

*Leave of Absence*

*Tuesday, December 09, 2008*

**SENATE**

*Tuesday, December 09, 2008*

The Senate met at 1.30 p.m.

**PRAYERS**

[MR. PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. President:** Hon. Senators, I have granted leave of absence to Sen. Subhas Ramkhelawan, who is out of the country.

**SENATOR'S APPOINTMENT**

**Mr. President:** Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards, T.C., C.M.T., Ph.D.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards  
President.

TO: PROFESSOR DAVID PICOU

WHEREAS Senator Subhas Ramkhelawan is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, 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, DAVID PICOU, to be temporarily a member of the Senate, with effect from 9<sup>th</sup> December, 2008 and continuing during the absence from Trinidad and Tobago of the said Senator Subhas Ramkhelawan.

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 5<sup>th</sup> day of December, 2008.”

**OATH OF ALLEGIANCE**

*Senator Prof. David Picou took and subscribed the Oath of Allegiance as required by law.*

**SPECIAL SELECT COMMITTEE REPORTS****Tobacco Control Bill  
(Presentation)**

**The Minister of Health (Sen. The Hon. Jerry Narace):** Mr. President, I have the honour to lay on the table the following report as listed on the Supplemental Order Paper in the name of the Minister of Health: the report of the Special Select Committee of the Senate appointed to consider and report on the Tobacco Control Bill, 2008.

**Trinidad and Tobago National Steel Symphony  
Orchestra Corporation Bill  
(Presentation)**

**The Attorney General (Sen. The Hon. Bridgid Annisette-George):** Mr. President, I have the honour to lay on the Table the following report as listed on the Supplemental Order Paper in my name: the report of the Special Select Committee of the Senate appointed to consider and report on the Trinidad and Tobago National Steel Symphony Orchestra Corporation Bill, 2008.

**ORAL ANSWERS TO QUESTIONS****Public Transport Service Corporation  
(Status of Local Agents for Volvo Buses)**

**46. Sen. Wade Mark** asked the hon. Minister of Works and Transport:

- (a) With respect to the Volvo manufactured articulated buses owned by the Public Transport Service Corporation, could the Minister inform the Senate who are the local agents for these buses?
- (b) Could the Minister also inform the Senate whether those agents have a workshop and spare parts facility in Trinidad?
- (c) If the answer to (b) is in the affirmative, could the Minister state where this workshop and spare parts facility is located?

**The Minister of Works and Transport (Hon. Colm Imbert):** Thank you, Mr. President. The answer is as follows:

- (a) The local agent for the Volvo manufactured articulated buses owned by the Public Transport Service Corporation (PTSC) is Lubar Engineering Limited.
- (b) Lubar Engineering Limited as the agent for the buses was required to undertake corrective work on defects which may have occurred during the one-year warranty period; that is from August 2006 to August 2007, and to stock and supply spare parts as required.

On the expiration of the warranty period in August 2007, the PTSC assumed full responsibility for the maintenance and repair of all Volvo units. Lubar Engineering Limited at the request of Volvo or PTSC, is required to provide technical support on matters relating to the proper functioning of the buses.

- (c) During the warranty period, which ended August 2007, the facility operated by Lubar Engineering Limited was located at No. 86 Uriah Butler Highway, Guayamare Village, Chaguanas. However, since the warranty period expired before this question was asked, and there is thus no longer requirement for a service facility for these buses, the relevance of this part of the question is debatable.

**Rent Restriction Act  
(Revalidation and/or Amendment of)**

**108. Sen. Gail Merhair** asked the hon. Minister of Legal Affairs:

Would the Minister inform this Senate of the steps which are being taken to revalidate and/or amend the Rent Restriction Act, Chap. 59:50?

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. President, the answer to question No. 108 is not now available.

*Question, by leave, deferred.*

**Maxi-Taxi Drivers  
(Regulation of Route)**

**109. Sen. Gail Merhair** asked the hon. Minister of Works and Transport:

Would the Minister inform this Senate of the steps, if any, which are being taken, to regulate maxi-taxi drivers who work parts of the route along the East-West Corridor?

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. President, I am sorry, I am afraid I do not have that answer with me. I would suggest that the hon. Senator re-file the question at the beginning of the next session.

*Question, by leave, deferred.*

**Vision 2020  
(Stage of Implementation)**

**111. Sen. Gail Merhair** asked the hon. Prime Minister:

Would the Prime Minister outline to this Senate the stage at which the Government has arrived in the implementation of VISION 2020?

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. President, that question is really for the Minister of Planning, Housing and the Environment, who is undertaking the answer. I am afraid the answer is not now with us at this time.

**Mr. President:** Should we just stand it down until the end of the session or should we defer it?

**Sen. The Hon. C. Enill:** I think we should defer it because my information tells me that it has not yet been received.

**Mr. President:** Okay.

*Question, by leave, deferred.*

**Medical Treatment Abroad  
(Funding of Children)**

**114. Sen. Gail Merhair** asked the hon. Minister of Health:

Could the Minister indicate to this Senate whether there are institutional plans in place to assist with the funding of children who must seek medical treatment abroad?

**The Minister of Health (Sen. The Hon. Jerry Narace):** Thank you, Mr. President. I do not have the answer to that question now; it has not been approved.

*Question, by leave, deferred.*

**Blood Bank  
(Closure during Weekends)**

**115. Sen. Gail Merhair** asked the hon. Minister of Health:

- (a) Could the Minister indicate to this Senate the reason(s) for the closure of the Blood Bank during weekends?
- (b) Would the Minister further state whether the Government has plans to immediately correct the situation at (a) above?

**The Minister of Health (Sen. The Hon. Jerry Narace):** Likewise, re question No. 115, Mr. President, that answer too is not ready at this time.

*Question, by leave, deferred.*

**ARRANGEMENT OF BUSINESS**

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. President, in accordance with Standing Order 83(1), with your leave, I beg to move that Standing Order 75(7) be suspended. This is to facilitate the debate for the adoption of the report of the Special Select Committee of the Senate on the Tobacco Control Bill, 2008, listed as Motion No. 2 under "Committee Business" on the Supplemental Order Paper.

I beg to move that this debate be taken later in the proceedings.

*Question proposed,* That Standing Order 75(7) be suspended.

*Question put and agreed to.*

*Question proposed,* That the report of the Special Select Committee of the Senate on the Tobacco Control Bill, 2008, be taken later in the proceedings.

*Question put.*

*The Senate divided:* Ayes 16 Noes 12

AYES

Enill, Hon. C.

Saith, Hon. Dr. L.

Annisette-George, Hon. B.

Browne, Hon. M.

Joseph, Hon. M.

Manning, Hon. H.

Piggott, Hon. A.

Narace, Hon. J.

Gronlund-Nunez, Hon. T.

George, W.

Hadeed, G.

Rogers, L.

Lezama, Miss L.

Melville, Miss J.

Annisette, M.

Picou, Prof. D.

NOES:

Mark, W.

Nanan, Dr. A.

Charles, Dr. C.

Kernahan, Dr. J.

Sharma, Miss C.

Rahman, M. F.

Deosaran, Prof. R.

Ali, B.

Baptiste-Mc Knight, Mrs. C.

Nicholson-Alfred, Mrs. A.

Drayton, Mrs. H.

Merhair, Miss G.

*Question agreed to.*

**1.45 p.m.**

**ELECTIONS AND BOUNDARIES COMMISSION  
(LOCAL GOVERNMENT) (AMENDMENT AND VALIDATION) BILL**

*Order for second reading read.*

**The Minister of Local Government (Sen. The Hon. Hazel Manning):** Mr. President, I beg to move,

That a Bill to amend the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50 to provide for the review and definition of boundaries in the electoral area of Tobago for the purposes of elections in relation to the Tobago House of Assembly and to validate certain reports of the Elections and Boundaries Commission in respect of the electoral area of Tobago, be now read a second time.

Mr. President, this Bill seeks to amend the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50 to provide for the review and the definition of boundaries in the electoral area of Tobago for the purposes of elections in relation to the Tobago House of Assembly. This Bill also seeks to validate certain reports of the Elections and Boundaries Commission in respect of the electoral area of Tobago.

This Bill seeks to rectify a legal error, a lacuna associated with the Elections and Boundaries Commission (Local Government) Act which has existed for the past 18 years. This Bill seeks to validate the reports of the Elections and Boundaries Commission in respect of the boundaries of the electoral districts in the electoral area of Tobago for the years 1992, 1996, 2000 and 2004. This Bill also seeks to ensure legal validity to the holding of the Tobago House of Assembly election statutorily due by January 01, 2009.

Before I delve into the specifics of the clauses it would appear that this legal error was oblivious to the EBC during all previous administrations—I really want to say that—during the time of the NAR, during the time of the UNC and during this current PNM administration until this year 2008.

Mr. President, and Senators on the other side, this error has been attributed to the inadvertent omission of legal amendments to the law when the new administrative arrangements with respect to relations between Trinidad and Tobago were established with the advent of the Tobago House of Assembly Acts, No. 37 of 1980, No. 40 of 1990 and the Municipal Corporations Act, No. 21 of 1990.

It was in the Municipal Corporations Act, No. 21 of 1990, we specified amendments to be made to the Elections and Boundaries Commission (Local Government) Act, that Chap. 25:50, section 2 with respect to electoral districts in Tobago was deleted.

I was informed by local government experts that the Tobago House of Assembly is a case of local self-government rather than simple local government. And therefore, when the Tobago House of Assembly was being established the intention was to either make provisions within the Act for the conduct of elections or to make provisions for the creation of a separate Act for the conduct of elections.

Now, Mr. President, and hon. Senators, on the other side, 18 years later it is evident by the fact that we are today seeking to amend the Elections and Boundaries Commission (Local Government) Act, to regularize the status of the Tobago House of Assembly in matters pertaining to elections. Suffice it to say, an amendment was made in the year 2004 and that amendment requested that reports from the Tobago House of Assembly elections and that the Elections and Boundaries Commission reports be submitted every four years instead of every three years. Nevertheless, there appears to be a need for separate legislation, separate legislation to deal with electoral arrangements for the Tobago House of Assembly which this Government will contemplate in the future.

The matter relating to the amendments which we seek, came to a head when on preparing this report to review the boundaries of the electoral districts of the electoral area of Tobago, for the purposes of preparing for the Tobago House of Assembly election, the Elections and Boundaries Commission discovered that the provisions had been deleted from the extant legislation. The existing legislation is the consolidation of the version Chap. 25:50 as contained in the Revised Edition of the Laws of Trinidad and Tobago published by the Law Revision Commission dated 2006 and the omissions are as follows, and I quote:

1. Part II of the First Schedule of Chap. 25:50 which defined the electoral area of Tobago as the Island of Tobago and provided for 12 electoral districts, that has been deleted.
2. In the Second Schedule entitled, Rules for determining the number of electors in an electoral district of an electoral area, rule 5(b) which states: “rules 1, 2(2) and 3 shall apply in respect of the electoral area of Tobago”, that too, was removed.
3. The definition of electoral area in relation to the Tobago House of Assembly, the interpretation section of Chap. 25:50, that too, has been deleted.



And so, Mr. President and hon. Senators on the other side, these omissions were discovered by the Elections and Boundaries Commission in August 2008. It was at that time when they had practically completed the review of the boundaries of the electoral districts of Tobago. In a bid to finalize its report, its chairman dispatched a letter to the Chairman of the Law Revision Commission as well as to the Deputy Solicitor General seeking legal advice and guidance. The advice received from the Chairman of the Law Revision Commission suggested that it did not appear that there were any errors or omissions with respect to Chap. 25:50 in the year 2006, in the 2006 Revised Edition of the Laws of Trinidad and Tobago. However, the Solicitor General's Department although generally agreeing with this view suggested that the revised edition effectively excluded Tobago from its ambit. That was further confirmed based on a report produced by the EBC pursuant to section 4 of the Act. The report advised that the EBC consider the practical effects of the revised Act and if required take all necessary steps, including the amendment to the revised Act, to ensure conformity with the intent and the purport of the Act.

**Sen. Mark:** May I?

**Sen. The Hon. H. Manning:** Sure.

**Sen. Mark:** Mr. President, through you, may I ask the hon. Minister whether she would be able to make the documents coming from the Chairman of the Law Review Commission as well as the Deputy Solicitor General, if you can circulate those documents so that we can be apprised?

**Sen. The Hon. H. Manning:** Do you want that circulated now?

**Sen. Mark:** Yes.

**Sen. The Hon. H. Manning:** I do not know if it is available now. I will hold discussions and I will let you know.

**Sen. Mark:** Okay.

**Sen. The Hon. H. Manning:** Apart from the foregoing [*Interruption*] therefore, there are related complex legal issues to be resolved, and they are:

1. Whether the EBC can properly conduct the Tobago House of Assembly elections under the current Act;
2. The validity. What is the validity of the previous EBC reports with respect to elections under the THA for the years 1992, 1996, 2000 and 2004?

3. The completion by the EBC of its current report;
4. The submission of the report within the statutory deadline for the effective conduct of the 2009 THA elections; and
5. Whether the EBC report of the year 2004 with respect to the THA elections can be utilized for the conduct of the THA elections within the given statutory deadline.

Mr. President, there have been several and diverse legal opinions on these matters. So, on the question of the EBC conducting elections, the legal opinion is that this can be done given the provision of section 5(1) of the THA Act, Chap 25:03 which states that:

“The Assembly shall...consist of—

twelve Assemblymen elected...in accordance with the Representation of the People Act...”

However, the hurdle appears to be the EBC's function to define boundaries and to make recommendations for Tobago. It is opined that even if Tobago has been removed from sections 3 and 4 of the Act as an electoral area, the Act still contains the function to complete reports for Tobago.

Mr. President, you find this in section 4(2)(c), and such reports can contain recommendations and can define boundaries. The opinion also stated that in any case such report would have to be validated by Parliament. This brings us to the question of the validity of past reports and past elections conducted under this Act. In this context based on extensive research conducted by the Solicitor General's Department, Parliament has the authority to retroactively approve legislation thereby correcting acts or actions that might have been deemed invalid or ultra vires.

The Chairman of the Law Revision Commission has also alluded to the fact that section 14, Chap. 3:03 of the Law Revision Act states and I quote:

“No written law omitted from the Laws, under the authority of this Act or otherwise, shall be deemed to be without force and validity by reason only of the fact that it is so omitted.”

The position of this PNM administration, being a responsible administration and strongly committed to upholding the law and the Constitution is that in the best interest of the nation and in order to avert any legal challenges as to the validity of previous THA elections, that the EBC Act should be amended

retroactively. Significantly, neither blame nor ulterior motive could be attributed to this and to previous administrations, although it would not surprise me if those on the opposite Benches see malfeasance in our noble intent to correct this lacuna.

Mr. President, on the issue of utilization of the 2004 EBC report, with respect to the conduct of the THA elections, those on the other side may argue that the date for the elections could be postponed and the extended time used by the EBC to complete its 2008 election report.

**2.00 p.m.**

Some of their colleagues in the other place have cited the need to see the difference in the Tobago electorate and the demographic movements of its population throughout the various districts so that all parties could have a fair chance. However, the reality is that the Tobago electorate is relatively stable when one considers that migration or district interchange of residents is minimal.

Furthermore the provisions of the Representation of the People Act cater for newly registered voters whose names are on the EBC's binder. In the circumstances, and given the fact that the THA has already been dissolved and that the EBC cannot conclude its report between the 35-day period between the dissolution of the Assembly and the calling of the election, the most prudent course of action is for this honourable House to sanction the utilization of the EBC 2004 Election Report on the THA for the purpose of the 2009 election only.

In terms of the specific provisions of the Act, Chap. 25:50 that we are seeking to amend, the facts are as follows:

- (1) Section 5 of the pre-2006 edition contained a provision (b) which states: rules 1, 2(2) and 3 of the said Schedule should apply in respect of the electoral area of Tobago, but there is no reference to this provision in the revised edition.
- (2) Part III of the First Schedule was expunged and therefore there is no provision indicating that there are 12 electoral districts in the electoral area of Tobago.
- (3) There is no specific mention in section 2 of the Tobago House of Assembly.
- (4) Clauses 1 and 2 would provide for the short title and interpretation. Clause 3 would amend section 2 of the Act to expand the term "electoral area" to include its relation to the Tobago House of Assembly. Clause 4

would insert Part III in the First Schedule which will state the number of electoral districts of the island of Tobago. Clause 5 would amend the Second Schedule by inserting provisions which will indicate the applicability of the rules in the Schedule to the electoral area of Tobago. Clause 6 would provide for the provision of the amending Bill to be deemed to have come into force on the 14<sup>th</sup> of September, 1990. Clause 7 would validate certain reports from 1992, 1996, 2000 and 2004 of the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50.

**Sen. Dr. Charles:** I thank the Member for giving way. I just would like to find out whether this was debated in the Tobago House of Assembly or if there is any comment from the Assembly on this matter at all.

**Sen. The Hon. H. Manning:** Thank you very much. Our Member from the sister isle would be able to address your concern when she speaks.

**Sen. Mark:** Mr. President, through you, if I may just reiterate briefly, as a government, what the hon. Senator is asking is whether the Government had any consultation and you, in your capacity as Minister of Local Government, with the THA and the executive council and Mr. Orville London, and what is the position of these persons and organizations on this matter. I think that is the point that he is trying to get clarified.

**Sen. Annisette-George:** Maybe I could assist. Mr. President, in answer to the question posed by Sen. Mark, there has been consultation, particularly with the Chief Secretary and they are supportive of this measure.

**Sen. The Hon. H. Manning:** Mr. President and those on the other side—I would implore those on the Opposition Benches and the Independent Benches, to support the proposed amendments to Chap. 25:50 as contained in this Bill before this honourable Chamber, thereby demonstrating a political maturity and goodwill to the people of Tobago and, in particular, to Trinidad and Tobago in general.

I beg to move. [*Desk thumping*]

*Question proposed.*

**Sen. Wade Mark:** Mr. President, may I begin by quoting the Constitution of the Republic, and I refer to section 53 which states:

“Parliament may make laws for the peace, order and good government of Trinidad and Tobago...”

The Bill that is before this honourable Senate, if passed in its present form, will contribute to the subversion of this section of the Constitution and we believe it will corrupt the democratic process and it is a measure that ought not to be supported whatsoever.

It is somewhat ironic that the United Nations has declared today as International Anti-corruption Day, and what we are seeing here in this particular measure is an attempt by this Government to short-change, to short-cut and to corrupt the democratic process, particularly as it relates to the people of Tobago and, by extension, democracy in Trinidad.

It is also important to note that tomorrow is International Human Rights Day, the declaration of the UN on human rights and it appears to us that the measure before us will flagrantly abuse and violate the human rights of the citizens in the sister isle of Tobago. Since we have been informed by the hon. Attorney General that the THA and the Chief Secretary have been consulted, have been informed and have not only been informed and consulted, but they have agreed to this measure before us, it is now left up to us in the UNC-A to rise in defence of the people of Tobago and seek to protect their vital interests.

During the course of this contribution, I shall expose what appears to be a massive conspiracy involving the Government, the Elections and Boundaries Commission and now we are told, the THA in an attempt to trample upon the rights of the people of Tobago in their quest for self-determination, undermining in the process, democracy and in the process seeking to subvert the Constitution of the country. We must safeguard the human rights of the people.

I want to tell you from the very outset that we are at a humungous disadvantage in this debate. The Opposition is at a humungous disadvantage. We do not have a report from the EBC before us, yet the hon. Minister in her presentation was able to refer to advice and correspondence, and it appears to us on this side as if the Government has now assumed the role of spokesman for the Elections and Boundaries Commission.

How can a Minister come to this Parliament and tell this honourable Senate that if we support this measure to use the order of 2004/2005 as well as the Eighth Report, it does not appear it will have any serious impact on the outcome of the process in Tobago? In fact, things are so smooth in Tobago as they relate to the electoral districts and boundaries that we are being told by the hon. Minister that there is no need for adjustment.

That is not the Minister's role. The Constitution does not give the Minister that responsibility. The Constitution gives that role to the Elections and Boundaries Commission to tell us in this Parliament through frequent and regular reports whether there is need for alterations of the boundaries, as well as the electoral districts. We are not privy to the deliberations of the hon. Minister and the Elections and Boundaries Commission, but we are being told, "It is okay; take my word for it; everything is okay in Tobago." How can a government treat an issue like an election in Tobago in such a flippant manner? How can you come to this Parliament and seek our support for a measure that, from what you have said—not you, Mr. President, the hon. Minister—it appears that there are, in fact, increases in the population of Tobago; there are, in fact, population shifts in Tobago, but to tell us everything is smooth in spite of that, I believe it gives me and our side here cause for alarm and concern. It is not as simple as the hon. Minister says.

So I am going to show where the Government is seeking to get our support to use—I want to be very clear; I want to go immediately to clause 8 of this Bill before us and I want to read for the record what the Bill says:

"Notwithstanding section 4(2)(c)..."

May I tell you what section 4(2)(c) says? That is the Elections and Boundaries Commission (Local Government) Act. Section 4(2)(c) says the Elections and Boundaries Commission shall submit reports and:

"...in the case of a report in reference to Tobago, not less than two nor more than four years from the date of submission of the last report."

**2.15 p.m.**

So the Elections and Boundaries Commission (EBC) is actually legally bound to submit to this honourable Parliament, through the Speaker and the President, reports not less than two nor more than four years from the date of submission. But the last report that was submitted was the Eighth Report of the Elections and Boundaries Commission on the Boundaries of the Electoral Districts in the Electoral Area of Tobago dated August 23, 2004. This was the last report submitted to the hon. Speaker and the hon. President.

Here the Elections and Boundaries Commission is now in breach of the law. I will show you why. Section 4(2)(c) says that the Commission is supposed to submit a report in reference to Tobago not less than two nor more than four years from the date of submission of the last report. I have done a calculation. It is now four years, three months and 17 days. So the EBC is in violation of the law in the first instance.

There is a curious situation surrounding the whole matter before us. We are being told by the hon. Minister that at the end of 2004 the list of electors as at July 01, 2004 was 38,142 electors in Tobago. The question has to be asked: If the Government is seeking:

“Notwithstanding section 4(2)(c) and 4(6) of the Act and any other written law...”

how can you put that into legislation? Is not the Republican Constitution a written law? How can you put such language in legislation? We cannot support this. What do you mean by “and any other written law”? Does that not incorporate the Constitution? That is serious business.

It goes on:

“...for the purposes only of the Tobago House of Assembly elections in 2009, the Report and the Elections and Boundaries Commission (Local Government) (Tobago House of Assembly) Order, 2004, shall subsist and remain valid and effectual for the aforementioned elections.”

We are being told by this Government that here is the Order of the President and here is the report. So the Government proposes that we accept, for purposes of holding the election in Tobago, the Order of 2004 and the report of 2004. Let us assume, but not admit, that the electorate has been increased from 38,142 to 44,000—we do not have the facts; there is no data. There are rules at 25 per cent plus or minus in terms of the number of electors that can form the basis of an electoral district and there is manifestation of changes to the boundaries in the 2004 report because of the changes recorded in 2000 and 2004. Because of that, the report tells you that several electoral districts—and there are 12 in Tobago—underwent a name change by the Elections and Boundaries Commission.

I suggest that we cannot take for granted any “ol’ talk”, any submission by this Government on this particular issue. We have no report before us from the EBC. We have no mimeograph; we have no note and there is no data. You are telling us you are going with the Order and the report for 2004 and you want us to accept that? How can we accept this?

I want to ask questions. Why did the THA dissolve so soon, November 01, when the election was held and results announced on January 17, 2005? They have until January 16 or 17 to dissolve the THA. The THA Act says that when dissolution takes place, the President can hold the election up to three months thereafter. If you dissolve your House in January 2009, then you will have

January, February, March, April, so that all the changes that the hon. Minister spoke to could have been addressed. [*Interruption*] It is not the situation because something happened in the THA. Why did the Chief Secretary dissolve on November 01? I do not know.

We advance that there are certain fundamental rights in the Constitution that we believe could be infringed by the legislation. We believe that the right to join political parties and express political views could be in danger. We believe that the right, section 4(b), of individuals to equality before the law and the protection of the law is also in danger. We also believe that the right of the individual to equality of treatment from any public authority in the exercise of any function is also in danger.

By attempting to inflict on the people of Tobago an Order and a report dated 2004 and to utilize this said report and Order to hold the 2009 Tobago House of Assembly election is not only an affront to the people of Tobago, but also it is an open and blatant assault on their democracy and could contribute to a subversion of the Constitution.

We cannot deny the people of Tobago their rights. If there is an error which occurred in 1990, why did you not amend the Municipal Corporations Act, No. 21 of 1990? You did not do that although you discovered it in August. The hon. Minister could have addressed that. We have seen a possible attempt. Because we do not have the data and do not know how many will be eligible to vote in this election, we have to assume that there is some attempt by the Government to disenfranchise sections of the electorate in Tobago and deny them their rights. This is what we are concerned about. We are concerned that thousands of citizens in Tobago could be deprived of their rights as they relate to voting if we support this election in its current form.

It is not for the EBC to decide. They make recommendations. The Parliament decides whether to accept or reject those recommendations. We are being told by the Prime Minister in the other place that under no circumstances is the EBC prepared to hold elections unless these amendments are approved. That is what we were told by the Prime Minister, from the verbatim notes. The Chairman of the Elections and Boundaries Commission told the Prime Minister of the Republic of Trinidad and Tobago that they are not prepared to hold any elections in Tobago in January unless these amendments are approved. Yet that same Elections and Boundaries Commission is guilty of dereliction of duty because they have not submitted any report on Tobago to this Parliament so that we could debate what we are debating today.



**Sen. Annette-George:** To clarify the statement that you attributed to the hon. Prime Minister, that statement was made in the context of a question being asked by Members in the other place, having regard to the fact that there were about four elections held in Tobago with the present lacuna in the law. That is why the Elections and Boundaries Commission has not proceeded as they had done before.

The response from the hon. Prime Minister was that the Elections and Boundaries Commission, having now discovered that they have operated in the past without the legal basis, were not prepared to have elections now that they did not have the excuse of ignorance. Now that they were made aware, they were not prepared to hold the election without the proper legal basis being put in place.

**Sen. W. Mark:** Mr. President, the Attorney General has clarified what the Prime Minister said, but he said it. That is the point. We are arguing that the Prime Minister must not assume the role of spokesman for the Elections and Boundaries Commission. The Elections and Boundaries Commission is an independent body and is supposed to submit a report, which it has not done, and the Minister is telling me that the chairman of the EBC—I have looked through the four reports and on every report I have seen the name Dr. Norbert Masson.

In 1992, 1996, 2000 and 2004, Dr. Norbert Masson's name has signed off. Are you telling me that they only discovered in August, a couple days before they were supposed to submit the report to this honourable Parliament, that there was a mistake and Dr. Masson has been signing off these reports for all these years, from 1992 to 2004? He is now the chairman of that commission and you the Government take that as an excuse.

### **2.30 p.m.**

Mr. President, the Elections and Boundaries Commission has a responsibility under the Constitution. I am dealing specifically with section 72(1) of the Constitution, which states:

“The Commission shall, in accordance with the provisions of this section, review the number and boundaries of the constituencies into which Trinidad and Tobago is divided and submit to the Prime Minister and the Speaker for presentation to the House of Representatives...—

- (a) showing the constituencies into which it recommends that Trinidad and Tobago should be divided in to give effect to the rules set out in the Second Schedule;”

They are supposed to submit reports and make recommendations to us in this Parliament, so that we can arrive to some decision. We have no report before us from the Elections and Boundaries Commission and you are telling me that all we have from the EBC, through the Government, are assurances. You want a Parliament to approve the holding of elections as important as the THA election on the basis or assurances and that everything is smooth in Tobago? How can we support that? No, no, no. This is a travesty of democracy and we cannot be party to any attempt at breaching the Constitution or seeking to deny.

They are supposed to submit a report to the Minister of Local Government, who shall lay before this honorable Senate such a report for approval. That report has not come. I do not know if the Minister tabled a report, but I did not see it. I am sure that no report came. If no report came, how is it that the Elections and Boundaries Commission is seeking to get us to validate 1992, 1996, 2000 and 2004? The PNM was in charge in 1992. When we came in 1996, the PNM was also—

**Hon. Senator:** In charge.

**Sen. W. Mark:** That was the tail end of the PNM, so they took full responsibility. We had just assumed government. In 2000, we were there and in 2004, the PNM was there. What I am arguing is that the PNM has to account for this particular development.

What is the Government seeking to accomplish today? It is seeking to amend the Act and in the process of amending the Act, it is bringing the THA—I do not know if the hon. Minister understands the extent of what is being presented here today. What the Government is seeking to do in these amendments is to place the THA under the rubric of local government once again. That is what the implications are with this amendment. You want to bring Tobago back to county council status; and a ward of Trinidad and Tobago. If that was not your intention, you would not have brought these amendments under the Elections and Boundaries (Local Government) Act. That is the first area.

The second area is that the Government is seeking to validate, as I have said, several reports for the period that I have mentioned, 1992—2004. Finally, they are seeking the approval of this honourable Senate to utilize the Elections and Boundaries Commission (Local Government) (Tobago House of Assembly) Order, 2004, which, in essence, is the Elections and Boundaries Commission Report for 2004 for purposes of holding the election. We believe that this is unfair to the people of Tobago. Their fundamental right to vote must be tampered with

and we must not use this debate and this legislation to bring the THA under local government. The THA is not a local government body; it is not a regional corporation. The THA is above that. This is why the THA is in the Constitution of Trinidad and Tobago. Up to this time as we speak, the regional corporations, municipalities and boroughs, through the Municipal Corporations Act, No. 21 of 1990, is yet to be enshrined or entered into the Constitution of our country. The THA is a completely different arrangement from the arrangement of the local government body.

Therefore, what we on this side are arguing is that in its present form, it appears, from this Bill, it will deny the people of Tobago from holding a free and fair election in the coming period. It appears to us that is what is being attempted by the Government. It is amazing and unbelievable that we are being informed by the hon. Minister that this Bill is designed to correct an error, which existed for 16 years.

In the case of the former NAR and the Municipal Corporations Act of 1990, it is almost 18 years. It appears, through some miraculous discovery, that on the eve of its submission of the ninth report to this Parliament, that it was suddenly discovered that there were deficiencies, omissions and errors by the Elections and Boundaries Commission whose chairman, as I have said, was there in 1992, 1996, 2000 and 2004. *[Interruption]* But he was in charge in 2004. You made the Elections and Boundaries Commission kick out Oswald Wilson because they believe they could manipulate him more than Oswald Wilson. May his soul rest in peace. He has now gone to the great beyond. Norbert Masson was the Chairman of the Elections and Boundaries Commission in 2004. Is that not so? If he was not, the hon. Attorney General would correct me when she is speaking.

The end result of these errors, we are told, as far as we are concerned, is that it appears that the Government is proceeding along an undemocratic path in seeking to have these amendments approved today. Therefore, it appears that the real objective of these amendments is to literally place the THA under the purview of local government and bring the THA back to county council status. *[Interruption]*

**Sen. Dr. Saith:** No.

**Sen. W. Mark:** That it how it appears and you have given no undertaking this afternoon. I listened to the hon. Minister carefully. You said that the Government would contemplate. You did not say that, for instance, in the first quarter of 2009, after the election, you would bring amendments to the THA Act, in order to regularize this situation. I want you to give the people of Tobago the

undertaking this evening, when you are winding up this debate, that at the end of the first quarter of 2009, you shall bring the THA Act to this Parliament, upgrade it and make the necessary changes under that Act.

Mr. President, I believe the Government is playing games with the people of Tobago. We were thinking about not entering the contest, but I believe that we now have a basis to educate the people of Tobago as to the games that the Government is playing with their lives in Tobago.

This is why I sought the intervention of the hon. Minister of Local Government. We want to put on record, the level of consultation. We wanted to know if the Government had any consultation with the people of Tobago. My information is that you may have had consultation with the Chief Secretary of the Tobago House of Assembly, but I do not know to what extent the Government had consultation with the people of Tobago. Is the Opposition in Tobago aware of what you are doing here today? I think not.

We asked the question about the level of consultation that took place with the Executive Council of the THA. We also ask whether the Executive Council, under the leadership of the Chief Secretary, hon. Orville London, agreed to these amendments. We are told by the Government: “Yes, there was consultation. Yes, the hon. Chief Secretary agreed with those amendments that are now before us.” Therefore, we are seeking answers to our questions on the THA. The THA is a very important body and it cannot be tinkered with in the way that this Government— This Government has been in power for the last six or seven years and they are going to have an election in Tobago and they are coming here. Do you know when they brought this Bill to the other place? They gave the Members less than 12 hours to look at this far-reaching piece of legislation. They were informed on a Friday evening that on the following Monday at 1.30 p.m., they would be debating a very important—Do you know what?

The Chairman of the Elections and Boundaries Commission discovered this error in August. They got advice in September. From my information, the Government was aware of what was going on. September came and went, then October and November. They had three months to bring this legislation here. “Yuh wait until ah couple ah days” before the dissolution of Parliament. What is the excuse? If we do not pass it, the Tobago House of Assembly will not be able to hold election in January. It comes as if the Government is actually blackmailing us. You have us as a hostage in this situation, where you are saying to us: “Yuh better pass dis piece of legislation otherwise ah going to Tobago an tell de people dat de UNC and de Opposition opposed us.” You cannot short-change the people.

This is what we are concerned about. We are concerned that the Elections and Boundaries Commission never recognized this deficiency, but was only discovered, as I said, a few months ago. This is very disturbing and sinister too, as far as we are concerned.

I want to go to a point again where I am tracing this development. Here it is, in August, a discovery was made. Why did it take almost three months to have this matter resolved? These amendments, are they in the interest of the people of Tobago? The THA election was held on January 17. Why the rush to dissolve in November of 2008 by the Chief Secretary? As I have argued on behalf of our side, had the Chief Secretary not dissolved the Tobago House of Assembly on November 01 and had gone into January, we in the Parliament would have had adequate time to deliberate on this matter and the Elections and Boundaries Commission would have had adequate time to submit its report to the Parliament, its ninth report.

**2.45 p.m.**

I want to ask the hon. Minister when she is winding up, if it is the intention of the EBC to submit its ninth report? When are we going to get this ninth report from the EBC? Are we going to have a situation where they are going to seek to hoodwink the population and come in 2009 to validate the ninth report as they are seeking to have the 1992, 1996, 2000 and 2004 reports validated today? Why not bring the report to the Parliament and allow Senators to see exactly what is at stake?

So, we are being asked to validate these reports and to facilitate the utilization of the 2005 Order and the eighth report for the purpose of staging the Tobago House of Assembly election. We believe that in its current form this measure is outrageous. We believe that the people of Tobago are being disadvantaged, and we believe that this measure before us represents a scandal of gigantic proportions on the part of this Government. It is not fair to the people of Tobago to have this development at this time.

So, the people of Tobago are going into an election in January 2009 and they do not have any scientific data to measure the extent of the boundary changes that would have taken place between 2004 and the present time. So, they are going into an election with the same old electoral districts as they did in the 2004 election. We are convinced, beyond any shadow of a doubt, that the population of Tobago has increased from 38,142 by thousands of persons. We are informed that the electorate—if you are challenging me, bring the facts for us. I am not in

Government. We have been informed that the population of Tobago has increased by thousands and, therefore, if that is the case, how can you tell us that you are going to be working on the same boundaries, electoral districts and polling divisions as they were in 2004? How can you tell us that? That is what the Government is seeking to have us support today.

How are we to be guided in this Senate today? Is it by the utterances of the Minister of Local Government on this matter? Is it by the assurances given by the Attorney General who was in a meeting with the Prime Minister and the EBC some time ago?

**Sen. Annisette-George:** On a point of clarification. The statement I made shortly said nothing about being in a meeting with the Prime Minister and the EBC. My intervention referred to a reference made in the other place. The verbatim notes that the Senator quoted referred to the debate in the other place. So, it is misleading and erroneous for the Senator to stand and say that I was in a meeting with the hon. Prime Minister and the EBC.

**Sen. W. Mark:** May I ask you a question directly? Were you, as Attorney General, in a meeting with the Chairman of the EBC? Leave out the Prime Minister! Were you involved in any meetings with the EBC?

**Sen. Annisette-George:** That did not arise. I never said that I was in any meeting with the Chairman of the EBC.

**Sen. W. Mark:** So, you were never involved in any meetings and the notes are wrong?

**Sen. Annisette-George:** I did not say that I was never involved in any meeting. You asked if I was involved in a meeting with the Chairman of the EBC, and I am saying that I was not involved in any meeting with the Chairman of the EBC.

**Sen. W. Mark:** Mr. President, all I am arguing is that the Government, including the Attorney General and the Prime Minister, had prior knowledge and information on this matter and we in the Opposition were never privy to this information. It is our view that they may have even gotten information on the ninth report. How else can a Minister get up in this Parliament—

**Sen. Annisette-George:** Mr. President, on a point of order—

**Mr. President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made*, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. A. Nanan*]

*Question put and agreed to.*

**Sen. W. Mark:** What I am simply advancing is that in the absence of a report from the EBC, it appears to me and Senators on this side, based on the verbatim notes that we have before us, that there was a meeting involving the EBC and Government officials led by the hon. Prime Minister. The Prime Minister is on record in the other place as saying: "I met with the Chairman of the Elections and Boundaries Commission." He is on record saying that.

We are dealing with a sensitive matter like an election in Tobago, and we are being told by the hon. Minister of Local Government—based on our reports and information—that nothing is going to happen in a dramatic way if we go with the 2004 report. The hon. Minister just indicated that to us. Who advised the hon. Minister of Local Government? As far as the Minister is concerned, there is going to be a smoothening of the process. Who did that? We were not privy to any meetings with the EBC on this matter, but it appears that Government officials had advance knowledge and they have now assumed the role of spokesmen and spokespersons for the EBC. I am saying that is wrong. I am saying that the EBC is an independent commission and that independent commission is supposed to report to the Parliament, and they could write to the hon. Minister of Local Government.

The hon. Minister told me that she did not receive any report. In other words, something is stirring in the pot and the Government seems to be in some kind of cahoots with the EBC in order to steal the Tobago House of Assembly election in 2009. [*Interruption*] It seems that there is a cooking up taking place between the EBC and the Government in order to rob the people of Tobago in the upcoming election.

**Sen. Annisette-George:** Mr. President, I have to rise on a point of order. The Senator is imputing improper motives. I also refer to Standing Order 35(8).

**Mr. President:** Watch your language, please.

**Sen. W. Mark:** Mr. President, I have asked a simple question and how are we to be guided in this debate? We cannot trust the Attorney General and we cannot trust the hon. Minister of Local Government in terms of assurances.

**Sen. Annisette-George:** Mr. President, on a point of order. I beg to refer to Standing Order 35(8).

**Mr. President:** What exactly are the offending words that you are objecting to?

**Sen. Annisette-George:** Mr. President, there is an imputation with respect to lack of trust, calling into question the conduct of the Attorney General.

**Mr. President:** Senator, I think that you are very much on the edge and about to fall off. Please, watch your language.

**Sen. W. Mark:** Where is the report to scientifically guide us in this Parliament? Where is the data to convince this honourable Senate that there has been limited or no population shifts since the 2004 report? Who is to tell this honourable Senate that there is no need for boundary changes, polling division changes or changes to electoral districts? Is it the Minister of Local Government, the Attorney General or the Prime Minister? Certainly not! That is not their role. It is only the EBC that can provide us with the hard scientific data so that we can come to a reasonable judgment and conclusion when it comes to elections in Trinidad and Tobago. This situation is totally unsatisfactory.

We believe this is an abomination that we have before us here as a Bill. The Government should withdraw this national scandal from the table of the Senate and put its house in order, and bring the necessary amendments to the Tobago House of Assembly Act and bring the 2008 report, and seek its validation and only then we would be in a position to properly assess this matter. We cannot assess this matter on the basis of goodwill. We have to be careful that we do not, by the stroke of a pen, place the Tobago House of Assembly under county council status. That is what is being done with these amendments. They are putting the Tobago House of Assembly under local government and they cannot do that. The Tobago House of Assembly is not a regional corporation and, therefore, the Government should put its house in order.

Do you know what the people of Tobago are asking for? I have seen two reports; the Status Report on the Working Committee led by one Dr. John Price, and the people of Tobago want a federal structure similar to that of Canada and India. They do not want this county council status. *[Interruption]* This report is dated October 22, 2007 and the deliberation is continuing in 2008.

There is another report by Mr. Reginald Dumas on the constitutional relationship between Trinidad and Tobago. The people of Tobago are favouring, according to him, on page 10 of this report, a federal system along the lines of the United States of America, Canada or India.



So when they come today and move an amendment to put the Tobago House of Assembly under the status of local government, it is a backward move on their part. They are using the election in Tobago as an excuse for bringing this amendment. I think this is a dagger that the Government has directed at the heart of the people of Tobago. They are seeking to bring Tobago back to county council status. I accuse the Government of seeking to do that today, and we will be no part of that.

**3.00 p.m.**

We support the people of Tobago. We want the people of Tobago to have full genuine autonomy, and if they want to be within a federal structure in Trinidad and Tobago where they have the power to deal with their business—except national security, foreign affairs and defence—we in the UNC-A are for giving the people of Tobago what they want.

Why are you seeking to bring an amendment today to put the people of Tobago, under what, county council status once again? Why could you not do your homework properly and come with proper legislation? Why could you not postpone the Tobago House of Assembly election for two months in order for the people of Tobago to have the rights they are entitled to? Why are you rushing this?

We are saying on our side that the Bill is designed to undermine the status of the Tobago House of Assembly, and to reduce it to regional level status, therefore, we are unable to give support to the measure before this honourable Senate today. We believe there are certain questions that we want answered. We want to know why did the Chairman of the Elections and Boundaries Commission (EBC) and his commissioners hold discussions with the Prime Minister and others on this matter, and they left out the Parliament of Trinidad and Tobago. They did not include the Opposition here in Trinidad and they did not include the Opposition in Tobago.

Why these secret meetings with the Government? We have concerns. We believe that based on the confessions of the Prime Minister in the other place, it appears that there is a collusion between the Government and the EBC in this matter. I am not saying categorical; I am saying based on his utterances downstairs, one can draw that conclusion tentatively.

It is our firm and considered view that the provisions contained in the Bill are designed to subvert the Constitution. As I said earlier, we were told by the hon. Prime Minister that the Elections and Boundaries Commission chairman was not prepared or is not prepared to hold elections unless these amendments are approved by this honourable Senate today, which we consider to be illegal, unconstitutional and unlawful.

It appears that the PNM is afraid of the elections in Tobago in 2009. It appears that the Government is doing everything in its power to deny the people their rights to change and to have an assembly of their choice in the Tobago House of Assembly election, which is due. We would like the Elections and Boundaries Commission to clear the air on this matter. We want to get answers from the Chairman of the EBC, his role in this whole matter. The role of the EBC seems to be extremely suspicious in this whole episode, it compromises their independence, and therefore, we question the role of the EBC on this matter.

Mr. President, it is our considered view and submission that the legislation that is before us today is extremely flawed, and we do not believe that the people of Tobago deserve this piece of legislation that the Government is seeking to foist on them today. I believe that Sen. Dr. Carson Charles, whose brainchild was the Municipal Corporations Act of 1990, would be able to deal with this matter in more detail. [*Crosstalk*]

I also believe that the Tobago House of Assembly (THA) came into being in 1980 as a result of the 1977 motion moved by the former hon. ANR Robinson in the House of Representatives in 1977. When that Act was repealed in 1996, how can you tell us that in 1990, this Municipal Corporations Act deleted all these provisions under the First Schedule, when in truth and in fact, the Tobago House of Assembly was established in 1980, so it must have been deleted? What were required were changes to the THA Act, and that never came about.

Mr. President, I know my time is about to come to an end. Our position is a simple one; we do not believe that this Government is genuine on this particular issue; we believe that games are being played by this Government on this matter; we believe that the people of Tobago are being short-changed on this matter, and there was an absence of meaningful consultation between the EBC, the Government and with Opposition in Trinidad and Tobago, with the Independents in Trinidad and Tobago, and along with those Opposition forces in Tobago, and particularly the people of Tobago, because if you are going to bring changes of the type that they are now proposing, it would have required for them to consult with the people of Tobago.

So, we look forward to the hon. Minister of Local Government giving us further information and clarification on this measure, otherwise it would be very difficult to support it in its present form.

I thank you very much, Mr. President.

**Sen. Dana Seetahal SC:** Thank you very much, Mr. President. My understanding of the Bill is that it seeks to amend the Elections and Boundaries Commission (Local Government) Act, and that Act is to extend the functions and powers of the EBC for purposes of local government election. If it is a problem here, is that the Tobago House of Assembly is neither local government nor national government; it is hybrid in nature. So, if one seeks to amend this Act, what one is including, as it were, into the Act, is a new dimension of the Tobago House of Assembly. The first clause of this Bill is indicative of that, and it is badly drafted by the way. It says:

"This Act may be cited as the Elections and Boundaries Commission (Local Government) [Amendment (Tobago House of Assembly) and Validation] Act, 2008."

So, it is unclear what this means. Is it a validation of the Tobago House of Assembly or is it the Elections and Boundaries Commission (Local Government) Validation Act? That is one thing I think needs to be clarified, just the proper definition of what the short name of the Bill is, although it is a very long name. This is usually the short name and it is supposed to define what it is about.

The second point I wish to make, and it follows from something that Sen. Mark said. If we are talking about Tobago House of Assembly (THA) elections, and the Tobago House of Assembly is not considered local government, being a special institution as it were, then it would seem to me that if one wants to consider it properly and fully, one ought to amend the name of this Act, not create a name which includes "Tobago House of Assembly" in its short name for the amendment Act, but the parent Act remains "Elections and Boundaries Commission (Local Government) Act". It has to be something like, Elections and Boundaries Commission (Local Government and Tobago House of Assembly) Act, something of that sort.

**Sen. Annisette-George:** Senator, would you give way? Just to let you know that on this side we are quite amenable to that, both in amending the short title and the long title of the parent Act. So that will be taken at committee stage, we will ask the draftsmen to do it.

**Sen. D. Seetahal SC:** So, that would be, in my view, taking into account the fact that the THA is not local government.

The next point I wish to make is that in clause 3, there is an amendment to include Tobago in the definition of electoral area. This Act defines electoral area as various municipal corporations, and they are mentioned all in the First

Schedule, such as Point Fortin, Port of Spain, and then you have other areas like Diego Martin and so on. Of course, the island of Tobago is now one of those electoral areas, however, there is an omission by not amending section 3 of the parent Act, because section 3 says:

"For the purposes of this Act, Trinidad and Tobago is divided into."

And (a), you have the five cities and boroughs, and (b) you have the nine regional municipalities, but there is no mention of Tobago. Section 3, unless we are to go and create a further lacuna in the law, ought to be amended to include Tobago, because the area mentioned in Part III of the First Schedule, and if you look at clause 4, you will see it is created there.

So, the point is that while there is a creation of Tobago as an electoral area for this kind of elections, it is not recognized as Trinidad and Tobago being divided in two. So, Trinidad and Tobago under this Act remains divided into parts of Trinidad and no Tobago. That is clause 3.

Clause 5 of this Bill merely confirms the position that currently exists without law. In other words, right now Tobago has, as I understand it, 12 electoral districts within Tobago, that is for purposes of elections, but there is nowhere in the law that that is currently stated. It used to be as it was, but now the main purpose of this amendment is to secure that position, is to make it legal, as I understand it, but whilst doing so we have to deal with the attendant things.

That is what clause 5 is about, and for that purpose, clause 6 is the retroactive provision of the Act, because it goes back to the creation of the Municipal Corporations Act, which is when inadvertently, apparently, references to Tobago local elections were deleted. I understand what Sen. Mark is saying in relation to clauses 7 and 8, and it would seem to be that whenever the Senate is debating matters where reference is made to a report or something of this nature, where we are affirming the contents of some document, rather than require Members of the Senate to go searching for it, there ought to be made available either summary or some indication of what it is appended to the Bill, so that we can make sense of it, for those of us who are interested in seeing what the report actually says. There could be a bullet-point in terms of something like that. It should not take that long because I am sure the Minister would have had this report and there would be an executive summary. Probably it could be photocopied, then appended, so it would make the debate easier for all of us.

With that, Mr. President, those are the matters I wanted to mention. Thank you very much.

**Sen. Mohammed Faisal Rahman:** Thank you very much, Mr. President. The Government is in a pickle and in my view, it is seeking the easy way out. I, first of all, want to endorse everything that Sen. Mark said with this issue, and also to admire the very crisp, short and concise contribution Sen. Dana Seetahal SC—

**Hon. Senators:** Which you will follow. [*Laughter*]

**Sen. M. F. Rahman:** Hopefully, do not worry—in which she has dealt with very simple corrections to the issue.

**3.15 p.m.**

Of course, I am concerned that this matter came to the attention of the Prime Minister and the Government since September, and that the matter was put in the back drawers not even the back burner and allowed to come to this stage where we must feel stampeded into acquiescing with the request of the Government to validate something which to my mind—and this is where my greatest concern lies—will open a Pandora's box for this country. Trying to validate illegality [*Interruption*] well, that which is not legal. The whole idea is that there is a mix-up—and you can use more colourful language than that—and you are seeking to legitimize certain things that were not legitimate insofar as the EBC reports were concerned.

I remember quite a few decades ago when the Prime Minister of India, Indira Gandhi, had done certain things—I cannot remember what the details were, I was much younger then—and the party had done certain things and laws were passed retroactively to validate what had been done. Now, this may appear to be an innocuous incident relating to the Tobago House of Assembly, but I believe that the principle of seeking to create retroactive legislation is an extremely dangerous one. I believe that it opens the way to serious aberrations and infractions on the part of whomsoever may be in government at the time.

I am on record in this Senate as saying that this Government does not break the law, it fiddles with the law, it changes the law, but it does not break the law, and I am afraid we have had several instances where in this session alone so many things have occurred and have come to the public knowledge, where, not precisely illegal, but very questionable practices have taken place on the part of the administration which may very well require validation down the line. Imagine, our agreeing this afternoon to validating that which is not yet valid, that which is not yet legitimized. This, to my mind means—and I will say this, that we are being asked to do this without any special majority. We are being asked to do this

with the understanding that a simple majority will carry the day. Do you know what that means? That means that without reference to any moral law, a future government of Trinidad and Tobago—and I am not saying the PNM Government alone, a Mugabe government could come up later on, if it is not here already—and pass laws that will validate any criminality that they may have embarked upon. I consider this to be a very terrible precedent which the Government is seeking to establish.

Whatever is confronting the Government today with regard to the THA elections and the validation of the Elections and Boundaries Commission's omissions and commissions, it is my view that these things can be regularized with a different approach, not with regard to retroactive legitimizing. I find this abhorrent and I cannot support it on that basis at all. Regardless of what the issue may have been today, the concept of retroactive validation, to my mind, without special majorities and special safeguards being put, means that a simple majority of government can pass any law to validate any infraction which it may have committed.

We have already had the Prime Minister admit that he has had certain people under observation and investigation. We have had an admission that the fishing fracas between the Barbadians and Tobago in Tobago waters was interfered with. We have already had admissions of all sorts. We have already had a public situation where the meeting in the square was held at a particular time under false pretences and I want to say this, that all of these cumulatively are adding up to a *modus operandi*, a system of operation for this Government. And I view this matter of retroactive legislation to be extremely pernicious. It is dangerous; it is an area where we should not tread. If you need to, go back to the original Act and extend the period for the EBC's reporting. Do it that way so that you can allow whatever shortcomings in the reporting may have occurred that way. Do not come and say that all laws, regardless of what, this applies to and that you are retroactively making things good that were not good.

Can we go back and say that we are going to make retroactive law valid before Pratt and Morgan and start to hang people all over the place? Are we saying that we can change any law? What is the purpose of law? What is the purpose of law if you can go back and fiddle with law, change and amend a law retroactively and make crime legal? I mean, we are not at the stage in this particular instance and I am not suggesting this matter is as grave, but I am suggesting that this is the thin edge of the wedge which opens the door to all sorts of horrendous abuses. And I must say that I am very concerned that this

Government could have brought such legislation at this 11th hour to stampede the Chamber into acquiescing and I strongly hope that we have the support in this Senate today to send this Bill back. We cannot have it, Sir for the reasons that I have outlined, apart from the additional issues that Sen. Mark has made and Sen. Seetahal SC.

And, to please you, Sir, I am cutting my contribution short.

Thank you very much.

**Sen. Annette Nicholson-Alfred:** Thank you, Mr. President, for the opportunity to just add my piece to the Bill that is before us, Chap. 25:50 to provide for the review and definition, et cetera that is before us.

My initial response to the topic was this is an easy one, because I felt it was a simple matter to be dealt with quite easily. However, on doing my preparations I became aware of the fact that the election for which Tobagonians anxiously waited could be postponed or left hanging until certain things which were carelessly left undone, were done. I recognize the complexity of the cause because of an error which existed within the elections and boundaries system for 18 years. That translates to four Tobago House of Assembly elections.

Who is responsible for such inefficiency? In this Senate we often speak about people not doing their homework, and surely, this is a typical example of such. How is one to believe that for four outings of the Tobago House of Assembly election these elections were conducted with error? Where were the governments—I repeat, where were the governments—and where was the Elections and Boundaries Commission? Where were they? It is unbelievable that the situation Tobago now faces became visible only in 2008, after all, elections were held in 1992, 1996, 2000 and 2004. With such an error, it is easy to understand why Tobagonians are clamouring for constitutional reform and amendments to the Tobago House of Assembly Act, for, with reform something like that most likely would have been identified.

Mr. President, I make a plea once more on behalf of Tobagonians for a review of our Constitution, especially the Tobago House of Assembly Act. We in Tobago always seem to be more affected by what is not right in the Constitution of Trinidad and Tobago.

I want to say a little on local government. When I read the topic to be discussed, I must say that that (local government) phrase kind of turned me on, bothered me just as it bothers Tobagonians. The Tobago House of Assembly and I

insist, the Tobago House of Assembly is the Tobago House of Assembly. The amendments to the Elections and Boundaries Act to accommodate its legal functions as regards the conduct of THA elections, but under the name of the municipal corporation does not sit well with rational-minded individuals anywhere, especially in Tobago.

Tobago is not a municipal corporation as the THA is not a regional corporation, nor is it local government. I think we always have to be stressing that. Why? I do not know. This is the thesis statement and central argument that must be distilled and understood by the proponents of the Bill. To conceive this is to make good on the misrepresented view that Tobago is just a part of Trinidad, and national policy will meet the needs of Tobago. Oh, no, no! When you got up this morning—I am talking about those who are from Trinidad or living in Trinidad—you got dressed, jumped into your vehicles and you either went to work then came here. I on the other hand had to get up, leave Tobago very early this morning, take a plane ride which was not always smooth, come into town and hang around until I was ready to come to the Senate. I am just trying to show that Trinidad and Tobago are different. They are different and Tobago must be considered as a different place.

Last week when my aunt's refrigerator landed in Trinidad and Tobago, she had to come to Trinidad to get an import licence in order to get her refrigerator. The cost there was about \$500 more than someone who lived in Trinidad. There is a difference! We are not local government, we are the Tobago House of Assembly and I would like people to visualize us as this. I want the Trinidad and Tobago population to understand that the function of the THA is not to implement national policy, especially as it has been made abundantly clear for centuries that national policy more often than not, does not treat with the realities of Tobago.

Mr. President, an Elections and Boundaries Commission's report on the electoral area of Tobago is outstanding, and I repeat, it is outstanding. Why has one not been submitted? Why? That is most disappointing. When, in August 2008 it was discovered that there was an error that needed to be attended to, why was something not done in haste as this is done in haste? Why was something not done since that time? We would, I am sure, have completed the discussions in a more understanding way. People would not have had to hustle; they would have been able to make better contributions because they would have had time to discuss it.

Mr. President, somebody was tardy and his or her tardiness has left the Tobago House of Assembly election in limbo at this present time. I sincerely hope



that because of the expectations of the people of Tobago, whose right it is to vote by January 31, 2009, that amendments and adjustments will be made, good sense will prevail and whatever amendments are made will be passed in this honourable Senate.

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

**3.30 p.m.**

**The Minister of State in the Ministry of Planning, Housing and the Environment (Sen. The Hon. Tina Gronlund-Nunez):** Mr. President, I am pleased for this opportunity to contribute to the discussion on this Bill to amend the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50, to provide for the review and definition of boundaries in the electoral area of Tobago for the purposes of elections in relation to the Tobago House of Assembly and to validate certain reports of the Elections and Boundaries Commission in respect of the electoral area of Tobago.

In fact, this Government is determined not to expose the electorate of Tobago to any possibility of having their constitutionally elected representatives challenged because of a technical oversight. It is not our intention to lay blame for the error in the Act as highlighted earlier, which existed for over 15 years and as stated earlier: 1992, 1996, 2000 and 2004. But it is the intention of this Government to fix what was wrong which was flagged by the EBC, so therefore to put wrong right. For it is in keeping with the thrust of this Government to improve governance within Trinidad and Tobago and clear the way for Tobagonians to participate freely in an election without fear of having their choice, past, present and future, legally challenged because of this oversight.

Our focus has always been one to encourage freedom of expression of oneself, of course, always in a responsible and respectful manner and to continue along this road we find ourselves here today, ensuring that democracy continues both in Trinidad and Tobago.

But despite the potential for much discord because of this error which has been flagged, we must note that over the last couple of years under the leadership of Mr. Orville London, the THA has functioned very successfully. [*Desk thumping*] Tobago has seen much over this period and has done well in implementing policy and executing their mandate. And so well the THA has functioned to ensure that the much-needed goods and services have reached the people of Tobago, that I encourage the Minister of Local Government to look at

this system in place in Tobago and possibly adopt some of these very said systems to ensure that even the municipal corporations in Trinidad and the people, its burgesses, also succeed and see a better future.

In fact, if not for this responsibility that I carry here today, I cannot hide the fact that in many ways I would have preferred to be in Tobago right now because of the success of the Tobago House of Assembly. [*Interruption*] As I said, Mr. Manning is the head of Trinidad and Tobago.

It may be fortuitous that this Bill has come before us in this House at this time because it gives us an opportunity to discuss this important issue of local government reform and good governance. The issue of governance is important enough to this Government that it has been included as a priority in our much-stressed National Strategic Plan, something that I must state our Opposition within the Senate today—the UNC or UNC-A; whichever one you all wish to call yourselves today—does not seem to understand.

At this time I would like to—maybe, possibly—congratulate Sen. Mark because I heard earlier in his contribution that he himself was going to consider throwing his hat into the ring in the Tobago House of Assembly upcoming election, so I do not know if I have to start to practise saying “Assemblyman Mark”.

**Sen. Mark:** I think you are misleading the House.

**Hon. Senator:** For more licks?

**Sen. Mark:** I am staying in Trinidad.

**Sen. Manning:** You will take licks in Trinidad.

**Sen. Mark:** Yes, I will take it in Trinidad.

**Sen. The Hon. T. Gronlund-Nunez:** I would like to give Sen. Mark a little pre-warning because I am not sure if he is now today the new leader of the UNC/UNC-A in that he was announcing that they are going into this Tobago House of Assembly election that is coming up; that I was going to warn him to leave that until tomorrow night when you all have your meeting and decide who will be the leader of the UNC. I notice a bit of silence.

**Sen. Rahman:** That is courtesy, my dear; courtesy.

**Sen. Dr. Kernahan:** What part of the Bill?

**Sen. The Hon. T. Gronlund-Nunez:** Mr. President, however, if you consider the THA Act as it exists at this present time, one cannot help but note the ideology

behind the functionality of the Assembly in Tobago versus the regional bodies in Trinidad and how well the performance of the THA has been compared to the municipal corporations. It is my opinion that this is partly because of the level of powers assigned to the Assembly which also bear significant relationship to the structure of the Assembly.

Unlike the municipal corporations, the THA has responsibility for areas of development like tourism, culture, the arts, sport, telecommunications, customs and excise, et cetera. The Assembly executes its duties under a structure of governance that allocates specific areas of responsibility to secretaries, et cetera. Under this structure, the elected and nominated officers manage divisions and guide the implementation of Government policies which is done by administrators and the public officers. This is so very different to the Act—I believe it is Act 25 of 1990—which governs the municipal corporations, for in this case the elected are not the implementers. This is why at this time I wish to support the THA and its endeavours for it has been able to demonstrate how when one is elected and with those implementation powers, one is better able to service the people.

However, I do not propose to ascribe similar powers of the THA to the municipal corporations. I will leave that for the Minister of Local Government to so decide in the future, but we do need a structure in place that will allow our system of local government here in Trinidad to run as efficiently as those in the developed world. It is known that we have identified five key areas of focus, which is the municipal management, economic development, social services, environmental management and resilient communities. So we feel that it is necessary for the successful operations to continue, these things have to be implemented.

For these core areas we have five suggested portfolio areas so that councillors, aldermen and mayors could have specific areas of responsibility which now allow them the opportunity to clearly showcase their performance to their burgesses.

We have also been hearing over time about complaints about the proposed adjustment to the electoral boundaries for the municipal bodies. This is only intended—it is my understanding—to solidify the region to allow for better management and reporting. We could have sat back and said that the THA has had elections in the past and functioned successfully for several sessions without even having the EBC identify the boundaries and the districts in which it functioned. But now that the issue has been highlighted, we, within this Senate, as Members of this august body, have the responsibility to ensure that we fix what is wrong.

We will all do well to take a page from the THA and get on with the people's business, ensure that these wrongs are put right so that the THA election can continue and democracy flourish within Trinidad and Tobago.

This Bill is important and necessary. It is not one that is being rushed as indicated by Members of the Opposition. It is just a formality that has to be done to ensure that there is no legal implication to those who have been elected by the people of Tobago and who can continue to provide services and goods to those said people. Now that we are aware of this gap in the legislation, we cannot allow the possibility that the execution of Tobago's business be interrupted by legal interference.

Members on the other side may try in their way to scandalize this formality; make it seem or put spins on something that is a very simple addendum to the legislation which erroneously occurred some time ago. Let us not let down our brothers and sisters in our sister isle. Let us come together, regardless of our political persuasions and work together for the benefit of our sisters and brothers.

With those words, I fully support this Bill and I beseech all those on the other side to also support, to ensure that the average Tobagonian can exercise his or her democratic right to vote in this upcoming Tobago House of Assembly election. As indicated by Sen. Nicholson-Alfred, they are waiting in order to exercise their democratic right. Let us not, because of our frivolities, hold them back; and let them decide their own representatives.

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

**3.45 p.m.**

**Sen. Dr. Carson Charles:** Mr. President, I rise to make a few comments on the Bill before us and perhaps to learn something about the matter before us while I am engaging. I must admit at the outset that this matter, which should be a simple one, does not appear to be clear.

Let me see if I understand what is happening. In 1990, we passed a law, the short title of which is Municipal Corporations Act, in which we reformed the system of local government comprehensively. As a result of passing that Act, we had to make a number of amendments to the Elections and Boundaries Commission Act. In fact, the work that was done at that time was not for the purpose of reforming the Elections and Boundaries Act, it was for the purpose of reforming the local government system and enacting the Municipal Corporations Act whereby we created municipal corporations.

I hear a lot about how bad these municipal corporations are and how they cannot perform. I do not hear that the Government does not give them any money. I do not hear that they get no money compared to the THA and without money they cannot do anything. We are tired making the same noise about local government getting no money. It is a fundamental point I am sure that everyone that is rational should agree with.

We hear a lot about the limitations of the Municipal Corporations Act. At the time the Act was passed, it was a fundamental and far-reaching reform exercise that actually created something from nothing out of the old county council system where people did not even have the power to hold property. They were mere departments of the local government ministry and we created legal entities that could transact business and gave them all kinds of power in law that they have never been taught to use. That is the reality.

The point is that, as a consequence of passing that Bill, we had to make amendments to the Elections and Boundaries Commission Act and it appears now, in making the amendments, we removed the reference to the Tobago House of Assembly because it is not a municipal body. It was removed from that section that dealt with municipalities. That makes sense, it seems to me, in that if you have a section that deals with municipalities in the Elections and Boundaries Commission Act, then you should remove reference to the Tobago House of Assembly and to Tobago from that section because it refers to local government.

There was the debate at the time as to whether a system of local government ought not to be established in Tobago, so clear were we on the point that the Tobago House of Assembly was not a local government body. It was a special creature carrying out functions of central government, delegated or assigned functions in that it was responsible for establishing and executing policy. We considered whether in Tobago, responsible to the Tobago House of Assembly, there should not be a system of local government, but we never got that far into the debate as to whether, for practical reasons, it made sense or not.

What obviously happened is not that there was an error in removing it from the EBC Act, but that there should have been a further action on our part or on the part of those after us to make the provision in the Elections and Boundaries Commission Act for Tobago to be recognized as an electoral area and for districts to be defined and for the EBC to do its work.

If that is being corrected, then that is something we should correct. Rather than blame no one, we should blame everyone, starting with the government of

which I was a part, which made the error of not doing the additional work. We can explain our circumstances at the time, of course and why an error like that could be made in a Parliament that was sitting right after the coup, which was not even in this Chamber, but in the Central Bank towers. It was the very first Bill brought to Parliament after the coup.

If you are bringing a Bill to Parliament after the coup, after your entire government has been shattered and you forget to make a small change in legislation that you are amending consequent to the one you are dealing with, people should understand how something like that could happen. Nevertheless, it does not take away from the fact that an error was made. One, therefore, ought not to hold only the government at the time responsible for the error but one should hold the governments subsequent to that responsible, starting with the PNM, then the UNC and then the PNM again. We cannot say ‘nobody is to be blamed.’ Everybody is to be blamed. I agree that everybody is to be blamed. We are fixing it now and that is the proper thing to do.

It is not just that. That is why I said that what should be a simple matter seems confusing. If we are just fixing that now, why are we having difficulty with having an Elections and Boundaries Commission report? That is what I am having difficulty understanding.

We have had THA election before—1992, 1996, 2001 and 2004—and every time the EBC has been able to produce a report. They have produced reports, changes made as required and they have been debated. Now, on December 09, we hear this has been discovered and we cannot have a report in time for the THA election. Something is odd about that.

When was the mistake discovered? If it was discovered in August, was the EBC in the process of preparing its report before the mistake was discovered? We have continuous registration in this country. The EBC is always preparing for elections. If they were in the process of preparing their report before, then either they should have submitted it before, or if they had not completed it, once they brought the matter to the attention of the Government, they should have taken action promptly to bring this matter to have it attended to so that the EBC could submit its report. They were submitting reports in the past unaware that there was this lacuna and they were not empowered to do so. In ignorance, they were producing their reports and they were being dealt with.

They discovered that they were not empowered to submit the report, so they submitted none and no one brought the matter to the Parliament in a timely fashion for it to be attended to so that they could submit a report. This is what

appears to have happened. There are two issues. One has to do with the error made 18 years ago and another an error which was made this year, in that, having discovered the first error, it has been allowed—let us not ascribe any dishonourable motives to anyone—to become an obstacle to the EBC submitting a report.

That is serious; that should not be so. Something as important as the EBC submitting a report, forcing us to consider authorizing elections to be held in 2009 on a 2004 report, the Minister who received the communication from the EBC that something was wrong in August this year, could that Minister not have taken action more promptly so that the report could have been produced and debated in a timely fashion?

What about communication with the Tobago House of Assembly? The THA is empowered under its Act to dissolve itself at the end of this term, but it dissolved itself in November. Of course, it is empowered to do so. It could have dissolved itself in November or December. It chose to dissolve itself in November, thereby making it necessary to have the election by January 31, 2009. In the face of this, being aware that this problem existed since August, the THA proceeded to dissolve itself, forcing elections to be held at the end of January, giving us no time to correct this error; to receive this report from the EBC, have it debated and preparations made for election.

That is also a serious matter. That ought not to be like that at all. That is why I raised my point as to whether there was a debate in the Assembly; not just whether there was consultation with the Chief Secretary. That is not the same thing. On matters of election, it is not enough to consult with the Chief Secretary. He is a politician. He has a partisan interest and represents one party in Tobago. If he is happy with the election in 2009 on a 2004 report, it does not follow that the contending parties are happy. The only way we would know whether the representatives of the people of Tobago, if not the people in general had an opportunity to speak on the matter, is if they had debated the matter in the Assembly.

Was there communication taking place on a matter like this in preparation for election and self-awareness in the Assembly of what was taking place here and what was required to prepare for the election? They are going to the election and they do not know whether or not the EBC report was presented? What is happening? They have dissolved themselves to prepare for election. They timed the dissolution. The party in power in Tobago controls 11 of 12 seats. They control the Assembly completely so they timed the dissolution of the Assembly.

In timing the dissolution of the Assembly, could they not have taken into consideration whether the EBC report had been prepared, submitted and was available for debate in the Parliament or not?

That is why I said what could be a simple matter seems to be confusing. These are questions to which I would really like answers. I am not saying I am for or against this. There is one aspect that requires support—an error not recognized for all these years. We are all responsible; we should correct it. But the other aspect cannot go unmentioned. Here is a case of serious dereliction of duty in some quarter. Perhaps, like in the case of this error, in all quarters except for our side. In this one, we are blameless. We had no role to play whatsoever in this matter.

The persons in authority in the central government, the Minister of Local Government at least, if not any other Minister—the Minister piloted the Bill. I know in the past when I dealt with these Acts, the Prime Minister used to take responsibility and the Tobago House of Assembly fell under the responsibility of the Prime Minister. To the extent that a Minister was responsible for anything at all, it was the Prime Minister who dealt with the THA. If that still obtains, then the Prime Minister would normally communicate with the THA especially on matters like this. That might be the person who was not attending to these duties. I do not want to ascribe ulterior motives, but I must say there is dereliction of duty, a very serious oversight.

**4.00 p.m.**

This is a serious matter on which someone should speak. Someone on the Government side should say something about this and what really happened. In the same way I say that we are responsible, starting with me as the Minister, someone should be able to say who was responsible for this more recent case of oversight and dereliction of duty. People are busy and sometimes they miss things; even important things. One cannot assume that someone is planning something terrible. I do not want to say that. If that is the case, of course, it will come out and it would be said elsewhere in more suitable places. I do not want to say that here. Someone is responsible for what had to be fixed, what was not being fixed in time and for what was being allowed, perhaps, to get in the way of an important process; something as important as the preparation of the Tobago House of Assembly election. I do not think it is something that we should simply allow to pass and just support it. I think it is serious. There is need for some clarity on the process of election in Tobago. What happened and who forgot what?



For many years, the population growth rate was very low in Tobago. My information is that in recent years, Tobago has had a more rapid increase in population growth. Some might say that it is because of the stewardship of the hon. Chief Secretary. We were hearing how great the Chief Secretary is. Maybe that is the reason, as opposed to the stewardship of others in Trinidad where people are, perhaps, not so keen on staying or coming back home. *[Interruption]* They are going back home now? It is because everywhere else is so terrible, from an economic point of view. They are forced to come back home against their desires. Nobody wants to come back home, but it is because they have lost their jobs. That is not something to be proud of or boast about. People were going to Tobago, not because things were so terrible in the world, but Tobago was able to attract or retain some of its population. For many years it was always losing its population, much of it to Trinidad and elsewhere. It was able to retain some of its population in recent years. In recent years there has been some significant increase in the population of Tobago and, therefore, we are in a situation where, because of this relatively rapid increase in population, the report of 2004 will not accurately reflect the circumstances of 2009. That is my point.

If we were back in the 1980s and 1990s when Tobago's population was stagnant, you would, perhaps, think that the population may have moved a bit, but the overall population has been stagnant. Although it would be a bad thing to have a report for an election five years later, statistically, perhaps, there may not have been so many changes. I assure you that, with the ability of Tobago to retain its population and an increase in its population, the 2004 figures are not current today. Therefore, we would be going into a THA election next year, without knowing what would be the true impact of the changes in demography in Tobago, in terms of migration and population increase and population maturing to voting age. We are going, not knowing the impact of what those things would mean on the election process, the results of the election and whether we would have an imbalance in one district, as opposed to another and whether we should have had changes in districts. We do not know.

There are many things that have gone wrong, starting with a simple matter but ending with a really bad situation that we have been asked to rubber stamp. We have been asked to validate back to 1990. I do not know, the lawyers would have to advise me on that one, is it really necessary to validate elections held all the way back to 1992, because you have discovered an error?

**Sen. Seetahal SC:** Yes.

**Sen. Dr. C. Charles:** That is necessary? Otherwise what happens? There is no provision that the Assembly and acts of the Assembly would still be valid even if you do not do this? [*Interruption*]

**Sen. Dr. Saith:** You have two Senior Counsels.

**Sen. Dr. C. Charles:** I am seeking it. This is an education process for me while I am on my feet. I did not get it before. I sat and listened, hoping to get some from the Government Benches and I did not get it. I got a presentation, which did not clarify the point I just made. I wanted to listen to the contribution from the hon. Senator from Tobago, but the Senator is still in her chair, so I decided I would seek some information while I am on my legs. Perhaps, that might help us all to understand better what is really happening. Those are the main issues.

To recap quickly, an error was made, because the EBC Act was amended, not that it should not have been amended. That was not the error. The error was an oversight, in that we did not proceed to make a further change, providing for Tobago to be recognized in the elections laws apart from being seen as a municipal corporation. That is now being done. It is unfortunate that the Government came with this wording, which is really a bad thing to do. We know the importance of symbolism.

The battle of Tobagonians has been much about form as it is about symbolism, in that Trinidad continues, in the opinion of many Tobagonians, to see Tobago in a particular way. It is really bad to come with the wording that gives the impression that Tobago is being seen as another local government area. That should not have been there. We should have come with the Bill with the right wording, so as to give the right signal that, at least after all these years, we recognize what the people of Tobago have been saying.

I thought the Prime Minister learnt his lesson and that getting “licks” thought him how to live with Tobagonians. He cannot claim responsibility for victory in Tobago. He can claim that he learnt how to live with Tobagonians by allowing them to do what they want on their own and not interfere with them too much. At least he recognized his past mistakes. If he remembers the lesson, he would remember how to deal with them in the future. When you have matters as important as these, you should have a debate and you should advise the Chief Secretary to have the matter dealt with within his council, so that there would be a debate, as we have here, on the matter concerning election in Tobago. It should be debated in Tobago, where we can hear the results of the debate and the actual

contributions from the various sides, those who are opposed to it and those on the Government side, as to what they have to say about the matter and how they think it might impact on Tobago. More than anything else, you would like to be advised by Tobagonians as to how they see this. That is what we are lacking here. [Interruption]

Of course, we have Tobagonians in the Senate, but I mean Tobagonians who are in authority in Tobago; not just Tobagonians. It means Tobagonians who are in authority in Tobago, those who speak for Tobago, we would like them to advise us as well on how they see this. When we take our action, we can take our action with confidence, knowing that we are acting on the advice of the right authorities in Tobago that they have duly considered the matter; they have recognized the implications of it on both sides and they have accepted that this is the way to go; and that they have even accepted the blame themselves for dissolving their Assembly too soon, assuming it was inadvertent. Then we can act knowing that we have recognized, even at the Parliament level, the concept of internal self-government that says they would say what they want to do about these matters and once it is consistent with the integrity of the State of Trinidad and Tobago, we would be advised. I thought that was the lesson the hon. Prime Minister would have learnt, beyond just how to win election in Tobago. [Interruption]

The NAR? The UNC-Alliance? I thought you would be aware of our particular history. I do not need to speak about the NAR's history in Tobago and I do not have to speak about the NAR's input in the UNC-Alliance. I thought that is pretty obvious after almost one year. You should be aware. We support the right of the Tobago people to self-determination. At every election we support them. I have campaigned in Tobago many, many times. If I feel like campaigning I will. It is part of the whole movement that we have. It is not limited to Trinidad. It is a movement that says that this centralist Government that we have here is really sitting there, as much as we are sitting here, in default. That is why you are sitting there and the same way we are sitting here. In due course—

The whole thing about the THA model in Trinidad is dangerous talk. The THA model is the THA model. It was designed for Tobago because of Tobago being different. We want to give power to local government. We want to give them some autonomy. We do not want to create the THA in Trinidad. Creating an executive council in a local government body is not the THA model, especially when you tell local government bodies that they have to carry out central government policies. The most fundamental aspect of it is that—[Interruption]

**Mr. President:** You are not on the point.

**Sen. Dr. C. Charles:** In bringing the whole thing together, there are a few simple points. In this debate, I would like to hear something on the matter that transpired this year, having recognized the error.

I heard some comment about the head of the Law Reform Commission. Is it that the Chairman of the Law Reform Commission did not agree that there was a need for this amendment? Is that what I heard? I was not sure if that was the point. Is it that the Chairman of the Law Reform Commission did not see the need for the amendment, but the subsequent reference to the Deputy Solicitor General identified it? I thought that is what the Minister said. [*Interruption*]

**Sen. Annisette-George:** Please permit me to clarify. When the lacuna in the Act was recognized, it was felt that it may have been an omission in the compilation of the Act and the advice of the Chairman of the Law Revision Commission was that the Act, as recorded in the 2006 revision was a proper representation of the Act. It could not be fixed by a correction order. That was what the advice from the Law Revision Commission was.

**Sen. Dr. C. Charles:** It was not a matter of recording, but a matter of something more fundamental that had to be dealt with. I understand. As I have said, please advise us of what went wrong, especially why the Assembly thought it might dissolve itself and why no action was taken in a timely fashion. We would like to be advised. What are the options at this stage? All of this having happened, for which people are responsible; we should know who is responsible, what they did and what they did not do. The country should know that. That is the duty of the person responsible, to take responsibility for that.

Beyond that, however, we would like to be advised as to what are the implications even at this stage. Is it that we have no choice and that there are no means by which the EBC report could be considered and, therefore, we have more up-to-date information for 2009 election than 2004? Is there no way out of that? Is it that there is something that can be done and we would know what the options are? If you had to do something to correct that problem, which is also serious, what would that be? I do not think it is a good habit. Apart from the point of passing retroactive legislation, which we know is always bad, but if we can do nothing about it, then we can do nothing about that. Apart from that, I do not think it is a good habit to simply accept that we must go on an EBC report that is five years old. We should at least see what else could be done if we need to have a more up-to-date report, and then could decide what is perhaps more difficult to do in the circumstances.

**4.15 p.m.**

Finally, we should know what the people of Tobago, through their representatives—I do not mean to go on the streets and find out—or former representatives—at least in terms of the various contending parties in Tobago—think the implications would be for the election and what we are going to do here. Those are my queries.

I thank you very much. [*Desk thumping*]

**The Attorney General (Sen. The Hon. Bridgid Annisette-George):** Mr. President, I thank you for this opportunity to join this debate and, hopefully, from this contribution, I may be able to clear up some of the issues that were raised.

Section 71 of the Constitution establishes the Elections and Boundaries Commission (EBC). Sen. Mark, in particular, made reference to the functions of the EBC as far as the Tobago House of Assembly and local government are being founded in the Constitution. Just for a matter of clarification, the functions of the EBC, as defined in the Constitution, relate to national elections and that is why the Elections and Boundaries Commission (Local Government) Act was passed in 1967. If one looks at the long title it says to extend the functions of the Elections and Boundaries Commission for the purposes of local government elections and, therefore, this debate is concentrated on this Act and not on the Constitution.

What has happened? Sen. Dr. Charles gave us a little history of the coming into force of the Municipal Corporations Act and the whole creation of the THA as a different creature from the municipal corporations. He is correct and it is accepted on this side that the Tobago House of Assembly is not like the other local government bodies. We recognize it as local self-government and not local government. In fact, we paid recognition to that as the Bill was amended in the other place to include the Tobago House of Assembly in the name of the Bill. It may be misplaced, but it is a recognition on this side that the Tobago House of Assembly and the affairs of Tobago are quite different from what operates with local government.

I want to assure hon. Senators, members of the national community and, in particular, the citizens of Tobago that there is no attempt on the part of this Government to bring the Tobago House of Assembly under the local government system.

What has happened is quite understandable, though it may not be excusable. In 1981, there was a revision of the laws of Trinidad and Tobago and, of course, that revision preceded the amendments in 1990 by the Municipal Corporations

Act. Those amendments were not included in any revision until 2006 when the latest revision was published. It appears that in error the EBC had been following the law as contained in the 1981 revision of the laws of Trinidad and Tobago which, in fact, ceased to be the operative law. So, for a very long time, the very procedure that Sen. Mark referred to in his contribution with respect to there being the need for the creation of a report, ceased to exist in 1990. So, with respect to the election in 1992 when the report was generated, it was generated without there being a legal basis for the generation of the report. It is by sheer dint of habit that a procedure was being followed by the generation of this report and the report being sent to the Minister and the report being laid.

In preparation of the 2008 report, it became evident by the EBC—when they checked the 2006 Revision of the Laws of Trinidad and Tobago—that no provision was made for Tobago, and it was not included as an electoral area under the Elections and Boundaries Commission (Local Government) Act. There was no provision in section 4 for the creation of a report.

However, section 4(2)(c) spoke about a report being made not under two years, but not later than four years. So, there was a provision for a report to be made not less than two years and not later than four years, but the actual basis for the review, the defining of boundaries and the creation of a report no longer existed in the law as amended.

The EBC apparently felt that this omission was an error and wrote to the Law Revision Commission sometime in August, and it is in the response from the Law Revision Commission, they explained that the omission was not an error, but it was actually the state of the law as it stood.

What happened since was that there was some sort of conflict as far as the legal position with respect to the elections. The last four elections were done in a particular manner, even though there was no legal basis for it and whether the EBC could not proceed in the same manner as they had done in 1992, 1996, 2000 and 2004.

The position of the EBC—and one can understand that—is that why we may have erred in the past, we were ignorant of it. We are now apprised of the position of the law and, therefore, we must act in accordance with the law. That is what occurred and which delayed the coming of this Bill before this honourable Senate.

**Sen. Mark:** Mr. President, through you, could I ask the Attorney General, when did the EBC find out that they had erred? What time of the year?

**Sen. The Hon. B. Annisette-George:** As I said, in August the EBC would have found that there were provisions missing from the Act. Their first position was this may have been some sort of typographical, clerical or administrative error and they wrote to the Law Revision Commission for advice. This would have been in August. The Law Revision Commission would have indicated to them that the law, as recorded in the 2006 revision, is the law as it stands.

The EBC then sought advice with respect to whether they could go ahead with the election as they had done in previous years. Because there was a conflict with respect to the advice being given to them—the Tobago House of Assembly Act says that the Assembly should consist of 12 assemblymen. The implication of that is that there are 12 electoral districts. If the Tobago House of Assembly Act says that there are 12, then there may be no need for a report with respect to boundaries because the Act sets the limit of 12.

**Sen. Mark:** Mr. President, through you, you said that there were conflicting legal opinions, from whom? If they went to the Solicitor General, who else did they go to and get conflicting opinions based on what you have said? How many opinions did the EBC receive on this matter?

**Sen. The Hon. B. Annisette-George:** I am unable to say how many opinions the EBC received. I know that there was one opinion coming from the Deputy Solicitor General pointing out that the Act does make some provisions with respect to a report in section 4(2)(c), but there are certain anomalies in the Act and that the EBC should take all of that into account with the original intent that may have been present for Tobago and, therefore, there may be need for amendments. I cannot say who else the EBC would have sought advice from.

Having regard to the fact that the EBC became aware that the procedure they had followed in four previous elections was not supported by some legal basis, it was felt that things should be put right at this stage, and this is what this piece of legislation is about. It is about putting right an omission which, according to Sen. Dr. Charles, we should all take responsibility for. That is as simple as it is.

With respect to what was the position of the Tobago House of Assembly and why the THA dissolved on November 01, 2008, it is within their power to dissolve at any time. I am unable to say whether at that time the THA was aware of this lacuna in the law. However, the Tobago House of Assembly having dissolved on November 01, 2008, the election must be held within three months. So, the latest possible date that the election could be held in Tobago would be January 31, 2009.

**Sen. Mark:** Mr. President, through you, earlier in the Attorney General's contribution, when I asked the question whether the Chief Secretary or the Tobago House of Assembly was consulted on this matter I was told yes. Could the Attorney General tell this honourable Senate when the consultation took place with the Chief Secretary on these amendments that we are now debating?

**Sen. The Hon. B. Annisette-George:** Mr. President, I am sorry, but it appears between Sen. Mark and myself there must be a little difficulty in understanding language. The question originally asked by Sen. Mark was whether there was consultation on the Bill and I answered yes there was consultation on the Bill, and I am now being asked whether there was consultation on the matter, and the matter I think would include the bigger issue. There was consultation on the Bill, and the consultation was done on the Bill, as drafted, through the two representatives of Tobago on the Government's side. That would have been done maybe about two weeks before the Bill was debated in the House of Representatives. So, I cannot answer anything with respect to when it first came to the attention of the Chief Secretary, but I can only speak with respect to the knowledge of the Bill. As I have said before, the Chief Secretary approved and agreed with the procedure being followed here, recognizing the need to cure a deficiency so that the THA election could take place in 2009.

Now, the question of whether we are subjecting Tobago to local government, the procedure which Sen. Mark said should be followed is exactly the procedure under the Elections and Boundaries (Local Government) Act. It is a procedure that has worked and, therefore, having regard to the exigencies at the time, it was felt best to use what has worked. That is why these amendments are coming in this current form.

If one looks at clause 5 it says that it will delete rule 5 and substitute the following rule:

“In the delimitation of electoral districts in electoral areas—” I now go to (b) and it says that—“rules 1, 2(2) and 3 shall apply in respect of the electoral area of Tobago;”

In fact, clause 5 says that the electoral area in Tobago shall be divided into 12 electoral districts, so that is really fixed. Tobago is a bit different from Trinidad, in that according to the rules as set out here and the Tobago House of Assembly Act, it is fixed to 12. So, the review and the report will really apply as far as Tobago is concerned for the purposes of setting the limits of the boundaries. In order to increase the number of the electoral districts—



**Mr. President:** Senator, it is now 4.31 p.m. If you are going to wind up in the next three or four minutes I am going to allow you to finish but, if not, we will take the tea break and you can finish when we come back.

**Sen. The Hon. B. Annisette-George:** Mr. President, I think I will be a little longer than a few minutes.

**Mr. President:** Hon. Senators, the sitting is now suspended for tea until 5.00 p.m.

**4.32 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

**Mr. President:** Minister, we do not have a quorum, so we will just have to wait for a few moments. [*Pause*] The hon. Attorney General.

**Sen. The Hon. B. Annisette-George:** Thank you, Mr. President. The purpose of this Bill would be to validate all the actions that were taken by the Elections and Boundaries Commission in the submission of the earlier reports for 1992, 1996, 2000 and 2004, and all actions consequential thereupon. Also, the purpose of these amendments would be to provide a procedure for the review of the boundaries and for the preparation of the report of the Elections and Boundaries Commission for future purposes for the Tobago House of Assembly elections; also to extend the life of the 2004 report, and the Order made in 2004 for the purposes of the 2004 election to allow the election to take place in 2009.

Members talked about disenfranchising people in Tobago. I want to say that no such thing takes place. Registration of voters occurs under the Representation of the People Act; that is an ongoing process. All that really occurs under the Elections and Boundaries Commission (Local Government) Act, particularly as it relates to Tobago, for these amendments that we are trying to put in place, would allow EBC to really shift boundaries, but not create new electoral districts, because rule 2(2), which is intended to be replaced, sets the electoral districts in Tobago at 12.

So, what will really be affected by there being no report, would be a question of changing boundaries. If in a circumstance there was some question with respect to the formula, because the formula says that boundaries are placed in the districts using primarily highways, rivers and those sort of natural delineations, except that one tries to—and this is what rule 1 says—equate some priority among the districts within a 25 per cent margin. That is really the only matter that may be affected when one talks about the demographics.

As we said, there is no evidence of that. The only evidence of that would come from a report which, according to the position with the Elections and Boundaries Commission, there is no basis for them generating a report, and that is why there was none before. It is only these amendments that would allow a report to be generated. While it may not be a happy situation, it is felt that elections is an important process; it is underpinning of the democratic process and therefore, the emphasis was placed on allowing the people of Tobago the opportunity to exercise their franchise.

The life of the Assembly cannot be extended, because it has already come to an end. So, the Government does not have any other choice but to bring this legislation forward. In fact, mention was made of clause 8, which says:

"Notwithstanding section 4(2)(c) and 4(6) of the Act..."

Section 4(6) in fact, says, and that is the Act as it stands, that the Order made by his Excellency, the President, subsists until replaced by a new order. So, there is no need to really extend the order because the order automatically subsists, unless it is replaced by a new one. I ask Members on the Opposition and Members of the Independent benches, to support this measure to ensure that the election in Tobago takes place in accordance with their statutory obligation, that it must take place within three months because the Assembly life is coming to an end.

**Sen. Dr. Nanan:** Thank you, Senator. You said that even if the order makes reference to that particular issue with respect to the boundaries—

**Sen. The Hon. B. Annisette-George:** What order?

**Sen. Dr. Nanan:** The order for the President in terms of the Elections and Boundaries Commission (Local Government) Order, 2004. It makes reference to that exact thing where they define and review the boundaries, and you are saying that is not a requirement, but it is saying here in the order, by the President, that it is a requirement. So, you are saying the President takes precedence over what you are saying that it is not in the Act. Is that correct?

**Sen. The Hon. B. Annisette-George:** I am not sure that I really understand the question, Mr. President.

**Sen. Dr. Nanan:** What has happened is that in this order, it makes reference to the EBC's role in defining or reviewing the boundaries of the electoral districts, according to rules. But what you are saying is that this particular requirement in

terms of the Elections and Boundaries Commission producing a report to Parliament or the Minister is not a requirement, but this order by the President says it is a requirement.

**Sen. The Hon. B. Annisette-George:** Mr. President, through you, to the hon. Senator, what I had indicated is this, and one has to make sense having regard to the history. Section 4(1) is the section of the Act, which sets the requirement for the review of the boundaries to take place. Section 4(1) of the Act currently does not apply to Tobago, however the practice was followed.

Section 4(2)(c) makes provision—and that applies to Tobago—for a report to be prepared not less than two years but not later than four years from the last report. When that happens, a draft order would be laid in the House of Representatives, that would be debated and once there are no modifications, His Excellency the President will sign an order and thereafter a writ proclaiming the election would be issued.

There is one currently in existence on which the 2005 election was held. That continues to subsist until it is replaced by another. The point I am trying to make is that clause 8, in my respectful view, was not necessary, but it was put in there out of an abundance of caution, and everything that has been done by this amendment legislation is to ensure that rather than—because there has been so much debate with respect to what is the proper procedure, that a procedure be put in legislation so that there would not be any—*[Interruption]* You have the amendment Bill? I am sorry, Mr. President, it is clause 7 of the Bill.

Why I said clause 8 is that there are some amendments, which are going to be circulated and the amendments arise out of certain contributions. As I indicated when the hon. Sen. Seetahal SC spoke, with respect to the amendment of the name of the parent Act, an amendment is going to be circulated with respect to the short title and long title of the parent Act to include the words "Tobago House of Assembly". So, the proposal would read: "The Elections and Boundaries Commission (Local Government and Tobago House of Assembly) Act", and therefore, the long title would make provision that the Act will govern the elections of local government and the Tobago House of Assembly elections.

Therefore, as a result of that, all the other sections of the Bill will have to be renumbered, and further, out of an abundance of caution, another clause, which will be clause 11, will be added to say: "that wherever in any law reference is

made to the Elections and Boundaries Commission (Local Government) Act", it will now mean the Elections and Boundaries Commission (Local Government and Tobago House of Assembly) Act.

**Sen. Dr. Nanan:** Will you be amending at any point in time the Tobago House of Assembly Act, which makes reference to the assemblymen?

**Sen. The Hon. B. Annisette-George:** Mr. President, at this current time, I know of no proposal to amend the Tobago House of Assembly Act to increase the number of assemblymen. The hon. Senator who is the Minister of Local Government indicated that in due course amendments will be made to the Tobago House of Assembly Act to make proper provisions for the elections in Tobago.

As far as the report, which would have been due in August 2008, what will happen is that some time in the course of next year, legislation will come to validate that report when it is ready. That is not new; a similar course was pursued in the year 2002, and it was also pursued, I believe in 1992, that when the report is late, validation legislation comes and that would also come. I think any proposal to increase the number of assemblymen, I guess will only follow if that is a recommendation of a report and adopted by the House of Representatives.

I thank you, Mr. President.

**Sen. Corinne Baptiste-Mc Knight:** I thank you, Mr. President, for giving me the opportunity to intervene in this debate. Having listened very carefully to what has gone before, I wish to state that I support the amendments proposed by Sen. Seetahal SC. I noted that among the amendments the hon. Minister mentioned would be coming, she did not mention Sen. Seetahal's proposal for the amendment to section 3.

However, my main reason for intervening in the debate at this time, is because in a previous existence prior to coming here, I was a member of the Elections and Boundaries Commission, and that caused me to understand a bit of what goes into an election process and how the EBC's preparations would have been carried on in this instance. I am sorry that Sen. Mark is not here because I suspect that there are aspects of the process of the electoral system that he has forgotten.

**5.15 p.m.**

Let me address his insistence, almost, that Dr. Norbert Masson has been involved in various of these reports which are now being validated. Now there is a difference between the responsibilities of the members of the EBC and the authority and duty of the chairman. The members analyze and approve the report.

It is the duty of the chairman to submit the report. Now, when Dr. Masson became chairman—and this is subsequent to the submission of the Eighth Report in 2004, it now falls to him to submit the report—being a conscientious and law-abiding—let me repeat, law-biding—citizen, he takes his responsibilities seriously. So, I expect, as he would have done when I was there, he checks with the laws to ensure that chapter and verse would be correct in his submission. Now, it so happens that he would have been checking—with what I refer to as the red book which happens to be the latest edition of the laws from 2006. And it is until that red book arrived that no one was aware that these elements—referring to Tobago—had been expunged—I think is the nice legal word.

Now, how can someone be blamed for being law-abiding, and that in the House that makes laws? I think this is most unfortunate. Be that as it may, Sen. Mark expressed a concern that I shared for a while and which made me go back and read in detail and get some of my gurus to explain to ensure that I understood what was going on. In terms of Tobagonian electors being disenfranchised, I am personally satisfied that there is nothing in this amendment that will cause that, for the simple reason that after the Order of 2004 was issued on the basis of the report there was the electoral registration process.

Now, let me back up a bit, anyone—and I think that some of the members in the Benches just in front of me would probably be aware of the fact that the Eighth Report on Tobago was probably either the second or at most the third in which any substantial changes were made to the boundaries. And this, as the hon. Minister explained is purely because these changes are not done because the Elections and Boundaries Commission wants to make work for themselves. It is because they are forced to apply a certain set of regulations that state that there must be some average of the electorate in each electoral area. How is this average arrived at? The total electoral population is divided by the number of electoral areas and you get a maximum and you extrapolate a minimum which must not be less than 25 per cent of the maximum. Now, when that formula was applied for 2004 they arrived at the boundaries of the 12 areas for Tobago and 10 of those boundaries were changed and only two remained the same.

It is therefore hardly likely applying that same formula that in four years time the population of Tobago will have changed and shifted in such a dramatic fashion that changes would be required to the electoral boundaries again. But if even that were the case, these would be minimal and what would be a matter for concern is how would the electorate be affected. In fact, the electorate would not

be affected because whatever changes occurred in each electoral district as well as those changes that would happen as a result of the electoral registration, which is a must, will be taken into account after this Bill is passed and the election process in Tobago continues as prescribed. That electoral registration is what will determine who are able to vote in each electoral district. I am personally quite satisfied that nobody who is eligible to vote and wants to vote in Tobago will not have the opportunity so to do.

I think that in fairness to myself, having listened to the debate, I would like through you, Mr. President, to assure my good friend, Sen. Rahman, that I do not think this Bill is taking the easy way out. I am sure that it was not easy to take the decision to come here at this time, umpteen years after this—

**Sen. Rahman:** My concern is retroactive.

**Sen. C. Baptiste-Mc Knight:** It could only be retroactive, if you notice that there is a problem in 2008 and this problem has happily subsisted since 1990, what option do you have?

**Sen. Rahman:** Amend the legislation, not retroactive legislation.

**Sen. C. Baptiste-Mc Knight:** Well, we agree to disagree on that, because I think that it is quite sensible to ensure that whatever is necessary is done so that this election can proceed as required.

Mr. President, I would just like as is normal when I take the floor to ask that any typographical errors in the text be attended to.

I thank you.

**Sen. June Melville:** Thank you, Mr. President, for giving me this opportunity to contribute to this debate on a Bill entitled, an Act to amend the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50 to provide for the review and definition of the boundaries in the electoral area of Tobago.

Mr. President and hon. Senators, as expected, there is a lot of discussion on this very serious topic in Tobago, on both our local television and on the radio. There is a lot of discussion. And this lacuna or legislative error has cause for concern without a doubt. To Tobagonians it is a very serious topic and the fact that it was not addressed for 18 years is even more crucial. It is amazing. Tobagonians view the Tobago House of Assembly as sacred, very dear to their very existence and indeed, to their independence. In fact, we know that the THA

was created for the purpose of moving away from the concept of local government—as applies to Tobago—because the THA has its own arrangement, it has its own assembly and indeed, it is no longer part of the local government system.

I was amazed having listened to Sen. Mark. He wondered why is it that Mr. Orville London, our Chief Secretary of the THA would have dissolved the THA on November 01. And Sen. Mark must remember that the THA has that right. The Chief Secretary has that right. But leading back to this discussion one of the main concerns about this particular topic we are discussing here—a debate this afternoon—for Tobagonians, is not that our rights would be denied or that our voting rights would be denied. That is not something that we are worried about. The main concern is that under Chapter 11A of the Constitution which applies to the THA, is that Tobago should retain its powers and functions as prescribed in the Constitution. And indeed when we have a new Constitution in the future, that we would have even more powers, more functions. We know on this side that under the People's National Movement and even more so in our 2020 vision, this is the way forward for Tobago. This is indeed the way forward for Tobago.

Mr. President, one of the things about this particular debate is that these changes that we are hoping to make—well, I am hoping that everyone agrees and would support the debate—they are absolutely necessary. As we know because Tobagonians, as one of the other Senators mentioned, do feel from time to time a little left behind. They do! We know on this side, over the past few elections—Tobagonians have done the right thing and they have voted for the PNM. [*Desk thumping*] And we also know that because of the astute leadership of our Chief Secretary, Tobagonians have experienced a higher standard of living over the past eight years. And we believe on this side—that even though this Bill is under the Local Government Act—that the People's National Movement and this Government will do the right thing and as early as possible this Bill would be passed under the Tobago House of Assembly Act. We believe that.

### **5.30 p.m.**

As Tobagonians prepare for this election, which they are already preparing for, which should be before January 31, we on this side believe that any issues that are outstanding—and in this case the issues dealing with the Elections and Boundaries Commission—must be addressed in a timely manner. We on this side again know it will be addressed and, of course, we, the Members of the People's National Movement look forward to another administration under the People's National Movement. We look forward to this under the astute leadership of our Chief Secretary.

What was amazing earlier was that Sen. Mark would have made so many comments concerning Tobago and how Tobagonians feel in terms of this particular debate and the fact that Tobagonians have been disenfranchised, and so on. I just want to ask Sen. Mark when was the last time that the UNC-A, B or C actually fielded any candidates in the Tobago scenario in terms of our elections? It does not show that you care. Why is it that you are coming here today in this honourable House to try to prove that you care about Tobagonians?

**Sen. Rahman:** Democracy.

**Sen. J. Melville:** Not just that; it is also democracy to field your candidates as well. I know for a fact—I have read in our local newspapers last week that the Leader of the UNC-A, the hon. Basdeo Panday had indicated his support for the TOP, DAC or NAR in Tobago and we are assured on this side that with this Bill that the people of Tobago will do what they have done in the past few elections; that they will again vote for the People's National Movement and bring us back in power for another eight years.

We know that it has taken 18 years for changes to be made. Some of my favourite words are, “the time is always right to do right”, and, indeed, the time is now and it is the responsibility of this responsible People's National Movement administration to do the right thing. I know in the end it will allay the fears of our people in Tobago and at the end of the day Tobagonians would benefit. I am hoping that in the future we visit some of our laws to see that they do not disadvantage Tobagonians, because, you know, as I mentioned before, Tobagonians are a little concerned about these kinds of issues. I am sure that this particular topic will be part of the electoral debate over the next few weeks. But I believe that Tobagonians should take courage and rest assured too, that what we are doing here today it is to Tobago's benefit. Yet at the same time the changes that will be made in the future in terms of putting this particular debate with the THA Act, will be done as promised by the hon. Bridgid Annisette-George.

I am hoping that Members on the opposite side and, of course, Members on the Independent side too, would support this Bill so that we can move forward and have the Tobago House of Assembly election by the end of January, 2009.

Mr. President, I thank you.

**Sen. Dr. Jennifer-Kernahan:** Mr. President, I would like to make a small contribution to this Bill before us, to amend the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50, to provide for the review and definition of boundaries in the electoral area of Tobago for the purposes of



elections in relation to the Tobago House of Assembly and to validate certain reports of the Elections and Boundaries Commission in respect of the electoral area of Tobago.

When Sen. Mark, in his contribution, made certain remarks about not being able to trust and take at face value the positions advanced here by the Attorney General and by the Minister of Local Government, the Attorney General was very upset and she objected and so on. But it seems as the debate has unwound, it shows clearly that Sen. Mark was quite correct in his position that we are not able to trust and take at face value—

**Mr. President:** Senator, I think we already decided we are not going to go there. I do not think that you should go there. Please let us talk about the Bill in front of us and not about the conduct of Ministers or their integrity or anything else.

**Sen. Dr. J. Kernahan:** Because it seems to me that what seemed to be a simple matter of rectifying an error in the law with respect to the validity of reports generated by the Elections and Boundaries Commission with respect to the Tobago House of Assembly, turns out to be much more than that. It turns out to be a matter, as we consider it here on this side, of serious issues with respect to democracy, with respect to the respect for institutions and these institutions seem to always be under attack—the whole question of institutions seems to be always under attack by this administration.

As the debate unwound here this afternoon, we have seen disrespect for the institution of the Tobago House of Assembly; we have seen disrespect for the institution of the EBC; the position of the Government here this afternoon has shown disrespect for the institution of Parliament and the Government's position here this afternoon has also shown disrespect for the laws and the Constitution of Trinidad and Tobago. So with the PNM, it is never quite as simple as it looks and this has always been the case in this House and it continues in this case.

In the first place, the Minister of Local Government purported to speak on behalf of the EBC here this afternoon while making no attempt to explain the serious lapse in the requirement, by law, of a production of a report by the EBC, not less than two years or more than four years after the last report. The Minister of Local Government purported to speak on behalf of the THA, purporting to have spoken to the Chief Secretary of the THA on the matter of the amendment of this—

**Sen. Manning:** Mr. President, on a point of order—clarification.

**Sen. Rahman:** A point of order or clarification?

**Sen. Manning:** Clarification. I did not say that I spoke to the Chief Secretary. That came from the Attorney General.

**Sen. Dr. J. Kernahan:** Mr. President, we understood on this side when directly asked, that the Minister explained to the House that the Chief Secretary was consulted on the issue of these amendments to this law and that he had agreed to these amendments. I do not know if the Minister is being semantical here. If the Minister is implying that she personally did not speak to the Chief Secretary, but this was the impression that we got, that the Chief Secretary was consulted. This is what I am saying, that the Minister said that the Chief Secretary was consulted and he has agreed to the amendments to this law.

So I am saying that the disrespect for the THA comes with the purported view that the Chief Secretary was consulted, but the Chief Secretary does not comprise the THA. There are other persons within the institution of the THA: the minority leader; the members of the THA and there is no evidence that these persons were, in fact, consulted or spoken with and so on. Therefore, it shows a blatant disrespect for that institution. This is something that this Government always does. We have seen it in all the Bills that have come through this House; total disrespect for institutions; for Pan Trinbago, and so on. We see it every time we come to this House. We have institutions but when this Government wants to make amendments, pass laws, bring legislation and so on, the institutions are bypassed completely and they speak with individuals, as individuals. Because, of course, the whole idea is to get the answer you want and the view you want and not to get what people really think as a whole. So this is the disrespect shown here this afternoon for the Tobago House of Assembly.

There was disrespect shown here this afternoon for this Parliament, because the Ministers of Government have come to this Parliament—the AG—and they have all rationalized the position that it is not important to bring the report because nothing much would have changed and so on, over the last four years. It is irrelevant as well as disrespectful because that is not the point. The point is, by law, this Parliament is entitled to a report from the EBC not less than two years and not more than four years and, therefore, it should be here.

The fact that it is not here and the fact that you may think that it is not important for it to be here, and that you may have an idea that there are 12 electoral districts and that would not have changed and the population would not have changed, that is not our business; that is not important to us. The fact is that

we are an institution that by law is entitled to a report by the Elections and Boundaries Commission and if you are going to come to this Parliament and you are going to purport to speak on behalf of the Elections and Boundaries Commission, and you are going to purport to speak on behalf of the THA, is total disrespect for those institutions; total disrespect for Parliament.

We want the report and we are not going to swallow all those half-baked stories about they dissolved the THA and there is no time and it was August, and there are conflicting legal reports and so on. Are you running a government or are you running a parlour or some sort of little backyard business? What is happening here? This Government is coming to the people of Trinidad and Tobago and is telling us that an important report that is supposed to be generated by the Elections and Boundaries Commission, is not before us because you cannot get a proper advice on the way forward to deal with this report?

**Hon. Senator:** We never said that.

**Sen. Dr. J. Kernahan:** You said there were conflicting legal opinions—

**Sen. Manning:** Mr. President, on a point of order again—Standing Order 35(5). The Attorney General never said that and the fact remains that the report is not laid on the Table because the Bill has not been approved, and that is what she said. The Bill has not been passed. We have to pass the Bill first and then lay the report. That is what she just spent her time explaining after Sen. Dr. Charles.

**Mr. President:** Senator, take special care when you report what has been said on the other side, because if you do not, then you are, in fact, virtually intentionally misleading the House which you know you cannot do. Therefore take great care. If you are going to listen to the debate, then listen very carefully and make sure that you report accurately what the other Member has said, because you may not repeat it wrongly.

**Sen. Dr. J. Kernahan:** Mr. President, the Attorney General clearly said that the EBC did not generate a report because it sought legal advice and there were conflicting legal opinions on this matter and, therefore, between August when the report was due, to now, they have been unable to generate this report because there was conflicting legal advice. They have not been able to come to a definitive stand on this matter and the report just was not generated because of the fact that they have no proper legal advice. We find this ridiculous; we find this really incredible and that is why we come back to the point that there always seems to be more in the mortar than the pestle. We cannot understand why a

government, having a solicitor general department, having teams of lawyers at its disposal, and so on, in such an important matter dealing with Parliament and a report that is by law due to come to Parliament, why such a report cannot be generated.

**5.45 p.m.**

The point is, Mr. President, the Tobago House of Assembly has gone ahead on its merry way and dissolved itself and is preparing for elections. So there is no problem there. So why is there a problem with respect to presenting the ninth report to Parliament which is necessary by law? We are saying, the fact that all these half-baked excuses about lack of legal opinions and so on, we are not accepting that. We totally reject those arguments and we are saying that this administration is not only disrespectful, but is very irrelevant and is not really dealing with the issues here at hand.

Mr. President, I just want to look for clarification at the errors that are purported to be the source of the problem in the Bill before us. These errors apparently have been in train over the last 18 years, over four elections in the Tobago House of Assembly and they would have negatively impacted on the validity of the elections. So therefore, this is why we are here this afternoon to validate the last four reports of the Elections and Boundaries Commission with respect to the electoral area of Tobago. As all of our colleagues have said here this afternoon, what was done in error has to be rectified and we have no problem with that, the fact that under the Act, Chap. 25:50, the whole question of Tobago as an electoral area was left out and in the Bill before us, clause 3 will rectify that issue, including Tobago as a electoral area.

In fact, clause 3(b) in the Bill before us says:

"in relation to the Tobago House of Assembly, the area mentioned in the first column and described in the second column of Part III of the First Schedule."

So in this new clause 3 of the Bill before us, it formally includes Tobago as an electoral area.

In clause 4 of the Bill before us, the First Schedule to the Act is amended by including Tobago again under Part III, naming the electoral area which is Tobago; giving a description of the electoral area, which is the island of Tobago; and the number of electoral districts, which is 12.

In clause—

**Mr. President:** Senator, are you going to take us through the Bill again? Because the Minister did that when she presented it. And immediately before that I was about to stop you because you are beginning to repeat arguments that have been made by other Senators and I would really like you to talk about something other than what we have already heard, or to debate what has been said and to counter the specific arguments. Please, go on.

**Sen. Dr. J. Kernahan:** So, Mr. President, as I said before, these are the amendments to Chap. 25:50. We have no problem with these amendments to the Bill because it is important to get the legislation right to include the Tobago House of Assembly and to make the reports generated, valid. Of course, clause 6 of the Bill made the issue of the retroactivity of the Bill part of the debate here this afternoon.

Mr. President, what we are concerned with, is the fact that one of the core arguments made by the Attorney General and by speakers on the other side this afternoon, is that the Order of 2004 subsists, the Order continues to exist, and therefore, the 12 electoral districts in Tobago and so on have remained. Therefore, the fact that no report was generated, does not really impact too much on the rights of the electorate in Tobago to vote, and there is no infringement of the democratic right of the Tobago electorate. But I would like to refute this point by making reference to Part IV of the 2004 Order, which elaborated the situation as it existed in 2004, relative to the 2000 election. In Part IV of the Order, it shows clearly that—and I want to quote to make this point:

“For the purpose of considering this recommendation, the commission compared the electorates of 2000 and 2004, and the relevant data are set out in the table attached marked Appendix A.”

In this order it shows:

1. that there was an increase of 1,147 persons who were entitled to vote between that four-year period;
2. that based on the rules which governed the number of persons that can be part of any particular polling division, that the maximum number permissible in polling divisions and so on, were exceeded in a number of electoral districts.

In fact, it said in this Order, adjustments to four electoral districts became necessary in order to bring them within the maximum 25 per cent above the lowest electorate as prescribed by the rules.

So, Mr. President, it shows in the 2004 Order before us, the commission had to change a number of polling divisions from one electoral district to another, to ensure that the rules were adhered to in terms of the maximum number, and the difference between the highest number of persons in one electoral district and another. So, they themselves went on to say that this precipitated a ripple effect giving rise to changes in a number of electoral districts in order to comply with the rules. Therefore, it shows that this is a serious exercise, and the report and the Order are serious documents. Because when you find that the Elections and Boundaries Commission has to manipulate polling divisions and change polling divisions from one electoral district to another, this will impact on the fact of persons who previously voted in one area and having to vote in another area, and would now be confused if they have to go where they regularly voted and are told that their names are no longer on the list.

This is a serious thing. So a report has to come out, has to be made public and has to be laid in Parliament. People have to be au courant now with the new polling divisions and the new electoral areas. If you do not do this, then the point that Sen. Mark was making is that you are impacting on the democracy, the right to vote because you are going to have many people who perhaps would not vote because if they go where they regularly voted and are told that they are no longer there, they would just go back home. You are setting the stage for confusion, you are setting the stage for a number of people to be frustrated and not exercise their democratic right to vote. This is very important.

The fact that the electoral districts themselves will not change and they will remain at 12, that is not the point. The point is that there will be changes. In 2004, the Elections and Boundaries Commission said themselves, that there was this ripple effect and there were a number of changes across electoral areas and so on. This is four years later. We do not know in the absence of the report, this could very well be the case again. On what basis is the Minister saying that there is very little change; that we do not expect that there is—I think the Independent Senator made the point that there should be very little change in the population and so on. That is not the point. The point is that if one is negatively affected by this, that is a problem because that person has been disenfranchised by a lack of proper preparation for this very important election. Elections are an important business. Our democracy is important; it is important to us and the process is important to us.

So, if the Minister of Local Government comes and blithely appropriates the role of the EBC and says that the EBC's report is not that important because not

much could have happened, we totally reject that. We are saying this is an affront to democracy, to the process—[*Interruption*]

**Sen. Manning:** Mr. President, on a point of order. I did not say that. Standing Order 35(5), she is imputing improper motives. I never said that.

**Mr. President:** Senator, I have warned you. I do not know whether the Minister is right, I assume she is. I think that you need to be very careful again. Do not make it that I have to warn you about this again, please.

**Sen. Dr. J. Kernahan:** Thank you, Mr. President. The fact that the Minister came here this afternoon and did not present a report by the EBC, and was not able to tell us what the Elections and Boundaries Commission— In fact, it is an assault on the institution of that body.

In fact, it is disrespectful to this Parliament. And whether or not the Minister said that in so many words, that the report is not important, the action is so clear that this Government believes that the report is not important because it is not before us. So you cannot wrangle your way out of that, your action speaks louder than words. Even though you may say that you did not say in so many words that the report is not important, the fact that it is not before us means that you do not care.

In fact, many of the speakers—

**Mr. President:** And that is exactly what the Standing Order refers to when you impute an improper motive to an action, which is not proper under the circumstances. So, please do not go there.

**Sen. Dr. J. Kernahan:** Thank you, Mr. President. All we can do on this side is to stand by the law, stand by the Constitution and stand by the rules which govern the proper running of society in this Senate.

**Mr. President:** I hope you are not going to debate my ruling because you will also stand by the Standing Orders in this Senate.

**Sen. Dr. J. Kernahan:** I am just saying that we can only stand by the rules and we can only say that we insist that a proper report is generated and brought to this Parliament so that we can have an appreciation of what has been happening in Tobago over the last four years in terms of the changes within the electoral districts, the polling divisions and so on. And we believe that this is fundamental to the exercise of democracy on the part of the people in Tobago so that they would have a proper report before them and each voter would know exactly

where he falls, in which polling division, in which electoral district and so on, and that is to the benefit of the democracy and the rule of law not only in Tobago, but in Trinidad and Tobago.

When we disregard these fundamentals, it is very, very dangerous because you are going to have a progressive demise of these institutions. When these institutions are not made to function in the way the law envisages them to function and you have a gradual demise of these institutions, a gradual disrespect for these institutions, one morning we are going to get up and find that they are no more and that we are being ruled by decree.

This is our fear in Trinidad and Tobago; this is our fear on this side. We have seen it happen in other countries and we insist that it will not happen in Trinidad and Tobago because we have an Opposition in this country that is alert, that is fearless and that will stand up at the side of the people of this country Trinidad and Tobago. We will never let the Government get away with disrespecting and denigrating important institutions in this country, be it the EBC, be it the Parliament, be it the THA and we will always stand up and let our voices be heard in defence of our people.

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

**Mr. President:** Sen. Dr. Nanan. Thank you for giving way. Sen. Rogers.

**Sen. Linus Rogers:** Mr. President, I thank you for giving me this opportunity to make a brief intervention in this debate on a Bill to amend the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50 to provide for the review and definition of the boundaries in the electoral area of Tobago for the purposes of elections in relation to the Tobago House of Assembly and to validate certain reports of the Elections and Boundaries Commission in respect of the electoral area of Tobago.

**6.00 p.m.**

Mr. President, in making my brief contribution this afternoon, I would like to state categorically that while I was here this afternoon no one on this side purported to hold any brief for and on behalf of the Elections and Boundaries Commission (EBC). What we did was report on interactions with the EBC, and not necessarily speak for the EBC.

A report can only be brought to this House if it is presented by the EBC, which, I would like to remind Members, is an independent body commissioned to do particular work. Unless they present a report, we cannot lay a report in this House.



Much has been said concerning, if I am not mistaken, the words “disenfranchising” and “disrespecting” persons in Tobago, with respect to whether they voted or not, and with respect to the issue of increasing numbers in changes in Tobago and what happened in 2004 when the boundaries were changed.

I would simply remind this House and the public that the changes which took place in 2004 were probably after about 10 years of no boundary changes taking place in the Tobago House of Assembly electoral districts; after roughly 10 years. In that case, what happened was that while you had changes in roughly 10 electoral districts, it came about because you had three or four electoral districts which exceeded the requirement of law. In order to do that, the EBC had to shift persons and move them around in such a manner to allow all the electoral districts to comply with the law. So while you had changes in 10 electoral districts, it really came about because four exceeded the limits set by law.

If you were to look at the information, it is in the public domain, between 2004, and we had an election in 2007, you would recognize that while in 2004 the total voter population in Tobago was around 38,142, when you get to 2007, you did not yet even reach 39,000. Keep in mind that the limits set in that 2004 report, gave a delta, a difference between the electoral district with the smallest number and that with the largest number, roughly, of 756 voters, which meant that the number of voters moving in or out of an electoral district would have to change by 753 before that electoral district would have fallen out of compliance with the law. Bear in mind that in 2004 when that change was made over a period of 10 years or so, the changes that created it were really about 1,100 votes.

When I listened to the contributions earlier, and the view was expressed that the EBC or persons— Independent Sen. Baptiste-Mc Knight indicated that she felt comfortable utilizing the 2004 report, that it would not have created any problems in terms of the boundaries. I am just sharing this information to show the extent to which population movement, and/or shifts within the various electoral districts, would have taken place in order for this to become out of compliance with the law.

With that, Mr. President, I end my brief submission this afternoon.

**Sen. Dr. Adesh Nanan:** Mr. President, I did not expect my colleague, Sen. Rogers, to be so short.

In this debate we heard of the astute leadership of the Chief Secretary; we also heard of the leadership of Orville London and that he had done well to carry out his mandate to reach the people of Tobago. How do you explain the \$2.5 million

placed by the THA under the astute leadership of the Chief Secretary, despite the THA reminding him that he was using an old financial statement to a medical transcription company, Decipher Caribbean Limited? It is in the Auditor General's report. Permit me to read parts of it:

"The amount of \$15,478,838.41 also includes an amount of \$2.5 million representing equity participation of 25,000 shares..." [*Interruption*]

**Sen. Manning:** Mr. President, on a point of order, Standing Order 35(1). What is the relevance of this?

**Sen. Mark:** He is responding to the lady there, the hon. Senator.

**Sen. Manning:** Mr. President, I do not see this as relevant. [*Crosstalk*]

**Mr. President:** The reference to the astute leadership of the Chief Secretary was not a substantive issue as part of the debate; it was a comment in passing; therefore, I do not think it really forms part of the debate here this afternoon. Going into this, makes it part of the debate, and it really has no place as part of the discussion here this afternoon.

With the greatest of respect, there would be other opportunities for you to raise that issue, and I suggest that you save it and talk about the Bill before us. [*Interruption*]

**Sen. Mark:** She made reference to it!

**Mr. President:** Senator, if you want to make a comment, you rise, but do not debate my rulings, please.

**Sen. Mark:** Could I make a comment, Sir?

**Mr. President:** You had your turn.

**Sen. Mark:** You tell me to rise and make a comment; I want to rise, but you tell me—[*Interruption*] I find we are being stifled here, because she made reference to it.

**Hon. Senators:** Who is she?

**Sen. Mark:** That Senator. [*Crosstalk*] Anyway, we will go to Tobago and tell the people of Tobago the astute nature of Orville London; corruption. [*Crosstalk*] [*Laughter*] "Doh talk about you; I miss you last week, you know; I have a whole file on you." Breach of your fiduciary duty at Caribbean—[*Crosstalk*]

**Sen. Browne:** You come.

**Sen. Dr. A. Nanan:** Mr. President, I thank you for your ruling, and there would be another time to discuss this matter. [*Crosstalk*]

**Sen. Mark:** That is what "all yuh" like, to stifle people.

**Sen. Dr. A. Nanan:** This matter with respect to Decipher Caribbean Limited and WW Electronics. [*Crosstalk*]

In the Canaan/Bon Accord area, which I will come to later—[*Interruption*]

**Sen. Manning:** Let us go back to the boundaries. [*Crosstalk*]

**Sen. Mark:** Who are you? Are you the President or you think you are Patrick Manning? "Yuh feel here is a dolly house or what?" [*Laughter*] [*Crosstalk*]

**Sen. Lezama:** Mr. President, on a point of order. I would just like to refer to Standing Order 39(b) and (c), which speak to Senators not speaking and maintaining silence while another Member is speaking. [*Desk thumping*] [*Laughter*] I am really trying to hear.

**Sen. Mark:** "So yuh want me to be silent while you are talking?"

**Mr. President:** Senator, I do, too. Please, please, enough; enough; enough; enough.

**Sen. Mark:** I want to be silent.

**Mr. President:** Sen. Dr. Nanan, continue uninterrupted, please. [*Interruption*] Enough!

**Sen. Mark:** I thought you said Dale Enoch. [*Laughter*]

**Mr. President:** Senator, do not test me.

**Sen. Mark:** "But yuh threatening meh."

**Sen. Dr. A. Nanan:** Thank you, Mr. President. [*Crosstalk*]

In the 2004 Tobago House of Assembly (THA) election, 1,700 persons did not vote, and we have to ask the question why. The point I am trying to put forward is when we are dealing with this same shifting in boundaries. The reference to it was made quite clearly by Sen. Dr. Kernahan, about the locations of these voting booths in polling stations, with respect to the break up of the numbers by alphabetical sequence. It is important in terms of locations.

We do not know if 1,700 persons were disenfranchised because of this situation in 2004. We do not know and that is why there are so many questions being asked this afternoon with respect to the requirement of a report.

I want to go quickly to the Elections and Boundaries Commission (Local Government) Act, Chap. 25:50, to section 4(1). It reads:

"The Commission shall define and review the boundaries of the electoral districts into which an electoral area is, or is to be, divided and shall submit to the Minister reports either"—and that is the Minister of Local Government—

- “(a) showing the constituencies into which it recommends that an electoral area should be divided in order to give effect to the Rules set out in the Second Schedule; or
- (b) stating that, in the opinion of the Commission, no alteration is required to the existing number of boundaries of electoral districts in order to give effect to the said Rules.”

And (2), which is important here:

“Reports under subsection (1) shall be submitted by the Commission”—that is the Elections and Boundaries Commission—

- “(a) in the case of its first report after the commencement of this Act, not later than six months after the date of commencement;
- (b) in the case of any subsequent report, not less than two nor more than three years from the date of the submission of its last report; and
- (c) in the case of a report in reference to Tobago, not less than two nor more than four years from the date of submission of the last report.”

“Reports under subsection (1) shall be submitted by the Commission.” It is a law; it is in the Act; it is mandatory.

So for the Attorney General to say, if I took my notes correctly, that it was because of habit that this report was produced, is totally unsatisfactory.  
[*Interruption*]

**Sen. Mark:** It is wrong and she is misleading us and the Parliament.

**Sen. Dr. A. Nanan:** We have to be careful with what comes from the Government with respect to this defence. When we said there was suspicious activity, these were some of the indicators that we had to go to.

Mr. President, I want to deal with a situation. If we go to Zion Hill in Tobago, that relates to boundaries—I am sure Sen. Melville would be aware of Zion Hill in the Belle Garden area. If you go up Zion Hill, up to the Belle Garden Anglican

School, you would see that the road itself divides that area into two electoral districts: one is Belle Garden/Goodwood, and the other is Roxborough/Delaforde.

As I go to Roxborough/Delaforde—and this is dealing also with the astute leadership of the Chief Secretary—it brings to mind this particular area. I am dealing with the electoral district of Roxborough/Delaforde, because the Argyle Waterfall is there. In the Argyle Waterfall area, there has been no real improvement. If we are dealing with the astute leadership of the Chief Secretary and the tourism plant—which we are not—[*Laughter*] in that electoral district, the Argyle Waterfall should have been upgraded with eco-lodges and the whole range of infrastructure upliftment. [*Crosstalk*]

Mr. President, when I spoke about the Belle Garden Anglican School and the road as the boundary, if we look at natural boundaries under Rule 3 in this particular Schedule II, we would see that it points to natural highways and rivers. There are certain concerns in that area.

In fact, if we look at the electoral districts in Tobago, we would see that some small villages have three representatives. Questions were raised, coming out of the 2004 election, in terms of these problems they are encountering. That is why this report is so important. That is why we are saying that you should have postponed the election and wait until the report was forthcoming, because of the situation in the 2004 election.

**6.15. p.m.**

We have heard in terms of the electoral districts, the fixed number of 12—and if there are any expansions the Tobago House of Assembly Act will have to be amended because there are 12 assemblymen and that is by way of electoral districts. It may be a concern in terms of increasing the number of electoral districts.

What is surprising is that in the 2004 Report, I do not know if it was an analysis based on numerical conditions in terms of dealing with percentages. Is it not a coincidence that it is skewed? All the electoral districts are skewed towards the PNM. I am not accusing anyone, but if an analysis is done, one would see that a large part of the voting population in certain parts of those electoral districts has been moved. I do not know if it is because of rule 1, 2 or 3 as the case may be, but it favours the ruling party.

When Sen. Melville said as we pass this Bill the PNM will return to office in Tobago, we have to ask several questions about the confidence of the PNM. Is it because it has had that information in advance? That is why you are going with

*EBC (Amendment and Validation) Bill*  
[SEN. DR. NANAN]

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the 2004 Report because it is skewed towards that particular situation? [*Desk thumping*] And is it that you are holding back another report that would change the whole demographics, and you would not have that favouritism with your astute leadership of the Chief Secretary? That is the question that has to be answered and has not been.

I am dealing with the 12 electoral districts in Tobago and of course, we cannot compare the Tobago House of Assembly and the municipal corporations, but we have to consider the disenfranchisement of the voter in this same context of this situation with respect to the boundaries. That is the point.

Mr. President, if this was so important in terms of status and we have heard that the Tobago House of Assembly should control its own destiny and that is the Vision 2020 plan, we still have to ask why was this Bill not under the name of the Prime Minister? If you want to send a signal, why is it under local government and not the Prime Minister? The Tobago House of Assembly reports to the Prime Minister, not to the Ministry of Local Government.

We are putting forward a proposal to you. In your amendment which was circulated saying to “Delete the words (Local Government) [Amendment (Tobago House of Assembly) and Validation] and substitute the words “Local Government and Tobago House of Assembly) (Amendment and Validation)”, we are saying that it should be a new Act: The Elections and Boundaries Commission (Tobago House of Assembly) Act.

**Sen. Mark:** That is what they should have brought here, because what you are doing is putting the THA side by side and it is not a side by side matter.

#### PROCEDURAL MOTION

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. President, in accordance with Standing Order No. 9(8), I beg to move that the Senate continues to sit until the conclusion of this debate.

*Question put and agreed to.*

#### ELECTIONS AND BOUNDARIES COMMISSION (LOCAL GOVERNMENT) [AMENDMENT (TOBAGO HOUSE OF ASSEMBLY) AND VALIDATION] BILL

**Sen. Dr. A. Nanan:** Mr. President, the 2004 Report points to the name change of seven electoral districts and I just want to point to one in particular for a brief interlude and it is dealing with the L’Anse Fourmi/Speyside to Parlatuvier/L’Anse Fourmi/Speyside, a name change. What is important in this

area is the Rain Forest. It is important because that particular Rain Forest has won several awards for the Tobago destination. The reason I mention that is because there are no toilet facilities, a basic amenity, in that area. I am still dealing, to some extent, with the astute leadership of the Chief Secretary, but that particular district bothers me.

The other one is Canaan/Bon Accord, another electoral district that is of importance because the Tobago Hilton was there which has been closed, so again we are dealing with the astute leadership of the Chief Secretary. As I am in Canaan/Bon Accord, I cannot forget the Cove Industrial Estate and the situation with the containers rotting on the docks, but that is another debate and I would not go there.

I want to go to the Scarborough/Signal Hill District because it is important in terms of the Scarborough Hospital because in this electoral district there are projects that have been going on for years without completion: the Scarborough Hospital that everybody knows about, there is also the Scarborough Library and the Scarborough Financial Centre.

As I move to another electoral district, how can we forget the Old Grange Police Station? I just want to make that observation in terms of the situation there. Those are the considerations in those electoral districts as people go to cast their ballots in terms of the security on the island at the time of voting. We have to ask certain questions about crime in Tobago, but that is another debate. We are dealing with the local government situation and with the remark of Sen. Melville that as soon as we pass this Bill, PNM is going to be in power in Tobago. I just want to make reference to that situation to alert the Minister of National Security about the situation in Tobago and that requirement with respect to the efficiency of the Tobago Police Service. That is another reason we are asking for a three-month delay to give the Minister of National Security some time to improve the condition of the island with respect to crime.

**6.25 p.m.**

The report also talks about moving polling divisions. I want to inform the Minister of Local Government—the point has been made already, but I want to emphasize it with respect to the electorate—that according to the report, the electorate rose from 36,995 to 38,142, an increase of 1,147 over a four-year period. We have heard of people returning home. That was an increase of 1,147. I talked about 1,700 persons who did not vote. We have to ask that question. We are sure that the increase will be more than the figure. It could be more than 3,000.

When we are dealing with local government elections, whether in Trinidad or Tobago, we are dealing with small numbers. That is the distinction in terms of this election. That is why every vote counts. You can lose by one vote because of the numbers. That is why the boundaries are so important and we are stressing the importance of knowing where they are.

I am sure the Minister of Local Government campaigned throughout Princes Town and Tobago and knows the boundaries, the demarcation of the electoral districts. People need to know. Of course, you are aware of the situation during general election of people turning up and not being able to vote because they are at the wrong polling station, especially in the topographical area of Tobago.

We are dealing with serious hills and mountain ranges where people are located and if you are trying to get people out of those areas to vote, it is very difficult. That is why it is important to know the boundaries. You may say that you are shifting across electoral districts, but we are making a difference in terms of the Tobago House of Assembly because the majority will capture the House. That is the importance of this particular demand that you withhold the election and wait for the report so that we will have a clearer picture of the situation in Tobago.

I know the PNM has the advantage. That should not be. No advantage should be given to anyone. There should be free and fair election—even free from fear. We do not know why the Tobago House of Assembly dissolved on November 01, but if we have to look at the Auditor General's Report 2002/2003, there are certain questions that remain unanswered in respect of the financial mismanagement of the Tobago House of Assembly. That could be one of the reasons triggering the early dissolution. If that information had been spread throughout Tobago, there would have been a major—everybody knows that Sen. Melville? That the Tobago House of Assembly invested \$5 million and that the company went belly-up after two and a half months?

I want to go to page 14 of the report. With the addition of 276 electors from Polling Division 5025 from L'Anse Fourmi/Speyside, the electorate of Roxborough/DelaFord then stood at 3,060. You see, since this was within the permissible band, no further adjustment was necessary. Under rules 1, 2 and 3, the Elections and Boundaries Commission has the power to deal with respect to polling divisions and moving the number within the 25 per cent allowance, but there was no discussion on these matters.

What is surprising is that the THA has spent millions on consultations and what was the response? The same thing that was in the report that Sen. Mark



talked about. They want a federal structure. After millions of dollars spent by the THA, it came back to the same thing, which we support. We are dealing with that issue.

I was pointing to the number of electors that would be making a difference in terms of the rules. If you look at the map of Tobago, you will see that most of the electorate is concentrated on the southern part of the island. *[Interruption]* Let me finish my point. If you look at the polling divisions, they comprise the electoral districts. You would see in the southern part of the island, towards the south-west, the larger density of the population. As you go towards the northern part of the island, you see the numbers deteriorating.

What is important, Mr. President, although there is a large geographical spread, if you look at the Parlatuvier/L'Anse Fourmi/Speyside electoral district, it is very large in terms of the geographical nature of the electoral district. *[Interruption]*

Attorney General, you were not here when I made a substantial point. *[Laughter]* In terms of the geographical spread, if you compare Trinidad and Tobago in terms of the electoral districts and size, that was one of the reasons why we have sub-offices. There are large constituencies in Trinidad. The point with respect to Parlatuvier/L'Anse Fourmi/Speyside is that it is a very large area with the number of voters spread throughout the electoral district.

So there is a lot of traversing in that particular area. It would be difficult for the people. That is why when I made the point about locating of polling stations, it has to be made with respect to the geographical nature of the island. Of course, you will see Main Ridge running in the middle there in terms of the location of these polling divisions. Although they are cutting across the forested areas and forest reserves, there is very little voter presence in that area. There is still cutting in that area. While we do not question the EBC's ability to redistribute the electorate, we can question it in terms of the skewing of this particular exercise towards the PNM whether in the northern or southern part of the island.

If you want it to be balanced, you could have had it in some parts where you can actually transpose people from one district to another to make a difference. If you do an analysis in terms of a blue and red chart, if the blue is PNM, it will be outweighing the red. That will be in respect of rules 1, 2 and 3. Although you are giving the power to the EBC, the Parliament still needs to have some oversight on this particular issue of boundaries. We cannot give the Elections and Boundaries

Commission (EBC) that kind of blanket power, which is now giving supremacy to the PNM. I hope that you do not count your chickens before they are hatched in Tobago. We never can tell what will happen in 2009.

I want to deal with the Bethel/Mount Irvine district. A lot of these districts represent a specific culture. When you switch boundaries, you disrupt the culture and that has to be factored in when distributing boundaries. I see people shaking their heads on the other side. Perhaps they do not understand the concept. I need to give them some more information.

Someone pointed out—and perhaps it would be another geography lesson—that there is a lot of heritage in Tobago. Many streets are named after the Dutch, English and Spanish and that influence can be an attraction and should have been utilized with respect to foreign exchange earnings.

**Sen. Joseph:** On a point of order, Standing Order 43(2), repetition and irrelevance.

**Mr. President:** I will allow you to continue briefly.

**6.40 p.m.**

**Sen. Dr. A. Nanan:** The point I am making is that it is in rule 3. The Attorney General pointed to it, in terms of utilizing the major highways and rivers. This map points to the main roads. That is why I made reference to it. Of course, the Minister of National Security was listening when I made reference to that division of the road going up to Zion Hill which separates two electoral districts. We do not know if they followed.

What is interesting is that rule 3 points to using major highways and rivers, but a little further you would see that they are not bound to use those. In circumstances, they can use other things. You should use your natural boundaries first, and if you have other areas that are of concern, then you could probably use the other parameters that you normally would use.

What is interesting in Tobago is if you look at the island, in terms of rivers and streams, you can actually utilize that to get your boundaries. That is what is so interesting. You could use your rivers and streams in Tobago to get your boundaries, unlike—*[Interruption]* That is under rule 3. If you want to know, that is also in the Bill. What is interesting is that unlike Trinidad, it is very difficult because many of the constituencies utilize a trace that do not exist or used to exist a few years ago. That is part of a boundary or imaginary line. You would not have that situation in Tobago, where you can utilize the natural boundaries and get the

electoral districts. In the northern part of the island, there might be difficulties when crossing these forest reserves. That is why I made the point that when you are more concentrated in the southern part of the island, it is very easy to get those boundaries. That is why I used this particular map.

Before I close, there is one other point I want to make. We heard from Independent Sen. Nicholson-Alfred about the problems that Tobagonians encounter. Under the UNC administration, the then Minister of Legal Affairs, hon. Kamla Persad-Bissessar, made it her duty to make allowances for Tobagonians. In fact, many of the things that could have been done in Tobago, in that first area, were done. They did not have to come to Trinidad to get those things. I think that is something that the Government must consider if it is thinking about giving Tobagonians some kind of support, in terms of not coming to Trinidad to get everything done. That is the devolution of power. I wanted to make reference to that in this debate.

For a brief moment I want to deal with Bethel/Patience Hill; Buccoo/Lambeau; Canaan/Bon Accord; Mason Hall/Providence and Calder Hall, in terms of numbers. That is important. Bethel/Patience Hill was 3,480; Buccoo/Lambeau, 3,472; Canaan/Bon Accord, 3,589; Mason Hall/Providence and Calder Hall, 3,601. According to the formula, 3,366 were the cut off and 25 per cent above the lowest, as we know from the hon. Attorney General and Sen. Dr. Kernahan, with respect to the numbers. We still have to ask the question, because the Attorney General pointed to 12 electoral districts setting the standards. We cannot go outside of 12 electoral districts.

If we shift, in terms of the voters, we still have a fixed number of electoral districts. We have to ask the question, in terms of the electoral districts. If we examine this—I am sure the report—I would not go to the report anymore—but when I made reference to the 1,700 voters I can go to the map if I am permitted, of course I am not, and show the voter turnout in each electoral district. I made reference to the 1,700 people who did not vote in the last THA election. We can go even further and directly to the report to see how many people did not vote in each electoral district. Although the figure is 1,700, in terms of a large number, if you spread it over the 12 electoral districts, you would see that the numbers are small. If you are looking at small numbers you would have to ask in terms of disenfranchisement of the voter. That was 1,700 voters in 2004. Let us say we add another 1,000 to that, it would be 2,700 voters. That 2,700 voters spread throughout the 12 electoral districts can make a great difference in the election.

That number must be known. We cannot be going to an election and we do not know the electorate. How can we support this? I think that is my final point. How can we support this? We cannot support this, because we do not have any data. We cannot only use hypothesis and assumptions. We must have that evidence and hard data.

I thank you, Mr. President.

**The Minister of Local Government (Sen. The Hon. Hazel Manning):**  
Thank you very much, Mr. President. I want to thank all Members of this honourable Senate for taking part in this debate today, those who were focused and targeted and those who wandered from district to district. I want to say thanks very much.

I also want so say to Members of this Senate, through you, that I assure the Senators that there was no conspiracy theory. The first thing that we heard from Senators on the other side is the sense that there was a conspiracy theory by us to bring this particular piece of legislation or not to bring this particular piece of legislation. There is no plot to endanger the rights of the people of Tobago. There is no plot to prevent the rights of equal treatment to the people of Tobago. There is no plot to prevent the people of Tobago from joining political parties. There is no plot to deny anybody of their democratic rights. The feeling that there is a conspiracy theory by those on the other side is just not right.

As a matter of fact, based on an 18-year history of Tobago, we in Trinidad have a lot to learn about good self-governance. As we conduct our public consultations in Trinidad and Tobago, a lot of the members of the public were calling for the adoption of the Tobago model. I am really glad to hear Sen. Dr. Charles explain to us that the Tobago model may not work at all in Trinidad and that we need to look at that model very carefully.

In our new structure, we were looking at examining the Executive Council of the Tobago House of Assembly for the adoption in Trinidad and Tobago. That is what the public was calling for. We are now examining the legislation of the THA and we are learning from them. There is a lot to learn from the Tobago House of Assembly. We mean no malice. We are analyzing the benefits. We are looking at the negatives of the present system and we are being guided in Trinidad, so we go with good intentions.

Indeed, when the Members of the Opposition argue that Tobago would be deprived of a free and fair election, I want to state categorically that the EBC, understanding that they had discovered a long-standing error of 18 years, quickly attempted to rectify the problem. [*Interruption*] Yes, they did. Take it from me,

they did. They attributed the error to the inadvertent omission of the legal amendments to the law when the new administrative arrangements between Trinidad and Tobago were established in 1980. They changed in 1990 and the minute they realized that four elections took place, they were moving into the fifth and that there were problems, they moved quickly to correct the lacuna in the law.

I also need to say that I have been told that there are wide-ranging discussions taking place in Tobago right now. We were accused of not speaking to anyone. The Attorney General was accused of speaking only to the Chief Secretary. I want to put on the table that at this point in time, in Tobago, there are wide-ranging discussions taking place with respect to the whole concept of the Tobago House of Assembly Act. I have been told that the people in Tobago are not sleeping on the matter, that they view the overhaul of the Tobago House of Assembly Act as something that is really very important to them and that these wide-ranging discussions that are taking place in Tobago right now would lead, in time to come, to a comprehensive review and overhaul of the Elections and Boundaries Commission Act. We would let the people in Tobago decide. [*Interruption*] I am telling you now, through you, Mr. President, they are doing that now. The people do know.

I also want to talk about the fact that there is a question put forward by Sen. Dr. Kernahan and Sen. Dr. Charles about the fact that we did not lay the report in Parliament. I want to repeat for yet another time, the report would be laid in Parliament after the law has been amended. It is really a catch-22 and as such, as soon as Cabinet meets again in the early year, I am sure that we would be able to lay the report in Parliament.

Mr. President, I thank all Senators on the other side for understanding that we must come together to be able to preserve the democracy. We have been very mature in this debate. We have heard them put their thoughts forward. They have examined the technical aspects of the Bill with great concern and I am sure that they would do the right thing. I want to thank you for joining with us in a very mature and democratic process to bring changes to the Elections and Boundaries Commission (Local Government) [Amendment (Tobago House of Assembly) and Validation] Bill, 2008, which is very comprehensive.

**6.55 p.m.**

Mr. President, I have no intention to wander this evening. I intend to move some amendments which were circulated earlier today, and I will do so at the committee stage.

I beg to move. [*Desk thumping*]

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole Senate.*

*Senate in committee.*

*Clause 1.*

*Question proposed, That clause 1 stand part of the Bill.*

**Sen. Annisette-George:** Mr. Chairman, what we are doing with clause 1, in terms of this Bill, is that we are deleting the words “Tobago House of Assembly” after the word “Amendment” and we are now including the words “Tobago House of Assembly” after “Local Government” so it would read: “This Act may be cited as the Elections and Boundaries Commission (Local Government and Tobago House of Assembly) (Amendment and Validation) Act, 2008”.

**Sen. Mark:** I do not understand what this is going to do in the context of the arguments that we have advanced. I think what this amendment is doing is further consolidating the position that we have advanced during the debate that the Government is seeking to place the Tobago House of Assembly under the Local Government Act. To my mind, this is a cosmetic change, and the changes that are supposed to be brought forward are not there. This is really cosmetic. We do not support this amendment whatsoever.

**Mr. Chairman:** Are there any other comments?

**Sen. Rahman:** As an alternative to this Bill, another system may be used to accomplish the purpose of the Government. I had suggested that in the original Bill—I am not too familiar with it—it could have been changed to extend whatever time is required.

**Mr. Chairman:** We have an amendment before us and we have a Bill before us, and that is all we can talk about.

**Sen. Baptiste-Mc Knight:** Mr. Chairman, I think that this does exactly the opposite of what Sen. Mark is suggesting. By adding “Tobago House of Assembly” what it does is make it quite clear that the Tobago House of Assembly is separate and not part of the local government of Trinidad. I think this is an improvement on what we had before. Thank you.

*Question put and agreed to.*

*Clause 1, as amended, ordered to stand part of the Bill.*

*Clauses 2 to 5 ordered to stand part of the Bill.*

*Clause 6.*

*Question proposed, That clause 6 stand part of the Bill.*

**Sen. Mark:** Mr. Chairman, clause 6 is very offensive. The Government is seeking to have us agree to—sorry, I was looking at the old version, but there is a new version. I withdraw.

*Question put and agreed to.*

*Clause 6 ordered to stand part of the Bill.*

*Clause 7 ordered to stand part of the Bill.*

*Clause 8.*

*Question proposed, That clause 8 stand part of the Bill.*

**Sen. Mark:** Mr. Chairman, I just want to put on record our strong opposition to this particular clause and, particularly, the section of the clause that talks about any other written law. I think that is very sweeping and far-reaching and it could even take into account the Constitution of the Republic, because it is written law. I think it is very offensive language.

Secondly, we think it is a very dangerous precedent and we will never support people going to an election with a report that is four and a half to five years old. This is what the Government is seeking to do in clause 8, and we would like to record our strongest objection to this clause.

**Sen. Annisette-George:** Mr. Chairman, any other written law certainly would not apply to the Constitution which is the supreme law of Trinidad and Tobago. Any Bill that is inconsistent with the Constitution is known to be void to the extent of its inconsistency, unless it has met the special majority requirements. So, this is regular drafting which will take into account any other provision that affects section 4(2)(c) and section 4(6) that we have not taken care of. It is a sort of omnibus provision.

**Sen. Baptiste-Mc Knight:** Mr. Chairman, I would just ask that in the penultimate line of this clause that the “s” in “subsists” be removed.

**Mr. Chairman:** That is a typographical error.

*Question put and agreed to.*

*Clause 8 ordered to stand part of the Bill.*

*New clause 3.*

**Mr. Chairman:** There is a new clause 3 which reads as follows:

Insert after clause 2, the following new clause:

Long title amended 3. The Long Title of the Act is amended by inserting after the words “Local Government Elections”, the words “and Tobago House of Assembly Elections”.

*New clause 3 read the first time.*

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

**Sen. Mark:** Mr. Chairman, again, we see no real advancement in the course of what we have been advancing. It should really be the Elections and Boundaries Commission (Tobago House of Assembly) Act. This matter about putting Tobago at the same level of local government, we reject it completely and, therefore, we reject this new clause 3.

**Mr. Chairman:** Is there any response from the Government?

**Sen. Annisette-George:** Mr. Chairman, what this new clause 3 seeks to effect is the amendment to the title of the parent Act.

**Sen. Mark:** This is putting the THA at the same level as local government, and I am saying that we reject that.

**Mr. Chairman:** Senators, I am advised by the Clerk that the new clause 3 is not necessary, because it is in Standing Order 53(10). Any amendment to the title is done at the end of the proceedings, but no question would be put.

**Sen. Annisette-George:** Mr. Chairman, Standing Order 53(10) refers to an amendment to the title of the Bill, and new clause 3 refers to the amendment to the title of the Act. So, the parent Act in its long title would be—the long title of the Act says that it is an Act to make provisions for local government elections and all matters incidental thereto. This is now making provisions for local government election and the Tobago House of Assembly election.

**Mr. Chairman:** I think you are correct.

*Question put and agreed to.*

*Question proposed,* That the new clause be added to the Bill.

*Question put and agreed to.*



*New clause 3 added to the Bill.*

*New clause 4.*

**Mr. Chairman:** New clause 4 reads as follows:

Insert after the new clause 3, the following clause:

Section 1 amended 4. Section 1 of the Act is amended by deleting the words “(Local Government)”, and substituting the words “(Local Government and Tobago House of Assembly)”.

*New clause 4 read the first time.*

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

**7.10 p.m.**

**Sen. Mark:** Mr. Chairman, consistent with our position in terms of new clause 3, this new clause 4 does not achieve the objective that we believe is necessary to distinguish the THA from local government. This is just cosmetic, fooling the people, and therefore we reject it, Sir.

**Sen. Annisette-George:** Mr. Chairman, the effect of the amendments at new clause 3 and new clause 4, would be to ensure that under the parent legislation it is quite clear that it makes provision for two different types of elections, the local government elections, separate and distinct from the Tobago House of Assembly elections. So that our position is in contrast to the position of the hon. Senator.

*Question put and agreed to.*

*Question proposed, That the new clause be added to the Bill.*

*Question put and agreed to.*

*New clause 4 added to the Bill.*

*Clauses 3 to 8 recommitted.*

*Question proposed, That clauses 3 to 8 again stand part of the Bill.*

**Mr. Chairman:** The clauses are to be renumbered as 5 to 10, respectively.

*Question put and agreed to.*

*Clauses 3 to 8, renumbered clauses 5 to 10, ordered to stand part of the Bill.*

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

*Senate resumed.*

*Bill reported, with amendment.*

*Question put, That the Bill be read a third time.*

*The Senate divided: Ayes 20 Noes 6*

AYES

Enill, Hon. C.

Manning, Hon. H.

Annisette-George, Hon. A.

Browne, Hon. M.

Joseph, Hon. M.

Piggott, Hon. A.

Narace, Hon. J.

Dick-Forde, Hon. Dr. E.

Gronlund-Nunez, Hon. T

George, W.

Hadeed, G.

Rogers, L.

Lezama, Miss L.

Melville, Miss J.

Deosaran, Prof. R.

Ali, B.

Annisette, M.

Baptiste-McKnight, Mrs. C.

Drayton, Mrs. H.

Merhair, Miss G.

NOES

Mark, W.

Nanan, Dr. A.

Charles, Dr. C.

Kernahan, Dr. J.

Sharma, Miss C.

Rahman, M. F.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

**TRINIDAD AND TOBAGO NATIONAL  
STEEL SYMPHONY ORCHESTRA BILL**

**Special Select Committee Report  
(Adoption)**

**The Attorney General (Sen. The Hon. Bridgid Annisette-George):** Thank you, Mr. President. I beg to move the following Motion standing in my name:

*Be it resolved* that the Senate adopt the first interim report of the Special Select Committee of the Senate appointed to consider and report on a Bill entitled, “The Trinidad and Tobago National Steel Symphony Orchestra Corporation, Bill, 2008”.

Mr. President, a special committee was set up on Wednesday, October 29, 2008, comprising the following Members: Sen. Basharat Ali, Sen. Dr. Jennifer Kernahan, Sen. Linus Rogers, Sen. Tina Gronlund-Nunez, and Sen. Bridgid Annisette-George.

The Committee was appointed to consider and report on the Trinidad and Tobago National Steel Symphony Orchestra Bill, 2008. The Committee sat on three occasions. There were three meetings held on Thursday, November 06, 2008, Wednesday, November 12, 2008 and Friday, December 05, 2008.

In keeping with the obligations under Standing Order 51, the Committee was duty bound to report every 21 days. The first interim report is in accordance with that duty to report within 21 days. There is also a second report, which is the final report of the Select Committee. In the report, the Committee has not completed its deliberations, and therefore, in its recommendations, the Committee is asking that the work be saved, so that if in another session a committee is again appointed, that this work would be available to the committee.

*Steel Symphony Orchestra Bill*  
[SEN. THE HON. B. ANNISSETTE-GEORGE]

*Tuesday, December 09, 2008*

In its meetings, the Committee had sought the assistance of an expert to assist it, and had sought submissions from certain persons identified in the field of music and the steel pan. Submissions were submitted by some of the people identified and therefore, this is of great value, which we are of the view that any other committee can use in furtherance of its work.

Mr. President, I beg to move.

*Question proposed.*

**Sen. Dr. Jennifer Kernahan:** Mr. President, as a Member of this Committee I would like to report that I support the Attorney General's position, that we save the work of this Committee, and we continue the work in the next session of Parliament.

This Committee has sought a number of experts in the field to support its work, to bring clarity to the work that we have to do, and some have reported and some have not. Therefore, it is important that we get the views of all the sources that we have solicited and, I would like to second the Motion in terms of the acceptance of the recommendation of this Committee to save this work and continue in the next session.

**The Attorney General (Sen. The Hon. Bridgid Annisette-George):** Thank you, Mr. President. I guess having regard to the contribution by Sen. Dr. Kernahan, I beg to move.

*Question put and agreed to.*

*Report adopted.*

#### ADJOURNMENT

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. President, I beg to move that the Senate do now adjourn to a date to be fixed.

This afternoon the final report of the Special Select Committee of the Senate appointed to consider and report on the Tobacco Control Bill, 2008 was to be considered. However, it was the view, after listening to submissions, that the report required additional consideration. It is therefore the intention of the Government, in the first available session in the new term, to lay the Bill—there is a Bill that has been appended, amended Bill here—debate it and take it through all its stages.

We want to place on record on behalf of the Government side, the work done by the Committee and the expectations that when we return to deal with this very

*Adjournment*

*Tuesday, December 09, 2008*

important matter, that we would be able to do so and take other concerns which have been expressed by those who have communicated to us.

### **Season's Greetings**

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** As this is the last sitting of this session, Mr. President, may I, on behalf of the Government, extend to you and other Senators, our best wishes for a very happy, holy and prosperous season; to wish you and yours safety and God's blessings in the season; to thank you most kindly for the work we have done this year in the interest of the people of Trinidad and Tobago, and to really hope that in the new term we would be able to continue in the spirit in which we have collaborated on a number of very important and sometimes difficult pieces of legislation.

With those few words, Mr. President, I wish to thank you, all of us and wish you a Merry Christmas and a Happy New Year.

**Sen. Wade Mark:** Mr. President, may I join my hon. colleague, the Leader of Government Business, and may I on behalf of the Opposition UNC-A, the alternative government of the Republic of Trinidad and Tobago, extend to you, hon. President and your family; the Members of the Government Bench, in spite of our fierce differences, and their respective families; the Members of the Independent Bench and respective families, warmest season's greetings for a very joyous, happy, peaceful, crime-free and holy Christmas, and of course, a productive, rewarding and prosperous New Year 2009.

### **7.25 p.m.**

May I also on behalf of the Opposition UNC-A, extend our warmest season's greetings to all members of staff of this Parliament, particularly, the Secretariat, the hardworking couriers and Hansard reporters; all members of staff and their respective families. We would also like to extend season's greetings to all our police officers who have provided protection for us during the last year. We also would like to extend greetings to the new Marshal and his family on this very great occasion. Of course, I am reminded and I am very happy to be reminded that the Clerk and particularly our own Clerk, Mr. Neil Jaggassar and his family, to wish them a very happy, holy, peaceful and very wonderful season.

We know that 2008 has been one of the most murderous and bloodiest years in our country. Nevertheless, we hope that the Minister of National Security and the authorities would put their house in order, get their act together, so we will not

*Season's Greetings*  
[SEN. MARK]

*Tuesday, December 09, 2008*

have a repetition of what we just experienced in 2008. And to the people of the Republic of Trinidad and Tobago, we know that 2009 promises to be a very challenging and difficult year for the people, particularly the poor, the vulnerable and the working people of this nation. Collectively, we can generate the kind of spirit in an effort to ensure that we overcome the challenges and difficulties.

So, on behalf of the Opposition, may I record our warmest greetings to every single citizen in this Republic and to wish them health, peace, happiness and longevity in the new year.

**Sen. Prof. Ramesh Deosaran:** Mr. President, after hearing the exchange by the two speakers, one on the Government side and one on the Opposition, I feel obliged on behalf of the Independent Bench, and given our significant contribution to this Senate last year—outgoing year—and being the persistent seekers of balance and rectitude during the debate, we want to extend our warmest greetings to you, Sir, your family, the Members on the Government side, their families, the Members on the Opposition Bench, their families, and of course, among ourselves on the Independent Bench, a very Merry Christmas and a brighter and prosperous New Year, more prosperous than the one we have had this year. And I want to join with Sen. Mark in hoping for a more peaceful 2009.

On behalf of the Independent Bench, I want to extend similar sentiments to the Marshal, to the parliamentary staff, to the police officers and to the media, who are not usually here after the tea break, but I hope in the new year we can see some progress in that direction. There is not much more to say, except, finally, and without being unduly long, we must not forget the reason for Christmas and the virtues that emanate from those reasons which mean more than all, goodwill and the sharing of peace and brotherhood, and being in a system of adversarial relationships, I believe that underlying requirement should guide us throughout the new year.

Thank you very much, Sir. [*Desk thumping*]

**Mr. President:** Hon. Senators, this occasion marks one year that we have been called to duty on behalf of the people of Trinidad and Tobago and I am very pleased to congratulate each and every one of you on your performance over the past year, especially the new Senators who have had to struggle with a very new environment and a very different world, and particularly the Independent Senators, who, as Sen. Prof. Deosaran said, bring a balance to the situation. It reminds us of the wisdom with the Constitution that we have and the fact that we do achieve balance and rectitude in the things that we do.

*Season's Greetings*

*Tuesday, December 09, 2008*

As we approach the Christmas season, I too, would just like to remind you of one very simple thing as we look towards the season and for the new year and that is I would just ask you to do unto others as you would have them do unto you. If we could think of that and behave that way in this place, then I think that we would be far more effective and much more productive.

From myself and my family, I would wish each and every one of you a very happy, holy and a safe Christmas to you and your families. If you have anyone who is coming in from abroad, I hope that he or she is happy, well and safe in your homes, in your cars especially, and wherever you may be, and I hope that you have a happy and a joyful time.

I would wish very best wishes to the staff of the Parliament who work very hard. There are many of them here who work tirelessly at nights when we are expending words late into the evening. There are many young men and women who are in the darkest corners of this building working and waiting for us to conclude our duties and they are doing their duty as well and we must never forget them. Having been here one year we must congratulate them and compliment them on a job well done and wish them the very best of the season and for the new year.

I would also, especially, like to wish the very best to the members of the security forces who look after us and there are those you do not see, that you do not know of, but they are there and they do look after you, they look after all of us. I would like to thank them and to wish them the very best for the season and for the new year.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 7.32 p.m.*