons in the committee were Mrs. Chapman Valere who is a senior officer at the Law Commission, Ms. Eversley from the Chief Parliamentary Counsel's department and I left the most senior one for last, Mr. Paul Griffith at the Chief Parliamentary Counsel's department.

Together with a committee they worked very hard—tirelessly—and they were able to work together with the Ministry of Social Development—there are officers from the Ministry of Social Development—and I indicated to them that “We have to get this thing done. I do not care what they did, but we have to get it done”. They were able to do it and the credit for bringing this legislation here is because of the hard work that committee has done. [*Desk thumping*] Mr. Vice-President, you would have seen, there are so many times public officers do so much work and the minister or minister gets the praise, but I want to make it quite clear that the Attorney General in this matter deserves no praise for this. This praise must be given to the officers of the Ministry who have been able to achieve this result.

Mr. Vice-President, you would have seen, from the contents of these measures, these reforms were long overdue in Trinidad and Tobago and what these reforms would do is to really safeguard the rights of children in order to strengthen the family unit in Trinidad and Tobago. If the nation of Trinidad and Tobago has to be stronger, the family units of Trinidad and Tobago must be stronger. If the family units are stronger, and we can be judged by taking care of our children and ensuring that the children of our neighbours are our own children and we must love them the same way, Trinidad and Tobago will be a better place. So, Mr. Vice-President, I beg to move. [*Desk thumping*]

Question proposed.

Mr. Vice-President: As previously mentioned, with your leave we have agreed that the debate on all Bills in the package be dealt with together, so debate is open to you.

Sen. Nafeesa Mohammed: [*Desk thumping*] Mr. Vice-President, based on the winding up of the hon. Attorney General in his presentation just now, I must say that he did touch a very sensitive chord in my heart with respect to this package of legislation here before us. Certainly we on this side have no difficulties in supporting the adoption of the report of the Joint Select Committee that sat in respect of these very significant pieces of legislation.

My colleague, who is not here today, Sen. Joan Yuille-Williams, represented us in the Joint Select Committee and, from my information, I know that extensive deliberations took place and indeed we too on this side would like to pay tribute to Sen. Diana Mahabir-Wyatt for the many years of dedicated work that she has done, particularly as they relate to measures like these. [*Desk thumping*] I know for a long time some of these reforms in the law relating to children have been in

Children's Authority Bill
[SEN. MOHAMMED]

Tuesday, October 3, 2000

the making. I remember way back in the early 1990s I think there had been some deliberations with respect to the operations of nurseries and the need to have licences and what have you. I remember Ms. Stephanie Daly, as a very senior attorney in our country, had written many books with respect to family law matters, and these are indeed very serious matters involved here.

When one is dealing with the adoption of children, foster care and what have you, they are very significant matters. Time does not permit us to go into any lengthy debate at this point in time because of the number of Bills we have had to deal with today, but certainly, as the hon. Attorney General said in the beginning of his contribution, his brevity is by no means an indication as to the importance of the legislation before us.

So that, Mr. Vice-President, with the several Bills that we are looking at that form the package of legislation, we know that the Joint Select Committee had their deliberations and we support the package. I know some concerns had been expressed, I think it is with respect to the jurisdiction of the children's authority as they relate to children being taken out of the country, but those are matters I am sure we will be able to deal with—[*Interruption*] yes, with the parents leaving the jurisdiction. Mr. Vice-President, all I wish to indicate is that we support the adoption of the report by the Joint Select Committee. [*Desk thumping*]

Sen. Diana Mahabir-Wyatt: Mr. Vice-President, I feel like it is a combination of Christmas, Divali and Eid [*Laughter*] and I am sort of full up to here with joy, like I have had Christmas dinner, Divali dinner and Eid dinner. I would like to disagree with the Minister who said that he deserves no praise for these five bits of legislation coming to us. I want to thank the Government for the exercise of political will that made this possible. [*Desk thumping*]

It is 20 years that we have been arguing for the need for change in legislation regarding children, and children have been suffering, but children have never been very high on the political agenda. I just cannot even begin to express my gratitude that finally these five pieces of legislation are coming before us. It is going to mean such a tremendous amount for families, and for children particularly, in Trinidad and Tobago.

Just to give a bit of background in terms of the people who have been consulted on this, I have personally met with the whole committee from the Trinidad and Tobago Coalition for the Rights of the Child; I have met with the Social Workers Association to discuss this legislation; I have met with teachers; I have met with people who run children's homes and I have talked with

community police. We have gone over and over and over; so the amendments that we see before us did not come from a vacuum. They came from a combination of what everybody has done. I particularly want to thank Mr. Griffith who handled the miscellaneous provisions drafting, for Ms. Eversley who did practically everything, the Children's Authority Bill, the Children's (Amdt.) Bill, the Children's Community Residences, Foster Homes and Nurseries Bill. I could never get my tongue around that one.

7.20 p.m.

Particularly, I thank Mr. Griffith, who handled the Miscellaneous Provisions (Amdt.) Bill drafting; Miss Eversley, who did practically everything—the Children's Authority Bill, the Children (Amdt.) Bill, the Children Community Residences, Foster Homes and Nurseries Bill; and Nicole Chapman-Valere, who helped us. Their work was really incredible. Outside the work the Committee did, we worked long hours and they worked even longer hours. I thank them for everything they have done.

I thank them also for the way they diplomatically corrected my clumsy drafting when I was pushing them. There are a number of reasons I think this legislation is essential. I am not going to keep us here for another three hours talking about it. I think everybody agrees, certainly everybody on the Joint Select Committee agreed, that we have a desperate need for the Children's Authority, and if I can get one more present for Christmas, Divali and Eid combined, it is to ask the Minister of Finance, Planning and Development if there is any way that it may be possible to find the finance to set up the Children's Authority before we have to go into another budget because it means so much to so many children. There are so many people who are sitting there waiting for this Bill to go through this afternoon, hoping that within the next couple of months their lives would change. Those are children who are at risk.

There are people waiting to adopt children, who have not been able to do it for one reason or another. There are children living in conditions of extreme danger and waiting for this Bill to be finished, waiting for this Bill to be able to go through.

I know that a number of these Bills have to be proclaimed before they are made active law and they cannot be proclaimed before we set up the Children's Authority, so I am begging, as I have begged so much for the last 20 years. Please, if we could just find the money to set up the Children's Authority, we can go a huge way forward, I am hoping, before the end of the year.

Children's Authority Bill
[SEN. MAHABIR-WYATT]

Tuesday, October 3, 2000

We have to do something about the way in which street children and other abandoned children are being left. It is totally inhuman what is happening to children in our country. These children are our future and they are the ones who are going to be the majority in the country when we are old and we need to be taken care of. They are going to be the ones who will be taking care of us one way or the other and if we do not take care of them now, the way they are going to take care of us may not be the way in which we particularly want to live.

I am not saying that these five pieces of legislation are perfect. I, of course, wanted to go much further than the Committee would let me go. I suppose I always will. I wanted the moon, but I had to settle for what was practical.

Hon. Maharaj: At this time.

Sen. D. Mahabir-Wyatt: At this time, yes. I do not care. It is one step. Even if it is not one step, it is five steps or 10 steps towards where we want to go. To me, that is an enormous achievement.

A couple things that it does not have are: we desperately need a youth training centre for female youthful offenders, which is separate from the women's prison and which does not involve the existing arrangements which puts youthful offenders who are female into the same institution as girls who are there for their own protection, because they had been abused in their families. At the present time, we have nowhere to put the girls, some of whom can be quite violent—because we do have girls in Trinidad who have been encouraged into violence to emulate their male counterparts—except with adult women criminals or with children who are themselves at risk.

We also have many girls who are being used as drug mules who end up in prison and they need some place which is separate. We have not been able to get that into this package of legislation.

Personally, I do not think that boys should be allowed to join the Regiment when they are 16, but that is what the Convention says, they are allowed to be. I am assured by the Minister of National Security that the intake will not include sending boys under 18 to fight, or to war, that they are there more for training purposes and learning basic procedures. I am relieved by that.

The reason there is one difference in the Bill, which may seem peculiar to many people, which is this business of allowing young boys who are under 18—in other words, they are not adults—to join the Defence Force is because, although the Convention for the Rights of the Child allows it, and the Convention

for the Rights of the Child has been ratified by every country in the world, except for Saudi Arabia which does not have a government so it cannot ratify it, and the United States of America which does have a government but will not ratify it, because amongst other reasons, the United States allows for capital punishment of children under 18. That is forbidden by the Convention on the Rights of the Child and it was the United States that also pushed to have children under 18 join the army. I am reassured by our Minister of National Security, because I believe him when he says that we are not going to send our boys to be cannon fodder. That is not what they are there for.

I would like to also draw your attention to something that is totally new in the legislation and, as far as I know, I think maybe one of the Scandinavian countries might have something similar, that is, in the Children (Amdt.) Bill, we have in the schedules, two new provisions. One has to do with the rights and responsibilities of parents. We are pointing out that parents do have rights as parents, but they also have responsibilities.

We have also put into the legislation in another schedule the responsibilities of children, because children have rights, but we want them, in Trinidad and Tobago, to know they also have responsibilities. When this legislation is passed, all children—I hope in every school and in every family—will know that in addition to having rights under this Bill, they also have responsibilities. They have responsibilities towards their parents, their school, their community and their country. I do not think that it is too soon to start to let children know when they get to pre-school that they have responsibilities because they are people.

What we are doing by this legislation is saying that children are not objects; they are not possessions; they are people with rights and, as people, they also have responsibilities. This is something which is quite new in our legislation and which I am very pleased to see is there.

I am not going to go through all the legislation. We will wait for that until we get into committee. I just thank everybody who has worked so hard, really, with no shade of political bias, prejudice or opinion. Every hour of work that was put into this legislation and into the amendments before us was genuinely done only with the interest of the children of Trinidad and Tobago at heart.

Thank you, Mr. Vice-President.

Sen. Laila Sultan-Khan Valere: Mr. Vice-President, I have a great deal of pleasure standing here to fully support this Bill. It is a Bill that is very thoughtful, very

Children's Authority Bill
[SEN. SULTAN-KHAN VALERE]

Tuesday, October 3, 2000

sensitive and very caring. This Bill, as Sen. Diana Mahabir-Wyatt said, is about rights and responsibilities of the parents and of the children, but it is also about the rights and responsibilities of the state. The state has responsibility for the children.

It balanced it off well. That is one of the great things about this Bill, that the state is taking greater responsibility for our young citizens, especially those who have gone astray and those who do not have proper parental care. We cannot leave it all up to the parents. Yes, the parents also have rights and responsibilities and the parents are also responsible for their own children, but we know that we are living in a far from perfect world. It does not work so. The state will have to take up the slack and take responsibility for looking after those children who are at risk. I was very happy to see that was balanced off well.

We talked here about what the state can do and will do. The state was making a very deliberate effort here to correct some of the things that needed to be done. There is a strong cry from children, children suffering in this country. We saw that children who are in well-to-do homes, their economic status did not matter. There is a cry from all children. That is why parents must be made aware of their rights and responsibilities. I thought that this Bill was very well laid out. It balanced off the responsibility of the child and the rights of the child; the responsibility of the parent and the rights of the parents, and that of the state. The state was being very proactive in taking this stand. That is what I felt was very important.

What is also very interesting and what I liked most about this Bill is how the Bill balances off the legalistic matters. When the Bill deals with legal things, they become very hard nosed, they go down the legal line and do not look at the human issues. This Bill looked at the human issues. It dealt with the emotional needs of the children. It was very sensitive even in the wording. I talked about the power of words before, where they changed the word "detention" to "placement"; the word "indentureship" to "apprenticeship". The choice of words suggests a good balance between the head and the heart. It shows a sensitivity and a compassion that most bills do not show.

For me, I would be brief. I say this is a very special moment in the history of Trinidad and Tobago, that the Government has taken this very positive step to right a wrong that existed in our society. [*Desk thumping*] I must commend them for that. This is a giant step for humanity, for Trinidad and Tobago and for the future generation. For me, this reform is really, very heart warming and, really, I

will leave here today feeling happy, not the way I left here on Thursday, when I felt that it was a dark day for Trinidad and Tobago with all those restrictive measures being made law. I would not go into that.

It really did soften the image and the profile of the Attorney General. It really did. I have to pay tribute to the Attorney General for doing this, because without the political will—and we know what your political will is like. We got a taste of it last week. I am glad that he used it in this positive way because it is really going to redound to the benefit of our nation and us, as senior citizens, later on.

I have to pay tribute as well to Sen. Diana Mahabir-Wyatt for the whole thing. When I look at this Bill, the amount of effort, time and research that must have gone into it, I have to thank her for her political will, too, and I have to thank all the technical staff and everybody who made an effort to get this going. It is wonderful. It shows what true co-operation is all about. That is heart warming, that we can still have it in Trinidad and Tobago. Thank you very much, very much.

I say to the Government that this is something that it can be fully commended for and that it can get all the political points needed from this. It is worthwhile.

Thank you very much.

Sen. Dr. Eastlyn McKenzie: Mr. Vice-President, I would like to join in congratulating the Government and the legal staff for this very detailed and comprehensive piece of legislation, but I would specifically like to thank the ladies from our Senate who sat on that Committee: Vimala Tota-Maharaj, Barbara Gray-Burke, Joan Yuille-Williams, Daphne Phillips, Diana Mahabir-Wyatt. I am sure that balance is what added a little softening to probably the hard hearts of the men, especially those of the Lower House. I pay special tribute to them.

I was very happy when the hon. Attorney General talked about parents leaving children and going abroad, and the measures that would be in place to ensure that those children are well taken care of.

I have another concern about monitoring the children who are adopted by foreign people, monitoring them in that foreign land. I was given some sort of assurance by Sen. Mahabir-Wyatt and I am hoping that there would be some sort of mechanism, probably from this United Nations International Convention on the Rights of the Child to ensure that we monitor what is happening to our children, being adopted by people living abroad.

Children's Authority Bill
[SEN. DR. MCKENZIE]

Tuesday, October 3, 2000

7.35 p.m.

In one of the pieces of legislation, Mr. Vice-President, there was the clause where the people monitoring these residents and checking on these children could go to the homes. I am suggesting that they should be able to also go to the schools, because many times you may have something happening in the residence where children would feel intimidated to say what is really happening. So you take them out of the environment and go to the school, not in a threatening manner, but just, by the way, and find out from the teacher how these children are doing. You look at the child; you ask how the child is performing, and so on. So I think we could add the schools to that.

Mr. Vice-President, at this stage I would like to especially congratulate and thank the Minister of Finance, Planning and Development and I am talking in terms of the handicapped children. Because, if you would remember, from 1995 when I came into this Senate I had been pleading for the handicapped children of Tobago, because no provision was made for our mentally challenged children. We had a voluntary organization, a council, that started to do things about their welfare. We operated a school privately at first, and then we began to get a subvention under the last regime. Then this hon. Minister continued it and I am pleased to say that now the school is no longer a private school where our staff had no termination benefits, but it is now an assisted school and the staff is taken care of by the Government under the Tobago House of Assembly Education Division.

The members of staff feel happy; the children feel happy. Because of that assimilation into the whole process the children are able to take part in their Special Olympics. They go all over the world; they do very well; they win gold medals. I think that this will actually cause some of them who are probably hidden away, to come forward and be counted and be probably adopted by people, because some of them have a genetic problem which is why they are handicapped, and their parents cannot take care of them. I am sure that with this type of Bill some of those children would probably be adopted by parents or put into homes.

I want to thank the hon. Minister of Finance because he continued that subvention up to this year and when there was need for an increase, we got it. *[Desk thumping]* That is praising him with one hand and begging with the next. Never mind that the teachers have not been paid their August salary as yet, up to September. Nevertheless, I know it is no fault of his.

Mr. Maharaj: He is going to take steps.

Sen. Dr. E. McKenzie: This was because when they transferred our staff, instead of putting them under the “personnel” expenditure, they put them under the “goods and services expenditure”. That is why, up to Saturday some members of the teaching staff did not get their August salary. So I know it is no fault of the Minister.

We may not be able to put all the steps of the Bill into operation at the same time, but I hope we could prioritize and do something within this year, the things that need money, and that we could get started and go step by step until we fulfil all the obligations we are committing ourselves to.

Finally, I would like the Government to think of these facilities as they pertain to Tobago, because as I said, our school now caters for the mentally challenged, and it was on a voluntary basis that the School for the Hearing Impaired started in Tobago. They also started on a voluntary basis until, through the Minister of Finance, Planning and Development, they are fully integrated into the system, because somebody has to take care of these special children. Although it was started by the voluntary organization, it was very nice that the previous government, as well as this Government, sought to do something about the welfare of these special children.

I would like the Government to think of facilities pertaining to children on the whole and what could be done about those in Tobago. Because in the past—I will tell you what used to happen—those children had to be sent to Trinidad. The School for the Hearing Impaired and so on, those children had to come to Trinidad. We had nothing for the blind; the mentally challenged children were hidden away at home because there was no space for them, because, you know, it was so difficult. Apart from that it is a separation from their real parents.

So I want you to think of what can be done where we could set up some sort of facility where the children of Tobago in these circumstances could benefit right in Tobago. Again, I want to congratulate the Government and all those who served on the committee. Those who put this document together, I have the greatest respect and admiration for them. Congratulations.

Thank you very much, Mr. Vice-President.

Sen. Prof. Kenneth Ramchand: Mr. Vice-President, I want to join the Senators who have spoken in congratulating the Government, congratulating the committee

Children's Authority Bill
[SEN. PROF. RAMCHAND]

Tuesday, October 3, 2000

and the drafters for a most historic cluster of Bills, Bills that would be of benefit to all the children of Trinidad and Tobago but, I cannot help noticing, of particular benefit to the children of the poor, the underprivileged and the historically deprived.

In this sense, this cluster of Bills is political in the deepest sense of the word. This is a cluster of Bills that could contribute to the mobilization of the whole population. A whole set of children who have never been able to become part of the workforce and the thinking force and the creative force of the nation, are now given an opportunity by this Bill to become part of the nation. I think this cluster of Bills is revolutionary, it is highly political and can lead to something that is sadly missing—the creation of a nation and national spirit in a generation or so.

The Bill focuses, quite rightly, on children in need of care and protection: social, psychological, physical, and I am glad to see also, emotional. It is part of the comprehensiveness and the humanity of the thinking of the people who put it together that all these considerations have come in, and that what we have here is not something to mop up social evils, but something to make people fulfil themselves as persons in our society. This is not a kind of defensive operation. This seems to me to be a creative blueprint because it takes into account all the needs of the children who need care and protection.

I want to commend again the notion which Sen. Diana Mahabir-Wyatt expounded and which I think is true. I have not seen legislation about children anywhere that insists upon rights and responsibilities and puts as much emphasis on the responsibilities as on the rights; legislation that also recognizes the importance of parents in the whole operation. I am not suggesting anything that is not already implicit in the Bill, but one of things I would like to see is a more structured connection between the provisions of the Bill and what the authority is doing and what is going on in the schools. Therefore I want to look at something in clause 11:

“For the effective management of its duties and functions the Authority shall have the following units:

- (a) Co-ordinating Unit;
- (b) Administrative Unit;
- (c) Technical Unit; and
- (d) Research Unit.”

I was wondering whether either formally or informally, this authority should have schools units; that in each educational district there should be a schools unit which is affiliated to, or is part of, the authority, so that the schools unit will monitor what is happening to children. Now I know there are facilities in the schools for doing this, but many of the teachers I know who are involved in those facilities always meet a dead-end. They do not know where to go. They discover things; they keep quiet about it; they feel the principal is not acting on it. There is a lot of stuff that they discover that does not get acted upon or worked into a whole social system.

Sen. Mahabir-Wyatt: I wonder if the hon. Senator would let me just answer that question. He is absolutely right and his concern, like Sen. Mc Kenzie's with the schools is a very valid one. What will happen once this Children's Authority is set up, is those teachers will have a place to go. They will be able to take those problems that they have identified to the authority. The idea is a first-class one, but you actually do not need a separate unit because the authority is there to respond to questions and concerns raised by guidance officers, teachers, community police, and so on.

Sen. Prof. K. Ramchand: I accept that possibility, but I still would like to go a little further and have—just as Sen. Mc. Kenzie wants Tobago to be looked at as a unit, I feel that each educational district should be looked at as a unit. I do not have a hard and fast view of how it should be done, but I really would like the educational districts and the schools within the educational district to have some kind of body that is dealing with these matters.

There are children going to school on a daily basis—and many of us do not realize it—who are the victims of incest, sexual abuse; they get licks at home; they see all kinds of violence. I do not know, these are miraculous children. They come to school as if nothing is wrong with them. Very often a teacher is aware of it. In fact, I know of an instance where a young girl under 14 was the girlfriend of a big man of 24 and the big man of 24 was intimidating the parents of the child; the big man was intimidating the teachers in the school who knew about it and tried to get action done to resolve it, and the school itself suppressed the whole incident, because there was no way of taking it out and getting action on it. In many of the schools—that is why I feel we really need to recognize this—there is a vast invisible; there is a part of the iceberg that we do not see. The children in need of care and protection are also very much in the homes and in the schools.

Children's Authority Bill
[SEN. PROF. RAMCHAND]

Tuesday, October 3, 2000

So I feel that has to be addressed. and one of the ways I think we might address it is through having school units in educational districts affiliated to the authority.

A second point, building on what is already implicit in the Bill where we know that the authority has a research arm and the authority has general empowerment to do all such things as may be necessary or expedient for the proper performance of its duties, I feel that it is a natural development out of this Bill. Even if it may not be a natural part of it, we should certainly begin thinking of using the educational districts as bases for establishing courses in parenting. That is one of the greatest deficiencies in our society. Many of us bring our children up—I wish I knew as much about parenting as I do now that my children have grown up. You are moving in a wild untutored state, discovering things as you go along. Sometimes I think about my life and I say, My God, if I knew as much about bringing up children, about how to listen to them and notice them and be part of their lives as I do now—I am not sure they will be too much happier because they are quite happy—I would be a lot happier even though I am happy.

7.50 p.m.

Because I would feel there was a bonding that would have taken place for me and for them. I am not saying that they came out badly, but I think that many of us who think of ourselves as good parents would have been better parents if there were some assistance to us in parenting. There are many more parents who are bad parents because that kind of guidance is not available, so I feel it is a natural extension of this Bill that we should use the educational districts as a base for setting up courses or some kind of guidance in parenting.

I close with those two suggestions which are not meant to suggest that the Bill is deficient. It is a wonderful cluster of Bills and once again, I congratulate the Government.

Thank you.

Sen. Muhummad Shabazz: Mr. Vice-President, maybe on hearing everybody's sentiments about the Bills they are extremely good. Nobody has any problems with them, not only that, but what I have observed, the people who have worked on the Bills, I take it that they are very good as they have said.

I have a main concern though, and I say it very clearly and that is, the person who was to speak on the Bill did not come so I was not prepared to speak, but I feel I must address this concern in the Bill. Anything that has happened for children, I think is excellent and from the little I have seen from this Bill, I want to agree that it is indeed an excellent one.

I start from where Sen. Prof. Ramchand started: Children who can go to school and be abused and take it calmly, really, must be miraculous children. In accepting that, I also say that those children are those who grow up to be adults with real problems. So anything that seeks to correct that from an early age, we must agree with it.

I ask the Attorney General because I too am not sure and maybe it would be taken into consideration. On Sunday, I spoke to some children on United Nations Day and I was told that when children are in incestuous relationships, for them to be examined a parent must be there. If that is correct, that is not a proper situation, because normally, when children are into that type of relationship, they are at very young ages like 5, 6, 7, 8. Not only that, but the parent—because nobody starts off an incestuous relationship with a 16 or 18-year-old daughter. Normally, when it is happening, it happens at a very young age. Most times, if we know what the situation is, the child is under fear and the mother is under fear from the father or under fear of losing whatever the father brings to the home; under fear of having a relationship mashed up so they really do not want to go into these situations at times. They try to turn the child away from that, or use ways to encourage the child not to go into situations like that. So I believe if what I heard is correct, that where incest is concerned—because the child goes to somebody he trusts, maybe a teacher—it should not only be the parent present for the examination, but it would be very nice if a teacher or someone else could be there when the examination is taking place. In that way, there is a better chance of saving the child, or of getting the child to come forward. I would like us to look at that.

My second point is that of the administrators. Many times when we pass Bills like these the people who really have to implement some of the strategies to ensure that these things do not happen, or they are corrected, they themselves are not aware of what is in the Bill; they are not even aware of what their rights are. I was speaking with some people on Saturday who had to deal with these things, but they were not sure, they were not clear of what is required of them. We may have to find ways that the people who are dealing directly with this get some intensive training to ensure that we get the right results.

The third point is that 90 per cent of the time when something happens with a child, what is done is, we put the child somewhere where she can get proper care. I agree with that, but these institutions must be working properly and effectively because normally we find that there are homes for abused children, but the children go there and do not get the type of treatment they should get. People do

Children's Authority Bill
[SEN. SHABAZZ]

Tuesday, October 3, 2000

not understand and do not deal with them the way they should be dealt with and we need to look at that very carefully.

As far as I am concerned, when you send a child who is abused and who was in a home among her brothers and sisters, you take that child out of the home, she could feel as though she is being punished. She could feel it is because she has done something wrong. At age 7 or 8, the psychologist has to be very good, so she would come out of the situation understanding she was not the wrong one. I feel when a father is abusing a child at home; just as a mother could get a restraining order when her husband is abusing her to put him out the house, he should be the person put out of the house, the perpetrator should be the one taken out of the house. I honestly believe that it is the perpetrator who should be taken out of the house and not the victim. We need to look at that and if we are going to do it the other way, or the way the Bill suggests that we do it, we need to have trained people so that the child could feel comfortable.

Mr. Vice-President, those are my concerns, I feel that I should have brought them up and I would like to get some answers to see how the Bill has taken care of that.

Thank you.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, I am sure that we all agree that if we really want to talk about these matters, we could talk at length because the measures have such far-reaching consequences and reforms to improve our society that we can talk about it even far in excess of any time and extension of time.

Mr. Vice-President, I think some of the points raised are very important, as a matter of fact, all are important and I would assure hon. Senators that we have taken note of them. The one that stands out is that legislation is useless unless there is implementation and unless the institution works, and unless there is a monitoring to ensure that the institutions work.

Under these Bills, the monitoring agency would be the Ministry of Social Development and one can only expect that the ministry would take the necessary steps to ensure that the legislation is implemented and that adequate human, financial and other resources are found in order to deal with the matter. What I can say is that the policy of the Government, obviously carried out by the Ministry of Social Development, has been a policy to have to work in collaboration with the non-governmental organizations because legislation like

this would not be able to work if the Government thinks it can do it alone. It cannot do it alone, it has to work with the community and with the social workers and it is only on that basis this kind of legislation can go. So it is a partnership of Government with the communities in order to save the children.

Mr. Vice-President, I should have mentioned one matter which has to do with the Family Court. I knew it was raised by Sen. Mohammed across the table. I know that there was talk of a Family Court, and a Family Court Bill was drafted. When I took office, there was a draft bill there, but following the discussions I had with the Chief Justice—what was envisaged was that there would just be a court building, but the same system of a judge appointed by the Judicial and Legal Service Commission constituting the Family Court judge—I indicated to him that was not my concept of a Family Court. That concept would have served well in the past, but having regard to what we want to resolve, it is not what we wanted and, therefore, it has taken some time. Some of these matters take a very long time as it means working with a drafting and a Law Commission Department in which the staff is very depleted and they are some of the persons who are very heavily overworked.

I have reached the stage where, working with the Law Commission and also the Chief Parliamentary Counsel Department, and in particular, Miss Eversley, we have studied all the family court regimes we could have found and we have come up with a model Bill in which the policy would be that the court would be a different kind of court. There will be persons who are not only lawyers in the court, but people who have worked with children and families, who know the field. There will obviously have to be a legal input. You will also have a court where the duty to do the investigation would not be on the individual. If the individual has to do the investigation, that will be additional, but the court will have to be staffed also with the relevant social workers in order to do the background information on the children and the family and to be able to try mediation. That would be the obligation of the court because it would not be able to arrive at a proper decision for the interest of the family and the child without having the relevant information.

Mr. Vice-President, as you know now, if you have a matrimonial, family or custody matter, you can end up before a court where the very judge would have problems with a family. He or she may have his or her own prejudices and you then have to subject litigation to that judge in such sensitive areas which determine the future of children, wife, husband, daughter and son in respect to

those matters. Under the system which operates, if the judge makes findings of fact, the law is, if you go to a higher court, even if the judgment would be wrong, or could be wrong, it is a Herculean task, virtually impossible to change that decision because you have the principle that if it is a judgment of fact and the judge has heard it, he has seen the witnesses, unless you can show something demonstrably wrong, you cannot change it. So the rules, procedures and principles that govern family law have to be readjusted in order to meet the new demands of our society. It is in that context that I could not go with a Family Court Bill where you would have the cosmetics of a family court, superficially, you would have a Family Court, but at the core and substance, you would be having the same legal structure without the fundamental changes to deliver justice to the families.

8.05 p.m.

Mr. Vice-President, I share the happiness and the joy—*[Interruption]*

Sen. Mohammed: Mr. Vice-President, recently, there were some rules pertaining to family matters laid in the Parliament, what bearing would that have on this new policy he is talking about?

Hon. R. L. Maharaj: As you know, the position in which the Government took on those rules and one of the reasons that we took the position on the rules that in relation to any family law reform for rules, you cannot take the existing structure and put it for that. So our position is that those rules are not really enforced and we have taken that position. But I think if I start to talk about rules that would take us too long.

Mr. Vice-President, I think today is a very historical day, not only for the integrity legislation which has been passed unanimously in this honourable House, but I think we can all feel that we have really had a great honour, privilege and a great service to humanity by being part and parcel of this exercise. And I think that if one time that we can leave the Parliament—and even though sometimes we leave here, as Sen. Valere has said, feeling dissatisfied that we may not have got exactly what we wanted, or we may not have agreed with everything that happened. That is Parliament, but I think we can certainly say that what we did here today we are confident that we had all of us agreed that it was for the benefit of the society and it will be to serve humanity.

Mr. Vice-President, in moving the second reading of this Bill, I forgot to mention three officers who served on this Committee—and you know when you

Children's Authority Bill

Tuesday, October 3, 2000

mention names and you leave out other names—so if you would permit me to put on the record, Mrs. McDonald Grant from the Law Commission; Ms. Eunice Gittens of the Ministry of Community and Social Development and Mrs. Allison Cudjoe, as people who have been the back-ups of the technical team. So I would like to put that into the record. [*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.

Hon. Maharaj: Mr. Chairman, I am now being told that the amendment with respect to the Bill has not been circulated.

Sen. Mahabir-Wyatt: Mr. Chairman, is this the one having to do with proclamation?

Mr. Maharaj: No, this one is having to do with the Central Authority. I wonder if Members would permit me to read it when the time comes?

Sen. Mahabir-Wyatt: That is okay.

Mr. Chairman: The structure of the Children's Authority Bill is that there are seven parts, 50 Clauses and a Schedule. Other than the amendments that have come from the House of Representatives, the amendments the Attorney General is referring to, is in addition to a new clause. Therefore, what we would do, in fact, with your concurrence—is the seven Parts in parts and treat with the amendment, which is the inclusion of a new clause at the end of it.

Sen. Mahabir-Wyatt: That is okay.

Mr. Chairman: So we would attack this Bill in its seven parts followed by the Schedule and the amendment, which includes the introduction of a new clause.

Sen. Mahabir-Wyatt: Mr. Chairman, are we going to do this by clause or by parts?

Mr. Chairman: We are going by parts.

Clauses 1 to 33 ordered to stand part of the Bill.

Mr. Maharaj: Mr. Chairman, it is my duty to mention because I gave the undertaking in the other place that when this Bill came I would look at this clause again in Clause 32, which deals with persons leaving the jurisdiction, it says:

“Where the Authority is satisfied that a person legally liable for the care and maintenance of any child intends to leave Trinidad and Tobago without making adequate arrangements for the care of the child, it may object to the Chief Immigration Officer to such persons leaving Trinidad and Tobago until such person has made provision to the satisfaction of the Authority that—

(a) the child is not likely...”

8.15 p.m.

“The Chief Immigration Officer, on receipt of such objection, may refuse to permit the person to leave Trinidad and Tobago.”

I must confess that I have some reservations about this clause, but it is a matter which I cannot find a way to resolve because there will be situations in which the parent is leaving and by the time one goes to court the parents have left. One of the objections which has been raised is that we cannot have an executive officer, a chief immigration officer, preventing someone leaving the country because it restricts his or her freedom of movement and there is no intervention of a judicial authority. I think I should point that out.

What I have done, however, is that I have been thinking about it and I have indicated to Mr. Griffith that probably he can do a draft whereby the authority would have served on the parent the particulars of how he or she has been defaulting and should not leave, and that notice would also be served on the immigration authority and that notice would mean that the person could not leave unless he applies to the court to get an order showing cause why he would be permitted to leave. So that the obligation would be on the person, if he is a defaulter, to be able to get an order of the court but it would not be that he cannot—you know, an executive officer can just prevent him and put some time frame.

I know we are passing this clause with a specified majority but I must confess I have some reservations about it and I should say the Opposition also had some reservations in the other place, but we both recognized that something has to be done and it is not something that can be found in any other legislation because it is just not there.

Sen. Mahabir-Wyatt: Mr. Chairman, I must admit that we missed this. It is a constitutional right, freedom of movement, and I can understand why both the Government and the Opposition had worries about it but you will note I am not disagreeing that the worries should not exist. I am just saying that this will only

happen where it has already come to the authority that no such arrangements are being made. We have so many children who are being abandoned—I think Sen. Shabazz mentioned it earlier—they are being left in the care of 14 and 15-year-old siblings and we want to deal with that. I think that your solution is probably the most elegant one, that he should just have to show cause why he should be allowed to leave, which would not, in fact, restrict his right to move, it would just delay it.

Mr. Maharaj: It would delay it and he gets due process of law, but you put your machinery in place in that he knows why you are objecting to him leaving. He also knows that by law he cannot leave unless he gets a notice that there is a withdrawal from the authority, the immigration authority would know that, and then it gives him to the court. But it may not be that we could amend this today. What I would undertake is that we go ahead with it as it is and I feel very optimistic that we should be able to amend it before the Parliament is dissolved.

Sen. Mahabir-Wyatt: Okay. I am happy with that. Even if we do not, it is going to take a couple of months before the authority gets set up anyway, so we have some time.

Mr. Maharaj: Well, it seems to me that we—I have just been served but I think we had better leave it until I—we will get some more time to look at it.

Sen. Mahabir-Wyatt: And get—I told you—*[Interruption]*

Clauses 22 to 50 ordered to stand part of the Bill.

Mr. Chairman: Before we do the Schedule we will take the new clause. The amendment has been circulated. It involves the addition of a new clause 5A.

Mr. Maharaj: Have Members got it?

Assent indicated.

New Clause 5A.

Mr. Maharaj: Mr. Chairman, I propose a new clause 5A which reads as follows:

- “(1) The Authority shall be the Central Authority for the purposes of the Hague Convention of the Civil Aspects of International Child Abduction.
- (2) The Authority's duties as the Central Authority under subsection (1) shall include:

Children's Authority Bill
[HON. R. L. MAHARAJ]

Tuesday, October 3, 2000

- (a) discovering the whereabouts of the child who has been wrongfully removed or retained;
- (b) preventing further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- (c) securing the voluntary return of the child or the bringing about of an amicable resolution of the issues;
- (d) exchanging where desirable, information relating to the social background of the child;
- (e) assisting the judicial system/institution with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;
- (f) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- (g) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child; and
- (h) to do all such other things that are required of the Central Authority under the Hague Convention on the Civil Aspects of International Child Abduction.”

New clause 5A read the first time.

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

Mr. Maharaj: This is to give effect, as I said, to the requirements of the Hague Convention on the Civil Aspects of International Child Abduction. What this is doing is saying that the central authority is the authority and the duties of the authority would be that—it is stated there. I do not think we need to read them.

Question put and agreed to.

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

Children's Authority Bill

Tuesday, October 3, 2000

Question put and agreed to.

New clause 5A added to the Bill.

Schedule ordered to stand part of the Bill.

Preamble approved.

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

Senate resumed.

Bill reported, with amendment

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

The Senate voted:

Ayes 22

AYES

Kuei Tung, Sen. The Hon. B.

Theodore, Sen. Brig. The Hon. J.

Phillips, Sen. Dr. The Hon. D.

Gillette, Sen. The Hon. L.

Gangar, Sen. The Hon. F.

John, Sen. The Hon. C.

Baksh, Sen. The Hon. N.

John, S.

Gray-Burke, Sen. Rev. B.

John, W.

John, Miss J.

Mahase, Dr. A.

Ramnath, K.

Mohammed, Mrs. N.

Jagmohan, M.

Job, Ms. E.

Shabazz, M.

Mahabir-Wyatt, Mrs. D.

Teelucksingh, Rev. D.

McKenzie, Sen. Dr. E.

Sultan-Khan Valere, Mrs. L.

Oudit, Mrs. N.

Question agreed to.

Bill accordingly read the third time and passed.

Mr. President: Just a reminder; we had sought and obtained your leave for the whole menu of Bills to be debated together and, therefore, they are going to be moved now through the stages of the committee individually.

CHILDREN (AMDT.) BILL

Order for second reading read.

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

That a Bill entitled, "An Act to amend the Children Act, Chap. 46:01" be now read a second time.

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.

Mr. Chairman: We have a Bill with 28 clauses. We have a list of amendments that were moved and passed in the House of Representatives. With your leave we will take tranches of 10, 10 and 8.

Mr. Maharaj: I was wondering, Mr. Chairman, since there seems to be consensus, whether you would not consider the practice which has been adopted in the other place for the entire Bill to be done, that is to say, from 1 to 28.

Mr. Chairman: *En bloc?*

Mr. Maharaj: *En bloc.*

Mr. Chairman: Does the Senate concur with that approach?

Assent indicated.

Children's Authority Bill

Tuesday, October 3, 2000

Clauses 1 to 28 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.

ADOPTION OF CHILDREN BILL

Order for second reading read.

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

That a Bill entitled, "An Act to make provision for the regulation of procedures governing the adoption of children and to give effect to the International Convention on the Rights of the Child, 1990" 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.

Mr. Chairman: We are going in the mode of *en bloc*. Everyone in favour?

Assent indicated.

Clauses 1 to 42 ordered to stand part of the Bill.

Schedule 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.

8.30 p.m.

MISCELLANEOUS PROVISIONS (CHILDREN) BILL

Order for second reading read.

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

Miscellaneous Provisions (Children) Bill
[HON. R. L. MHARAJ]

Tuesday, October 3, 2000

That a Bill to amend certain laws affecting children, be now read a second time.

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.

Mr. Chairman: Okay. We have 23 clauses here. We will take them *en bloc* again. Is everyone agreed?

Assent indicated.

Clauses 1 to 23 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.

**CHILDREN'S COMMUNITY RESIDENCES,
FOSTER HOMES AND NURSERIES BILL**

Order for second reading read.

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

That a Bill to make provision for the monitoring, licensing and regulating of community residences, foster homes and nurseries in Trinidad and Tobago, be now read a second time.

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.

Mr. Chairman: This Bill has six Parts, 54 clauses and I just draw to your attention that there are amendments coming forward from the House of Representatives.

Mr. Maharaj: There is one amendment to be proposed to clause 1, which has been circulated. It is, merely, to put how the Bill is to be cited and that it comes into operation on a date to be fixed by the President by Proclamation. That has to be in all Bills because it has to come as a package.

Mr. Chairman: Let me just put the question to clause 1.

Clause 1.

Question proposed, That clause 1 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 1 be amended in the following terms:

Delete; substitute the following clause:

- | | | | |
|------------------------------------|----|-----|---|
| Short Title
and
Commencement | 1. | (1) | This Act may be cited as the Children's Community Residences, Foster Homes and Nurseries Act, 1999. |
| | | (2) | This Act comes into operation on such day as is fixed by the President by Proclamation. |

Sen. Mahabir-Wyatt: Just a question out of curiosity. Would it not be 2000? Are we not in the year 2000?

Mr. Maharaj: It was introduced in 1999. Remember, there was a Joint Select Committee. I know we are all tired. I am not to be blamed.

Question put and agreed to.

Clause 1, as amended, ordered to stand part of the Bill.

Mr. Chairman: Do we have agreement on *en bloc*?

Sen. Dr. McKenzie: Mr. Chairman, I would just like to ask the hon. Attorney General on clause 8(2) whether the residence licence, which is valid for a year and is to be renewed, could be done as you do with drivers' permits where there is a period when it can be renewed a month before—in the regulations not to adjust the rules.

Mr. Maharaj: Okay. I will ask them to take note.

Sen. Dr. McKenzie: Very well. So that you do not have to wait for a year, then probably, you do not have a licence closed down. You have the option to apply for it a month or two before.

Foster Homes and Nurseries Bill

Tuesday, October 3, 2000

Mr. Chairman: With your agreement, we will deal with clauses 2 to 54.

Clauses 2 to 54 ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, with amendment.

Mr. Vice-President: We require a specific majority here and I ask the Clerk to take a division.

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

The Senate voted: Ayes 24

AYES

Kuei Tung, Hon. B.

Theodore, Hon. Brig. J.

Phillips, Hon. Dr. D.

Gangar, Hon. F.

Gillette, Hon. L.

John, Hon. C.

Tota-Maharaj, Hon. V.

Baksh, N.

John, S.

Gray-Burke, Rev. B.

John, W.

John, Ms. J.

Mahase, Dr. A.

Ramnath, K.

Mohammed, N.

Foster Homes and Nurseries Bill

Tuesday, October 3, 2000

Jagmohan, M.

Job, Ms. E.

Shabazz, M.

Mahabir-Wyatt, D.

Teelucksingh, Rev. D.

Ramchand, Prof. K.

McKenzie, Dr. E.

Sultan-Khan Valere, Mrs. L.

Oudit, Mrs. N.

Question agreed to.

Bill accordingly read a third time and passed.

ADJOURNMENT

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. Vice-President, before I move the Adjournment of the Senate, with your leave, I should like to indicate to Senators the items we will be dealing with on the Order Paper. The Order Paper has already been circulated and this might sound somewhat onerous, but I have been assured by the hon. Attorney General that he would be briefed. Bills Nos. 1 to 9 on the Order Paper.

Hon. Maharaj: But about seven of them are a package.

Sen. Brig. The Hon. J. Theodore: Senators have already been given notice that the Bill dealing with the College of Science, Technology and Applied Arts will be heard in the other place tomorrow and should the Bill be passed, it will be taken through all its stages at the sitting of the Senate on Thursday 5. As well, Motion No. 1 by the Minister of Education.

Mr. Vice-President, I beg to move that the Senate do now adjourn to Thursday, October 5, 2000 at 10.30 a.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.41 p.m.