

*Leave of Absence*

*Wednesday, February 04, 2009*

**HOUSE OF REPRESENTATIVES**

*Wednesday, February 04, 2009*

The House met at 10.00 a.m.

**PRAYERS**

[MR. SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. Speaker:** Hon. Members, I have received communication from the hon. Harry Partap, Member of Parliament for Cumuto/Manzanilla, requesting leave of absence from sittings of the House for the period February 04 to 14, 2009. I have also received communication from the hon. Jack Austin Warner, Member of Parliament for Chaguanas West, from today's sitting of the House. The leave which these Members seek is granted.

**ORAL ANSWERS TO QUESTIONS**

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Speaker, regrettably, these three questions that are posed to the Minister of Health, we do not have the answers yet so we would ask for a deferral of two weeks.

**Mr. Speaker:** I hear you and whilst I will accede to your request, these are not new matters and they should well be within the cognizance of the Minister of Health. So I expect that on the next occasion they will be answered.

*The following questions stood on the Order Paper in the name of Dr. Hamza Rafeeq:*

**Oncology Centre – Mount Hope  
(Details of Expenditure)**

6. With respect to the Oncology Centre at Mount Hope, could the hon. Minister of Health state:
  - (a) the total amount of money already spent as at December 31, 2008, inclusive of any studies, consultant fees, accommodation, secretarial services, advertisements, staff salaries and construction; itemizing each expense;
  - (b) the projected cost of the entire project; and
  - (c) the expected date of completion of construction of the Oncology Centre?

**Radiotherapy Centre – St. James**  
(Status of)

7. With respect to the Radiotherapy Centre at St. James, could the hon. Minister of Health state:
- (a) how many patients are currently being treated for cancer at the Centre and how many are on the waiting list awaiting treatment; and
  - (b) the age of the Cobalt Machines which are used to treat patients for cancer at the Radiotherapy Centre at St. James?

**Johns Hopkins University/Hospital**  
(Terms and Conditions of Arrangement)

8. Could the hon. Minister of Health state:
- (a) whether there is any formal arrangement between the Government of Trinidad and Tobago/Ministry of Health and the Johns Hopkins University/Hospital for the provision of services to the people of Trinidad and Tobago and;
  - (b) if the answer to (a) is in the affirmative, could the Minister state the terms and conditions of the arrangement?

*Questions, by leave, deferred.*

**PERSONAL EXPLANATION**

**Allegations of Insider Trading**

**The Minister of Finance (Hon. Karen Nunez-Tesheira):** Mr. Speaker, I am grateful for this opportunity to make this explanation in response to allegations which have been made against me by the Members for Siparia and Oropouche East. I do so because the allegations are simply untrue and may seriously damage my reputation if left unanswered.

The Members in question, not for the first time, have gone beyond imputing improper motives about me. On this occasion, the Member for Siparia has suggested that I have acted in contravention of the Prevention of Corruption Act and the Integrity in Public Life Act, by using certain information for my own advantage or the advantage of family or friends. The Member went so far as to state that she had information that:

“The Minister of Finance and the Governor of the Central Bank withdrew moneys from Clico Investment Bank, from the CLICO Group prior to Friday, after knowledge and information came to them.”

The Member for Siparia has further called upon the Prime Minister and the Government:

“to tell the nation which of their Ministers, if there are any others, which public officials withdrew moneys using insider information to take moneys out before the Clico crisis on Friday.”

She also stated that:

“Under the Central Bank Act, the Minister of Finance has a host of duties in this regulatory framework.”

So serious was the Member for Siparia about damaging my good name, she has even quoted sections of the Prevention of Corruption Act and the Integrity in Public Life Act, virtually threatening me with criminal action.

It has also been brought to my attention that information with regard to the personal affairs of my family has been leaked to the media, to wit, that my parents or someone acting on their behalf withdrew money from the Clico Investment Bank on January 20, 2009. The inescapable implication being, firstly, that I would have shared privileged information with members of my family after I was in receipt of such information, as to the financial state of the Clico Investment Bank in my capacity as Minister of Finance and, secondly, that it was on January 20, 2009 that both the application for, and withdrawal of, money from the Clico Investment Bank would have been made. These are very serious allegations and I propose to answer them simply with the facts.

In answer to the claim that I and, by extension, my family members withdrew moneys from Clico Investment Bank prior to Friday after knowledge and information came to me, let me say to the national community that as Minister of Finance I was only made aware of the level and extent of the state of affairs of Clico Investment Bank on Wednesday, January 14, 2009 when the Governor of the Central Bank, as regulator, brought this matter to my attention. I would like to read into the *Hansard* a letter from the Governor dated February 03, 2009 confirming the date on which he communicated to me the liquidity difficulties experienced by Clico Investment Bank. The letter is dated February 03, 2009 and it is signed by Ewart S. Williams:

“Dear Minister Nunez-Tesheira,

I am confirming that my first meeting with Mr. Duprey was January 07, 2009. At the time I knew nothing about Clico Investment Bank (CIB) or Clico’s liquidity problems and the meeting focused on our long standing regulatory concerns.

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On January 13, 2009, Mr. Carlos John called, requesting an urgent meeting for Mr. Duprey the same day. In that meeting Mr. Duprey informed us of the liquidity problems being faced by CIB and presented a letter in which he inquired about possible financial assistance.

On January 14, 2009, after the Policy Formulation Committee Meeting, I advised the Minister of Finance of the discussion with Mr. Duprey.

Yours sincerely,

Ewart. S. Williams.”

With your leave also, I would like to read into the record of *Hansard*, a letter from Clico Investment Bank addressed to the Central Bank. That letter is dated January 13, 2009. It is on the letterhead of CL Financial, addressed to Mr. Ewart Williams, the Governor and signed by Lawrence A. Duprey, Group Executive Chairman.

“Dear Governor,

The severe global financial crisis has begun to impact our local and regional markets and is causing strain on liquidity in certain parts of the financial system in Trinidad and Tobago.

CL Financial being a significant part of the financial sector has been disproportionately impacted by these adverse conditions. Many of our customers are also affected and are consequently calling on their reserve cash positions.

Thus far, all our member companies have been able to deal with their commitments. However, we wish to develop a comprehensive contingency plan to meet any further developments, if this trend were to follow a similar pattern to other countries.

As a result, CL Financial is taking urgent and decisive action.

We have conducted a review of the Group’s assets and the projected liquidity needs. While the Group remains strong in terms of the quantum and quality of its assets, these assets are not in a form that can be liquidated in short order without significant loss in value.”

And they gave a table setting out the estimated value, just by sector:

“Real estate -	\$2,505,000,000
Manufacturing Sector -	\$6,300,000,000
Energy -	\$7,048,993,014

Financial Services - \$8,060,000,000

Total: \$23,913,993,014

We are in the process of realigning the asset-liability structure of the Group to better match the current liquidity situation. This is a complex action plan that we are embarking on immediately, including initiatives such as merger of certain entities within the Group with strategic partners and/or sale of certain assets in order to raise liquidity.

As you would appreciate, these initiatives would need some time before they yield the desired results. In the event that the financial crisis deepens in the local market we may need urgent liquidity support to be made available to the group.

In this regard, we would like to discuss the approach of the Central Bank toward supporting the financial sector and by extension the CL Financial Group, if conditions were to deteriorate.

I thank you for your understanding in this matter and look forward to your continued support.”

That letter, as I said, was dated January 13, 2009

It is clear from these letters that I was not fixed with the knowledge ascribed to me by the Members for Siparia and Oropouche East. Prior to January 14 of this year, I can truthfully state that I had no personal, formal or informal information about the extent of the liquidity difficulties the Clico Investment Bank has found itself in, other than the information known and available to any other citizen of Trinidad and Tobago and those on the other side, for that matter. Like any other citizen of this country, I also have to attend to my personal affairs and I did so until December 30, 2008 with respect to my personal transactions with Clico Investment Bank.

**10.15 a.m.**

In fact, the record shows that I applied to Clico Investment Bank on December 30, 2008, for the withdrawal of a certain sum as did a member of my family. I wish to unequivocally state that I never advised any family member, friend, acquaintance or anyone for that matter to withdraw moneys from Clico Investment Bank, after I was fixed with the knowledge of the bank's liquidity difficulties, on or after January 14, 2009. I can state categorically and without fear or favour, as I did on Monday, that I did not use any privileged information to my advantage.

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The documentary evidence clearly establishes that the implication that I withdrew or caused members of my family to withdraw moneys from Clico Investment Bank after knowledge and information about that institution came to me in my capacity as Minister cannot be sustained. The statements made by the Member for Siparia and the Member for Oropouche East must therefore be withdrawn.

I intended to end my personal statement at this juncture. However, reading the editorial in the *Trinidad Guardian* this morning, February 04, 2009, I think it appropriate in the circumstances before this House, Mr. Speaker, with your permission to quote from the editorial. It is headed, “A time for all good men and women.”

“Worst came, however, when Kamla Persad-Bissessar went after MP Karen Nunez-Tesheira—tossing in the Governor of the Central Bank for added spice—stirring up a pot of rumours as toxic as the virus infecting parliamentarians for too long now: unsupported suspicions about character and conduct, cloaked in the puerile preface of ‘just asking a question...’

In the case of the Governor, the leak turned out to be a crude and vicious contortion of facts. In the case of MP Nunez-Tesheira, a distortion of truth cruelly misunderstood.

Both persons cast in dark light are of such good standing—from pedigree and accomplishment to sincerity in public service—that they deserve to be given the maximum respect and at least minimum benefit of the doubt.

The irony of MP Persad-Bissessar warning us that the Government will use its presence in Republic Bank to mind people’s business while she herself raises shadows over people based on information received from inside CIB simply gives new meaning to the term parliamentary privilege.

In previous editorials we have called attention to this growing malady in our Parliament. We repeat our call for a better quality of governmental discourse.

To borrow again from the book of Barack: ‘Proclaim an end to the petty grievances and false promises...that for far too long have strangled our politics.

We once again state that where it matters—in our highest place of governance—and when it matters—in our severest times of challenge—the urgency of our national situation must be treated with conjoined wisdom and attention. All good men and women should not only themselves come but inspire others to render aid to our nation.”

Mr. Speaker, not only should the statement be withdrawn. The Member should apologize to me for causing damage to my reputation.

Thank you very much. [*Desk thumping*]

**CENTRAL BANK (AMDT.) BILL**

[Second Day]

*Order read for resuming adjourned debate on question* [February 02, 2009]:

That the Bill be now read a second time.

*Question again proposed.*

**Mr. Speaker:** On the last occasion the hon. Minister of Finance was on her legs winding up the debate. She took 12 minutes of original time and therefore has 33 minutes original speaking time remaining.

**Hon. K. Nunez-Tesheira:** Mr. Speaker, today I address you with a heavy heart. To say that I am disappointed with the responses from the other side is really to indulge in an understatement. The matter before this honourable House affects not only the entire economy of Trinidad and Tobago, but also the very persons who we as Members of Parliament have been entrusted to represent. The persons who for them—[*Interruption*] Mr. Speaker, I cannot continue with the noise.

**Mr. Speaker:** Hon. Members opposite, the Minister of Finance will like some silence.

**Mr. Ramnath:** You have no respect for the other side. [*Interruption*]

**Mr. Speaker:** Hon. Members, I am on my feet and you should remain seated and in silence.

**Mr. Ramnath:** I apologize but not to her.

**Mr. Speaker:** No, no. We must have some discipline.

**Hon. K. Nunez-Tesheira:** Thank you, Mr. Speaker. This matter before this honourable House does not affect just the economy but it affects the thousands and thousands of our citizens, those perhaps nameless and faceless persons to the other side. Those persons are our brothers, sisters, mothers and fathers; those persons who have put their savings and pensions in the institution which has found itself faced with liquidity challenges, much of its own making.

To listen to the other side, they seem intent on reducing this honourable House and august Chamber to a place of horse-trading, barter and peddling of votes,

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when what is at stake is the very stability of our economy and the lives of our citizens. It is indeed a tragedy and to quote from the Member for St. Augustine, “a tragedy of heroic proportions.” I thought that it was an oxymoron but I shall still use it. Instead of building and instilling confidence, they seem almost hell-bent on achieving exactly the opposite. To what end do they insist on doing this?

I quoted from the *Guardian* and I will quote again from the *Guardian* because they spoke very well as to exactly what happened in this House on Monday. It says:

“Contribution after contribution took us down a meandering path, straying childishly from the path of scrutiny and responsibility, ending in exhaustion, with a likelihood of more on resumption today, and with no legislation amended for the crisis.”

That is what this honourable House has been reduced to. I said that what we have before us is an issue of crisis of confidence. That is a crisis of confidence that is besieging the entire world; a crisis of confidence that began in the housing market in the United States leading to a credit crunch, a global financial crisis and a global recession.

I would not go over the facts. I think that they are well known to this honourable House. There are two issues which have been identified as the major issues that contributed to what is before us today. It is very relevant to Trinidad and Tobago. The two things are a lack of regulation and regulatory oversight and a lack of recognizing that corrective measures needed to be taken and needed to be taken swiftly. The Member for Tobago East spoke so eloquently about that the fact of the need for acting swiftly and this Government’s response in that regard.

I have an article, not from the Economist. I am sorry to disappoint those. It is speaking about the United States. I will not quote the entire article. It says:

Could the mortgage crisis and bank bailout been prevented?

An ounce of prevention

Two things could have prevented the crisis. The first would be regulation of mortgage brokers who made the bad loans and hedge funds, who used too much leverage. The second would be recognition early on that it was a credibility problem and the Government would have to buy the bad loans. If it had been done last year the bill might have been less than \$700 billion.

The two issues are lack of regulatory oversight and failing to act too soon.

I will address the issue of regulatory oversight. Quoting from the World Bank Financial System, a contribution from the International Monetary Fund headed, “The Unfolding Crisis, Implications for Financial Systems and Their Oversight”, speaking about the financial crisis in the United States, it says:

The financial crisis is prompting a reassessment of certain principles and practices in financial sector policy making and could lead to important changes in the structure and oversight of financial systems worldwide.

On that same point they talked about crisis management and preparedness.

As recent events in our crisis simulation pilots have shown, there remain important weaknesses in crisis preparedness arrangements both within and across countries.

I want to speak about the regulatory oversight. Why a need for regulatory oversight? I will give you some of the indications why you need this. They are:

- (1) To avoid systemic risk; the risk that the financial system will collapse due to the degree of connectivity and interdependence among financial intermediaries.
- (2) To avoid overleveraging by financial institutions; that is, institutions taking on too much debt.
- (3) To monitor the capital adequacy of financial players so that sufficient capital exists to offset losses in the event of financial troubles.
- (4) To curb the abuse of monopolists’ power but, most importantly, to protect the interest of consumers, creditors and depositors.

We are very well aware of the financial crisis that began in the United States. To a large extent it was as a consequence of the failure to have that regulatory oversight. I will quote from a speech of the Governor of the Central Bank on December 04, 2008, headed “The International Financial Crisis, Implications for Financial Sector Stability”. It was addressed at the Caribbean Actuarial Association Conference. This is what he had to say:

“One inescapable lesson from the global turmoil is the risk inherent in the operations of large unregulated financial institutions. Fannie Mae and Freddy Mac were perceived to be state institutions with an implicit government guarantee. In the absence of prudential supervision they were both driven to the edge of insolvency by the sub-prime crisis, and perception became reality. Both these institutions had to be taken over by the Federal government and the implicit guarantee has now become explicit.

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As you may know...the investment banks Bear Stearns, Lehman Bros, Merrill Lynch, Goldman Sachs and Morgan Stanley—were subject to minimal, if any prudential supervision. Three of the five got into serious financial difficulty and had to be absorbed by commercial banks. The other two converted into commercial banks subjecting themselves to rigorous prudential supervision.

There is no question of the importance of regulatory oversight. That is the lesson if anything we have to learn from the global financial crisis. This is something that we in this honourable House are asking the other side to support us in passing the amendments to the Insurance Act and the Central Bank Act to give the Central Bank the necessary rigorous oversight, so that the people of Trinidad and Tobago would be spared the hurt and trauma, that the citizens of so many countries of the world are experiencing now.

**10.30 a.m.**

A classic example, I believe that has stayed with me about the need for regulation is Bear Stearns. I do not know if the other Members are aware of the collapse of Bear Stearns. On a Friday Bear Stearns had \$18 billion of good assets. Because of the crisis of confidence, because of the psychology of economics, because of the fear that had spread by Monday, one short weekend, Bear Stearns had collapsed. That is what we are talking about.

I quote from *The Economist* of March 22, 2008:

“For the critics of modern finance, Bear's swift end on March 16<sup>th</sup> was the inevitable consequence of the laissez-faire philosophy that allowed financial services to innovate and spread almost unchecked. This has created a complex, interdependent system prone to conflicts of interest.

Fraud has been rampant in the sale of subprime mortgages.”

And they go on, on the lack of regulation. They talk about the dance of debt and said that bad management probably made the crisis worse. So, there is no doubt that Bear Stearns, if any other financial institution, stands as a metaphor for lack of regulatory oversight and the price you pay. It is, therefore, that as we come to this honourable House, we ask the other side to put aside the bartering and horse-trading and their own personal agendas to support what is necessary for the good of this country.

When I spoke about regulation, I connected it with the issue of confidence. I quote finally on two issues, one of which is the need for regulation to restore

confidence. This comes from the *Financial Times*. This is what they had to say. I am quoting from Bernanke:

“History demonstrates conclusively that a modern economy cannot grow if its financial system is not operating effectively.”

He goes through three reasons, but I will go to the last:

“Their crucial role underpinning economies means the authorities are loath to let them fail.”—They are saying this because of the importance of certain financial institutions to an economy—“The big lesson of Lehman Brothers’ catastrophic demise, and the huge disruption it caused to markets in the months that followed, was that no leading economy could afford to let another bank of significant size fail. No other industry has the potential to spread its woes to the rest of the economy like this. So, however obscene the public finds the taxpayer support for the banks, the crude reality is that, regardless of who was to blame for the mess, there has been no alternative but to offer support until the crisis is over.”

Mr. Speaker, I spoke about the need for regulatory oversight. If we must learn something, we must learn something from the experiences of the big countries, the developed nations. They are telling us, from their hard experience, that it was the lack of regulatory oversight that contributed significantly to the financial crisis that now besieges the world. Let that not be said of this country, Trinidad and Tobago.

The other important message that came out of the experiences is the failure to act swiftly and decisively enough. The Member for Tobago East spoke to that. I quote only from the Bankers’ Association—there were several other commentators, including the Chamber of Commerce, that commended the Government for its swiftness to act, understanding that to allow this to collapse and then take action would erode the public's confidence and that is something we could not afford.

The essence of what we are seeing today, mark my words, is a crisis of confidence. This is what the Bankers’ Association of Trinidad and Tobago had to say on January 31, 2009:

“This timely intervention has averted the potential for fallout within what continues to be a very robust banking sector...”

I will come back to that point shortly.

I really mean this. It is with difficulty that I now have to speak to Clico's liquidity problem; not in detail because that is not the intention, it is merely to put

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to rest the usual innuendo, giving the impression—I thought I was in a spy thriller because of the conspiracy theory that this Government contrived to bring about the collapse of Clico. I do not know how ludicrous one can be.

After, they said we did not contrive to do it, but we should bail them out and when we did, just give them the money. That is what they were saying. Lend them the money; give them a line of credit, is what you said. I believe the Member for St. Augustine said that I have said—and I will continue to say—that Clico's problems are not those of the global financial crisis. I remember the Member for Couva North saying this and I remembered some of his quotes. He used the expression “connect the dots”. Well I am asking him now to connect the dots—logic.

If that argument held any strength, any probity, it follows that RBTT should now be on the verge of collapse; Scotiabank should be on the verge of collapse; Republic Bank—[*Interruption*] Republic Bank is a local company and it is not on the verge of collapse. Unit Trust of Trinidad and Tobago and the National Insurance Board are not on the verge of collapse. The Bankers' Association has made that point.

So what are the problems of Clico? The Governor of the Central Bank spoke to it. He is the regulator and if anyone should have any knowledge within the constraints of the legislation that now exists—and he said that the legislation constrains him to deal with insurance institutions in the same way as he can with the banks—within the constraints in which he operates, it is clear to everyone that Clico's problems are not simply problems of liquidity. I will quote the Governor of the Central Bank. He had this to say:

“Excessive related party transactions with contagion risk.”

I just read that about AIG, Lehman and all those companies. Those were the same issues—they are too big to fail; high leveraging of the group's assets thereby restraining the amount of cash that can be raised from asset sales; high interest rate, resource mobilization strategy to finance high risk investments; high risk investments in liquid assets, including real estate locally and overseas.

I am not here to spill the beans on Clico. I do not see the point. There is no point in it, but to mislead the national community to give the impression that we should give them the money and they will fix it is not to address the fundamental problems of Clico. [*Desk thumping*] Therefore, this is the purpose of this legislation, to give the Governor, as the regulator, the opportunity and the ability to address the difficulties with that group to the benefit of the people of Trinidad and Tobago.

That is the responsibility of the Governor. His responsibility is to ensure the macro stability of the economy. That is why he has the power to have a repo rate, reserve requirements, sale of foreign exchange; all of those activities are to ensure the stability of our economy. Because Clico is too fundamental to the economy of Trinidad and Tobago, that responsibility as the regulator must be given the power to deal with that financial institution.

The question they keep asking on the other side is: Why the need for legislation? And they keep insisting that they want the facts. How much do they owe? [*Interruption*] Member for Caroni East, please. Through you, Mr. Speaker, those facts, I am sure, are not 2008 data. I do not want to come here and muddy the waters for Clico; that is not my business.

I am here to say that Clico is a private company. They do not trade on the stock exchange, so the amendment to the Securities Act, which we are coming to the Parliament with—we are going to the Legislative Review Committee and it will be put on the parliamentary agenda by the end of this month. Clico is a private company and so, in the context of what the Governor can do to get to the facts, he is constrained. We have to rely on the information that Clico gives us and without going into any detail, clearly today we are unable to say with any definitiveness what is the state of the liquidity issues and the debt of Clico. This is saying to the national community that that information has not been made available because it cannot be made available at this point. Those who have information are unable and cannot give us that information. However, when we pass the legislation, we will not have to rely on a Memorandum of Understanding.

In coming to this Memorandum of Understanding, it took over one week of negotiations and speaking with the relevant parties, including the chairman. In the end, I believe that it was signed by a man with great astuteness, a powerful man, no pushover.

The chairman came to the realization—it was clear in the press conference that he had—that these were serious times and merely putting money into Clico was not an option. The Memorandum of Understanding speaks to the need of what must be done. If, in the Memorandum of Understanding signed by Mr. Duprey, it says that he has agreed to a number of actions, including paragraph 13—the restructuring of the business to conform to the traditional life insurance business; the reconstitution of the board; the appointment of a manager at Clico; a number of steps that have been agreed to—this really speaks to the issues that now beset Clico.

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Mr. Speaker, when you look at the Memorandum of Understanding signed by the chairman of CL Financial after a week of negotiations we—[*Interruptions*]

**Mr. Speaker:** I am sure that all Members of Parliament present would like to vote on this Bill. Now, if you continue this way you may not have the opportunity to vote on the Bill, so please let us hear the Minister of Finance.

**Hon. K. Nunez-Tesheira:** We have a responsibility to the national community. We have a responsibility to the mothers, brothers, sisters, aunts and uncles who are listening to us this morning, and it would be remiss of us, negligent on our part to merely rely on a Memorandum of Understanding. We came to that Memorandum because we did not want, as the other side may want to believe, to deal with this matter in an adversarial manner. We wanted to come together in the interest of the people of Trinidad and Tobago. That is why it is called a Memorandum of Understanding.

This Chamber is the legislative arm. This is where we pass laws. It is our responsibility to pass the laws, and to pass the laws that guard the interests of our people. While the Memorandum of Understanding is there, we must have the legislative authority in order to give the Governor the authority to do what he must as the regulator.

**10.45 a.m.**

Mr. Speaker, we have heard—I am going to speak briefly on some of the measures contained in the Memorandum of Understanding because a lot of rumour-mongering and mischief is going on, unfortunately, and creating anxiety among our public. I want to say to the people of Trinidad and Tobago that the Government has absolutely no intention of taking control of Colonial Life Insurance Company (Clico) and British American. We are dealing with a liquidity issue and the liquidity issue is so huge, of such proportions, that the Government, as in the United States, England and Europe, has become the lender of last resorts, so to speak, to bail out an institution that is of enormous importance to our economy. It is the intention that the Colonial Life Insurance Company and British American, with the cooperation of those in Colonial Life Insurance Company, including, we hope, the chairman, to put in place the legislative, regulatory and governance structure so that Clico will emerge a stronger and better-managed company with improved governance and risk management practices.

Why did we acquire Republic Bank shares? There is all this talk about us acquiring Republic Bank shares because we want to take control of Republic Bank. When you are dealing with a liquidity issue and you want to close the

liquidity gap, you have to look and see what you have to fill that liquidity gap. Colonial Life Insurance Company has assets and those assets of high quality which they were able to identify, they identified them, which are to be used to fill the liquidity gap were their Republic Bank shares and their methanol shares. We have given an undertaking to the chairman and it is contained in the MOU, that when he is in a position so to do, that he would be able to purchase the methanol shares. The Government has no intention of holding on to the methanol shares. We are doing what we are doing in order to restore stability to the sector. The shares in Republic Bank, as I said, would be used to deal with the gap in the statutory fund.

This Government, I want to reiterate, has no intention of getting involved in the day-to-day operations of Republic Bank Limited. We have no intentions of putting on the board Members of the Government. Republic Bank is a well run bank. Republic Bank is a successful bank. Some of you may have shares in Republic Bank; I do not have, and, therefore, what are you? You are a shareholder. As a shareholder you are a director. It is the directors that determine the policy of an institution. The Government, at this point, is a shareholder because of an emergent situation; a shareholder by necessity, in the same way that the Government in the United States has become a shareholder in AIG in order to deal with a crisis situation. That is why the Government has intervened.

I have just gotten the approval from the Governor of the Central Bank to state to the national community, to allay some of the fears if there are fears, as if the Government is going to put their party hacks in there. This Government is not about that. Mr. Speaker, I would like to say to the national community who we are putting as directors of Colonial Life Insurance Company. The Chairman is Dr. Euric Bobb, a former Governor of the Central Bank. They want to say that we are putting party hacks. The other members include Miss Judy Chang; Claude Musaib-Ali; Mr. Marlon Holder and there is one other member that I forgot. There is also Mr. Hayden Charles who was an independent member for Clico. For continuity, he is also going to be a member of the board. There is one person that escapes me at this point with respect to members of this board.

To allay the fears of the national community, this Government is not about putting party hacks, which we would never do in any event; we are about serving the interest of the people of Trinidad and Tobago. We understand that perception is reality. We understand there is a crisis of confidence that other countries have experienced. We want to allay the anxiety of the people of Trinidad and Tobago. It is very important that they see that this Government is determined and

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committed to ensuring that there is continuity and good governance in this country. That is why we have made the selection of those persons in conjunction with the Central Bank.

One of the things—[*Interruption*]

**Mr. Maharaj SC:** I am thankful, hon. Minister. Just a simple question: Could you advise this honourable House under what powers the Governor appointed these directors?

**Hon. K. Nunez-Testeira:** You see, now I am going to answer that question, maybe not how the Member wanted me to answer. I would first say that it was the Memorandum of Understanding. Do you know why he is saying that? It is because they intend to challenge the Memorandum of Understanding. Well, I am—[*Interruption*] no, you do not have 20/20 vision—seeing this.

Here is what I am seeing; I am seeing that they intend to challenge the Memorandum of Understanding, because they have started. He said: “They have put a gun to his head” and all kinds of foolish things. That is why it becomes even more important that we pass this legislation today. That is why he has gotten—we cannot rely on the goodwill of men. We cannot rely on that, because if we had done that, Clico would not find itself in the difficulty it finds itself in today if they had done all the right things. I am not about pulling down Clico. I am not about doing that, but the facts are the facts and that is why we need this legislation. That is why we cannot rely on their goodwill. We cannot rely on their support. The Memorandum of Understanding, some may say—[*Interruption*] Mr. Anthony Watkins. The Member for Tabaquite has brought home for us today why we cannot leave this House without passing the legislation. This legislation is in accordance with international best practices. They talk about 20/20 vision and developed nation status—[*Continuous interruption and crosstalk*]

**Mr. Speaker:** Hon. Members, take a breather and relax yourselves. The speaking time of the hon. Member has expired.

*Motion made,* That the hon. Member’s speaking time be extended by 30 minutes. [*Hon. C. Imbert*]

*Question put and agreed to.*

**Hon. K. Nunez-Testeira:** Mr. Speaker, I cannot help but comment that the Member for Couva North said: “We would extend it if only you answer this question.” Did you hear that? This bartering, horse-trading sort of thing that you have to come to their conditions and that is how we will get it. We have the

country's future at risk. They do not have to question that. We just have to look around the world and see what has happened. Instead of taking the high road and representing those people who put you there; those mothers, brothers, sisters, uncles and aunts whom you said you would come here and barter for your vote. Are we going to risk their goodwill? Look at what they are saying to us in this honourable House. It would be foolhardy.

**Mr. Speaker:** You all are forcing me to give the hon. Minister injury time. Please, let us hear. Hon. Members, you will all yet have your say. Be patient. Continue.

**Hon. K. Nunez-Tesheira:** I am glad for your assistance, but I am reminded of a quote I quoted in this House already. Someone once told me that you do not throw stones at an empty mango tree. I am getting stoned. I have said to this honourable House that the members of the Board of Colonial Life Insurance Company are persons of reputations beyond reproach and ability.

I want to also say to you that when you listen to the other side, you get the impression that one, which we are not, wanted to hold on to the shares of Republic Bank. The Government has made a commitment that as soon as it can unwind the several pledges, the Government will not only dispose of them, but has made a commitment to put them on the stock exchange. That is the commitment of this Government. I really have to defend the Government in this regard. To listen to them—they give the impression that anything that is run by the Government or if the Government has any interest, is sure to fail or be mired in all kinds of “simidimi.” [*Interruption*] I thought he said “simidimi”.

Mr. Speaker, let me give you some examples of institutions, either owned by this Government—when I say the Government, the people of Trinidad and Tobago:

- First Citizens Bank, whose CEO is well known to the other side. Mr. Larry Howai is a man who is not a stranger to the other side. First Citizens won the Banker's Magazine Bank Award for 2005 and the Latin Finance Bank of the year for 2002. First Citizens capital ratio is in excess of 8 per cent, when the international standard requirements stand at 23.11 per cent.
- The National Insurance Board is highly liquid. It has marketable securities in the vicinity of \$5.2 billion and can be sold at a moment's notice. Short-term liabilities are around \$138 million, 32 per cent of investments is in government securities, 19 per cent corporate bonds; a

good investment reflecting good risk management of the investment portfolio; and

- The Unit Trust Corporation (UTC). At the UTC, funds under the management increased consistently from \$7.7 billion in 2002 to over \$16 billion in 2007. Total income increased year over year consistently from \$658 million to \$1.1 billion. Distribution increased year over year from 2002 of \$473 million to \$777 million. That is to give you an indication of the way in which organizations in which the Government has an interest on behalf of the people of Trinidad and Tobago are run.

I want to make a statement. This again, addresses the issue that Clico's issue is a liquidity issue. When we look at the banking sector as a whole—it is important that people have confidence in the banking sector—what are the facts? Capital levels are in excess of international requirements. The standard requirement is 8 per cent. Our banks report more than 18 per cent. The quality and quantity of reported annual earnings are very good. That includes FCB, Republic Bank, Scotia, RBTT and RBC. With respect to asset quality, the rate of non-performing loans to total loans is just below 2 per cent. In fact, the IFM spoke to the strength of our banking sector in their last report and they said:

“The banking sector is well capitalized and provisioned. The current system, average capital adequacy ratio of 21 per cent is well in excess of the minimum 10 per cent regulatory requirement.”

I can go on with many other quotes. Mr. Harford spoke on October 25, when he said that top bankers say the local banks are strong. On September 17, the Central Bank stated no need to panic.

We have a statement recently from Republic Bank speaking about the strength and saying to the people of Trinidad and Tobago:

“The Board of Directors, management and governance structure of Republic Bank and its subsidiaries remain unchanged.”

**11.00 a.m.**

Mr. Speaker, I can give you many other examples of statements made with respect to the strength of our banking sector. Mr. Speaker, my colleague, the Member for Diego Martin North/East has reminded me that in the event I did not read it into *Harsard*, the new board at Clico was appointed in accordance with the MOU. It was done by the owner, CL Duprey and others, in accordance with the MOU.

I want to deal with the misquotations and the continued mischief that the Minister of Finance said that the Trinidad and Tobago economy stands immune from the global crisis. I would not go back into the details on that matter, but on the last occasion, I quoted from an address I made to the Trinidad and Tobago Manufacturers' Association on: Recession in the United States of America—Implications for Trinidad and Tobago and that was on March 04, 2008.

In addition, on January 29, 2008—perhaps that is part of the reason for the misunderstanding—there was an article headed: “US slowdown not affecting local stock exchange”. In the body of the article it says that Nunez-Tesheira said any impact of the slowdown of the US economy on Trinidad and Tobago would depend on the magnitude and the ratio of the slowing down and then they quoted me saying:

“This is hardly surprising, given the limited integration of the domestic market to US, an emerging market economy.”

Mr. Speaker, that statement was taken from a speech I gave in May, 2008. That comment was made in relation to the stock exchange. I said that we were satisfied that there has not been any significant impact of the slowdown in US growth and the volatility in the US Stock Market on the Trinidad and Tobago Stock Exchange. This is hardly surprising, given the limited integration of the domestic market to US, an emerging economy. So, that statement was taken out of context.

In fact, they corrected it on January 31, 2009 with a headline: Finance Minister—US recession can hurt Trinidad and Tobago's economy in the long run. In September, I spoke to that issue in an article.

**Mr. Ramnath:** Before you wind up, just say how much money you took out.

**Hon. K. Nunez-Tesheira:** Mr. Speaker, a matter was brought up in this honourable House with respect to Clico and the Hindu Credit Union (HCU) matter, and the fact that HCU is not being bailed out. I just want to make a distinction with regard to the issue as it stands at this point in time. Firstly, the HCU is governed by the cooperative societies legislation. In accordance with the process under that legislation, complaints from depositors have to go through the process set out by that legislation and that process is underway. I think after that is completed there is a right of appeal to the Minister of Labour and Small and Micro Enterprise Development in accordance with the legislation, and there is also an issue of a legal injunction.

**Mr. Bharath:** Does the Minister know that a large number of HCU assets have already been sold off and, therefore, by the time a decision is arrived at with regard to depositors and shareholders they may have nothing to get?

**Hon. K. Nunez-Tesheira:** Mr. Speaker, what I would say in response to that matter is that—I am not the Minister of Labour and Small and Micro Enterprise Development—an injunction was granted against the HCU. There are lawyers in this House, and when an injunction is granted against a person or an organization that is a serious remedy, because of the nature of the fact that it impacts on your rights and freedoms. In fact, when one looks at the Magistrates' Court—I should not say a court with no superior jurisdiction—it has no authority to grant an injunction.

A master of the court has no authority to grant an injunction, because of the seriousness and gravity of the remedy. An injunction was granted against the HCU. I do not want to go into the details of the matter, but for the court to have been satisfied that an injunction was required against the HCU and to stop it from continuing to operate speaks volumes of the state of that organization. I do not want to belabour the point. I am making the point that the matter is subject to an injunctive relief and that matter is before the Commissioner of Cooperatives.

**Hon. Member:** Change the law.

**Hon. K. Nunez-Tesheira:** We are going to change the law. I think the Governor of the Central Bank indicated that we have been in discussion with respect to consensus building, to the extent that we had a meeting with the Governor of the Central Bank, all the representatives of the credit union league and myself. We have met on about three occasions. On the last occasion, they gave an undertaking to come to a position by the middle of March. We believe in consensus building. If we are talking about passing legislation—we have passed the Financial Institutions Act and we are about to pass the Securities Industry Act.

Mr. Speaker, in responding to the issue with regard to Clico, we need to also put on the table that we have brought in KPMG International. KPMG International of Canada is here—they have forensic experts, accountants and lawyers—to assist the Government in dealing with this situation. They operate as an international network of member firms in 144 countries, and they have considerable experience in matters such as this.

As I end my contribution, what has been brought to light for all of us in Trinidad and Tobago and, certainly, the rest of the world, is the important role of the Government. There are those who come from the Friedman School and then the Keynesian School. Today, we are seeing with Obama's new deal—

**Dr. Rowley:** I thank the Minister for giving way. I just want to seek clarification on two points before the Minister ends. I would like to find out what is the Government's position with respect to the holding of Republic Bank Limited shares, if it does come under the Government's control at NIB. I would like you to declare what is the Government's position on that matter. I would also like to know what is the Government's position with respect to the role of a Minister supervising, directing and giving instructions to state enterprises that hold state assets. I would like to be clear on those two points, please.

**Hon. K. Nunez-Tesheira:** Mr. Speaker, with regard to the first question, I am not sure the hon. Member for Diego Martin West is aware, but because this Government believes in consensus building and it is committed to doing what is best for the people of Trinidad and Tobago, we have agreed to break for discussion with the other side with a view to coming to a consensus on a matter of such importance. That is the approach that we want to take.

I want to reiterate that Republic Bank Limited shares are in a holding position. If there is a liquidity gap, and you ask the organization for its assets—if you are the one giving the financial backing then you must have something to support it. It is going to be irresponsible for us to give out money and not get some kind of guarantee. That is irresponsible! The Member for Tabaquite and the Member for Couva North are aware that we are going to break after I have completed my contribution to have further discussion on this matter.

We have made the commitment to the people of Trinidad and Tobago that we are shareholders by necessity. We have no intention of getting involved in the day-to-day operations of Republic Bank. We have no intention to affect, or in any way impact on the board of directors of Republic Bank. The people of Trinidad and Tobago can be assured of that.

Mr. Speaker, I want to make my last point and if I do have time, I can assure you that I am going to answer the Member for Diego Martin West. I was making the point with respect to the important role of the Government. It is in this time that the Government's role becomes even more critical. We are seeing many examples of that around the world. As I said, we have President Obama's new deal approach of putting in place infrastructural development programmes to address, among other things, the issue of resuscitating the economy and also providing employment.

I was very glad to hear a Member—I do not know if it was the Member for Oropouche East or the Member for St. Augustine—talking about the need to ensure that there is employment. It always troubled me whether they understand

now the need to ensure that persons have jobs. They would understand now that the persons who are the most vulnerable in our society—those persons for whatever reason are unable to get employment—need to be employed. That is why the Government's responsibility is even more critical, and that is why we have the URP and CEPEP programmes which take care of the most vulnerable, many of whom are women. This is the Government's commitment to the people of Trinidad and Tobago.

So, the Government, in addressing the budgetary deficits that we have experienced for 2008, not of our making, but because of the global recession, we are able to withstand it because of our good governance of the people's business. We are committed to ensuring infrastructural development programmes by which we can ensure the engine of growth continue to rumble as well as ensure that we provide employment to the people of Trinidad and Tobago.

So, today, we have the Keynesian approach to economics to deal with a fragile consumer demand, and that is what Obama has done in the United States of America, and that is what we in Trinidad and Tobago are committed to.

**Dr. Rowley:** I thank the Minister for giving way. Is the Minister prepared before she winds up to give the Government's view with respect to its understanding of the role of a Minister with respect to managing state enterprises?

**Hon. K. Nunez-Testeira:** Let me just finish and I am going to answer as best as I can. Mr. Speaker, before I address the comment of the Member for Diego Martin West as best as I can, I want to end by saying that here are the leaders of this country. We need to come together and put aside the bantering and horse-trading and come together in the interest of the people of Trinidad and Tobago. We owe them that. We owe the people of Trinidad and Tobago our commitment to effective management of the economy of Trinidad and Tobago. We need to remember the concept of synergy that the whole is greater than the sum of its parts.

Mr. Speaker, I hope that the other side would put aside whatever issues they may have and rise to the occasion. I see the Member for Couva North is nodding at me, so we are making progress. That is why you are the leader. I expect that from you and no less.

Mr. Speaker, to answer the question as best as I can for the Member for Diego Martin West with respect to UDeCott—I am saying it with a caveat and without prejudice as the lawyers will say—my understanding is that UDeCott is a company and it is governed under the Companies Act. One of the things I read in

the newspapers is that UDeCott can do anything. Well, it is not only UDeCott that can do anything but any company in Trinidad and Tobago can do anything. The reason for that is that prior to the new companies legislation, we had the Companies Ordinance and you have the objects as to how a company is formed. When persons operate companies, they would have reams of pages that a company can have a chicken farm or a hotel. Anything one could think of was under those objects. Now, with the new legislation, what it did was to say effectively that a company could do anything, and if it wants to limit those powers, it must do so in a Certificate of Incorporation or in one of the documents. So that to say that UDeCott could do anything—

**11.15 a.m.**

That is the legislation. I know it is the Member for Siparia, because—it was not Crowne Plaza at the time—they had a presentation on the new companies legislation when the Member for Siparia was the Attorney General, and that companies legislation applies to every—

**Mrs. Persad-Bissessar:** Minister of Legal Affairs.

**Hon. K. Nunez-Tesheira:** Okay, Minister of Legal Affairs, sorry—but I am correct about that information. So, any company, whether it is UDeCott, is subject to the legislation and it has the power to do those things. So, to single out UDeCott as if it is different from any other company is incorrect.

It is my understanding that a company puts together a board of directors to run the company on behalf of shareholders. It is there, therefore, to carry out in its wisdom, the policy and the policy of the shareholders in the interest of those persons who put them there.

**Hon. Member:** Will you give way?

**Hon. K. Nunez-Tesheira:** No, I cannot give way again. I am not giving way. In the context of UDeCott, who are the shareholders? The Government, Corporation Sole, is the shareholder. Therefore, if you put a board of directors and a chairman there, it would be ludicrous—even when you were in government—to put a board of directors, to put a chairman who is not carrying out the policy of the Government of the day.

In that context, whilst under the companies legislation from a strict legal point of view, the board and the chairman under the companies legislation have that authority to run the business of the company. At the same point in time, it is foolish to think—if I may be bold as to say—that the board of directors is there

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not to carry out the policy of the shareholders. They are there to serve and the company's legislation talks about the responsibilities of directors.

In fact, they can be sued if they do not seek the interest of the shareholders. In this context, who is the shareholder? It is the Government of Trinidad and Tobago; the Minister of Finance is the Corporation Sole and therefore, in keeping with the company de facto—

**Mrs. Persad-Bissessar:** Calm down, calm down.

**Hon. K. Nunez-Testheira:** I know you are getting worried, Member for Siparia, I think you should be more worried for yourself, I could tell you that. It is in that context that any chairman, be it Mr. Calder Hart, or any other chairman, will be doing those things that are in the interest of the persons who put them there; that is the shareholders. So, to make all this bacchanal and confusion, "how he could do anything, and he don't have to listen to anybody", strictly speaking, that is correct, but when you say that, say that about every other company in Trinidad and Tobago.

Mr. Speaker, I said I was not prepared for the questions; I am not standing here in a legal capacity; I did my best to explain it, as I understand it, so I do not want anybody to hold it against me.

Having said that, I want to end my contribution this morning, asking the other side to do what is best for the people of Trinidad and Tobago. I want to assure the national community, all of those who are listening to us this morning; all of those who are filled with fear, anxiety and trepidation, that this Government has managed the people's business well. You know I like to give you all the stats, the debt management, the foreign exchange, all of those things that speak to prudent and sound management. [*Desk thumping*] I want to give the people of Trinidad and Tobago the assurance that when we acted as decisively and swiftly as we did, we acted in the interest of the people of Trinidad and Tobago, and we give them that assurance that today, February 04, that the Government is committed to guaranteeing every policyholder of Clico (Trinidad and Tobago) Limited and Clico Investment Bank—that is those third party shareholders to whom I spoke—that this Government will stand behind them with its not inconsiderable saving that it has amassed over the years including—I see the Member for Couva North watching—the Heritage and Stabilisation Fund, which stands at over \$18 billion.

Thank you, Mr. Speaker.

With that, I beg to move.

*Question put and agreed to.*

**Mr. Speaker:** Hon. Members, the sitting of the House will be suspended for a period of time, we will resume at 12.30 p.m. I understand that there is an arrangement in place for all Members to meet in another place. May I suggest to Members that if you have to have something to drink, try chamomile tea; it has a calming effect. [*Laughter*]

The sitting of the House is suspended until 12.30 p.m.

**11.21 a.m.:** *Sitting suspended.*

**12.30 p.m.:** *Sitting resumed.*

**Mr. Speaker:** Hon. Members, the sitting of the House will now be suspended for lunch, and we will resume at 2.00 p.m.

**12.32 p.m.:** *Sitting suspended.*

**2.00 p.m.:** *Sitting resumed.*

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Speaker, I beg to move that the committee stage of the Central Bank (Amdt.) Bill be adjourned until completion of all stages of the Insurance (Amdt.) Bill.

*Question put and agreed to.*

#### INSURANCE (AMDT.) BILL

*Order for second reading read.*

**The Minister of Finance (Hon. Karen Nunez-Tesheira):** Mr. Speaker, I beg to move,

That a Bill to amend the Insurance Act, Chap. 84:01, be now read a second time.

I beg to move.

*Question proposed.*

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*House in committee.*

*Clause 1 to 3 ordered to stand part of the Bill.*

*Clause 4.*

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

**Dr. Gopeesingh:** Could the Government explain if there is any other local regulatory agency or body or what is the local regulatory agency or body for the insurance?

**Mr. Imbert:** Would you be a bit more specific, please?

**Dr. Gopeesingh:** Under clause 4(b), the third to last line:

“To any local or foreign regulatory agency or body that regulates financial entities...”

Which is the local regulatory authority, agency or body? And if there is, is there more than one?

**Mr. Imbert:** Local. Just a second. We have people from the Central Bank here. For example, the Securities and Exchange Commission, that is an example of another local regulatory agency.

**Dr. Gopeesingh:** Yes, well just tell us how many there are in Trinidad and what are they.

**Mr. Imbert:** The only one at this point in time is the Securities and Exchange Commission.

**Dr. Gopeesingh:** What about the Central Bank, is that a regulatory authority?

**Mr. Imbert:** Well, if you look at the clause carefully it starts with the Central Bank disclosing it to a local or foreign regulatory agency. So, the Central Bank is already covered and the only other one as the Inspector now tells me—*[Interruption]* and I am also told the Deposit Insurance Corporation (DIC). Those are the two.

**Dr. Gopeesingh:** So there are two, DIC—

**Mr. Imbert:** As far as we are advised at this point in time, Securities and Exchange Commission and Deposit Insurance Corporation.

**Dr. Gopeesingh:** What about the Director of Cooperatives who deals with credit unions?

**Mr. Imbert:** No, that does not fall under the rubric of a regulatory agency.

**Dr. Gopeesingh:** And is the foreign regulatory agency you are speaking about within the Caribbean or international?

**Mr. Imbert:** International, regional, hemispheric.

**Dr. Gopeesingh:** Okay. And what is the intent and purpose of this, if you can be kind enough to explain?

**Mr. Imbert:** Just one second. These companies operate all over the world and if you do not have access to foreign regulators you may not have a holistic picture of their debt profile and so on.

*Question put and agreed to.*

*Clause 4 ordered to stand part of the Bill.*

*Clause 5.*

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

**Mr. S. Panday:** Mr. Chairman, clause 5 new subsection (7), this speaks about the statutory fund, it says:

“In addition to the requirements set out in subsection (6), every company registered to carry on long term insurance business or motor vehicle insurance business or both, shall place (certain moneys) in the statutory fund—”

What about a situation where there is incompetence on the part of the regulatory body and the motor vehicle insurance company goes under and people have claims against individuals and that company? What is the position of those policyholders and third party persons who are affected by that problem?

**Mr. Imbert:** I am struggling to find the relevance in the context of clause 5, which merely talks about the statutory fund.

**Mr. S. Panday:** Well, they are putting money in the statutory fund. We are saying, what is the situation where, because of incompetence on the part of the regulatory body an insurance company happens to go under? The only money you will have from that company is money in the statutory fund. What about a situation where there is a valid policy and something takes place and a person brings an action against the third party and the insurance company, but the insurance company goes under, what is the position of the policy holders in that situation? Would it be against the statutory fund or the inspector?

**Mr. Imbert:** It is a very complicated question.

**Mr. B. Panday:** I think what he is driving at is, suppose the person responsible for ensuring that the statutory fund is in order is negligent. I think that is the point. If I am interfering in your business and I am putting it wrongly please tell me. The issue is, there should be a statutory fund. There is someone who regulates, the Inspector of Insurance or whoever it is, he is negligent and the statutory fund falls below; the company goes under and a man has insured his motor car, he gets into an accident, he is totally unprotected now because the

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insurance company has gone under. Why do we not make it clear that the Government will be liable for negligence in the officer failing to do his duty, so that the man now can claim and be sure that he would not have to pay out of his pocket?

**Mr. Imbert:** Well, the fact is that we are looking at clause 5 and if we could just deal with clause 5 and then I will get to your point.

**Mr. B. Panday:** If I pass clause 5 then I have nothing to ask you.

**Mr. Imbert:** No, that is not what I meant. I just want to deal with what is written here and then we will deal with your wider point.

**Mr. B. Panday:** Okay.

**Mr. Imbert:** This clause simply makes it mandatory for these companies to put the appropriate assets into the statutory fund and if they do not—well, actually, it also qualifies it to say that there are quarterly returns, the company will submit management accounts every three months and that if it is determined that there is a deficit in the statutory fund they have seven days to make good the deficit.

So this is merely setting up a mechanism whereby seven days after the quarterly report comes in, the companies are required to make good any shortfall in the statutory fund based on what is being submitted. The wider point you are raising is already in the law.

**Mr. B. Panday:** Where?

**Mr. Imbert:** That is in the context of judicial review.

**Mr. B. Panday:** No, no, except you are reading a different law book from me, I do not think so. My question is, the Government is negligent, a man insures his motor car, the insurance company is supposed to cover him, his car, or driver or whatever gets into an accident, it is found that he is liable to the tune of \$1 million or \$.5 million, whatever; in the meantime the company goes under. Because the Government failed in its supervisory duties to ensure that the statutory fund was there which would have covered him but it is not there, the company has gone under because it is not there, should the Government not be liable in an action for negligence so that the man who has to pay the million dollars now has recourse and he does not go into bankruptcy himself, because the Government has been negligent in ensuring that the statutory fund was maintained?

**Mr. Imbert:** In the first place—[*Inaudible*]

**Mr. B. Panday:** I do not know, Sir, I am asking.

**Mr. Imbert:**—it is not the Government. This speaks to the regulator which is the Central Bank.

**Mr. B. Panday:** I know what this speaks to, Member.

**Mr. Imbert:** It is not the Government!

**Mr. B. Panday:** My job here is to look after the citizens and I am saying that if such a thing occurs, why do you want me to—*[Inaudible]* I know. Tell me, are you going to introduce legislation to ensure that a person in the position that I have just described will have recourse, because that person could go into bankruptcy—lose everything.

**Mr. Imbert:** Mr. Member for Couva North, in the context of this clause, the person who is in charge of this process is the regulator which is the Central Bank. With respect to those other issues, not the Government. The issues you have raised as the learned Speaker has pointed out, there are actions in tort and there are other laws which will allow persons to make a claim. But with respect to this clause, do you have a specific recommendation for amendment of this clause?

**Mr. B. Panday:** Yes, I know that. I know that! I am taking the opportunity to tell you, will you give me an undertaking? Sorry, this point was really raised by the Member for Princes Town North. Member for Princes Town North, I apologize.

**Mr. Imbert:** Go ahead, I am just taking instructions here. Go ahead.

**Mr. B. Panday:** Well, I was taking instructions from the Member for Princes Town North actually. *[Interruption]* *[Laughter]* The point I am making, will the Government give me—so that I can feel safe in supporting this clause—an undertaking that they will introduce legislation? You see, if we go in tort as have we, you have to prove something, negligence. If there is a tort which is created by reason that there is a failure to carry out a statutory duty, an action found in tort based on the fact that the Government has failed to carry out a statutory duty and that makes them liable, and you do not have to go and look for negligence and you do not have to go and look for any other tort *[Interruption]* but it must become substantial. It gives you an opportunity to find an action.

**2.15 p.m.**

**Mr. Imbert:** I understand what the hon. Member is saying—*[Interruption]*

**Mr. Ramnath:** "No, you don't."

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**Mr. Imbert:**—but in the context of this clause and at this time—[*Interruption*]

**Mr. B. Panday:** You keep going back to the contents of this clause—  
[*Interruption*]

**Mr. Imbert:** We are in committee stage, Sir.

**Mr. B. Panday:** I want to get from you an undertaking that you will introduce such legislation.

**Mr. Imbert:** That is not the purpose of committee stage. Mr. Chairman?

**Mrs. Persad-Bissessar:** What is the purpose of committee stage then?

**Mr. Imbert:** To go through the bill clause by clause. It is a clause by clause examination of the Bill. That is a fact.

**Mr. Sharma:** Thank you, Mr. Chairman. As it relates to 5(7), can the Chairman indicate what is meant by "to place assets"? I want to use an example. I looked at the Clico Financial Report for 2007, and I see in it that the shares of Republic Bank and Methanol were used as assets for the statutory fund. In 2008, I noted that the Central Bank has asked Clico to remove the Republic Bank shares and the Methanol shares, could you say what is the understanding there?

**Mr. Imbert:** Mr. Chairman, I wish to reiterate, we are at committee stage and this is a clause by clause examination of the Bill. If the Member has a specific amendment, we would be most willing to listen to that amendment.

**Mr. Sharma:** To place assets in the statutory fund, would it include bank shares and shares of the holding company?

**Mr. Imbert:** Any approved asset is available to go into the statutory fund. Any approved asset: cash, shares, et cetera.

**Mr. Sharma:** Well, I asked that in the context to make sure that we have a clear understanding and I indicated in the Clico Financial Report of 2007, the Republic Bank shares and the Methanol shares were included, and in 2008, the Central Bank advised Clico to remove those shares. One year it was approved shares and the second year something happened?

**Mr. Imbert:** I am advised that that occurred because some of these items were in excess of the allowable limits for those particular items, because you would have different categories of assets and limits on the various categories.

**Mrs. Persad-Bissessar:** So each category has a quota?

**Mr. Imbert:** Two and a half per cent and 5 per cent limit in terms of how we go into the fund.

**Mrs. Persad-Bissessar:** Can you tell us when it is that they were advised that they could not use those shares as part of the statutory fund?

**Mr. Imbert:** April 2008, I am advised.

**Mrs. Persad-Bissessar:** April 2008?

**Mr. Imbert:** I am advised this was done in April 2008.

**Mrs. Persad-Bissessar:** Fine. So as at April—*[Interruption]*

**Mr. Imbert:** To take effect on December 31, 2008.

**Mrs. Persad-Bissessar:** So at April 2008, the company would have been advised by Central Bank officials, that this money was not probably in the statutory fund?

**Mr. Imbert:** Complete the question.

**Mrs. Persad-Bissessar:** As at April 2008, Government officials whether out of the Central Bank or whoever, if I am to understand you, would have advised Clico that these are in excess of limits for the statutory fund, and therefore, your statutory fund is deficient as at April 2008?

**Mr. Imbert:** As I said before, they were advised in April that effective December, they would have to remove the assets.

**Mrs. Persad-Bissessar:** Effective when, I am sorry?

**Mr. Imbert:** December 31, 2008.

**Mrs. Persad-Bissessar:** Effective December 2008.

**Mr. Imbert:** They were given notice in April, that by December 31, 2008, they would have to take out—*[Interruption]*

**Mrs. Persad-Bissessar:** Their fund would go deficient? These could not be kept in the fund?

**Mr. Imbert:** Not at all.

**Mrs. Persad-Bissessar:** Then you have answered some very important questions as to knowledge.

**Mr. Chairman:** Any other issues?

**Dr. Goopeesingh:** Mr. Chairman, if I look at the old Act with penultimate line in clause 5, they said submitted under section 61; in the old Act there is no 61A. So there is a—*[Interruption]*

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**Mr. Imbert:** That is a proposed clause.

**Dr. Gopeesingh:** The Insurance Act has no 61A.

**Mr. Speaker:** It is in clause 7.

**Mr. Imbert:** Dr. Gopeesingh, we are creating another section 61. If you have a little patience, we will get there.

**Dr. Gopeesingh:** Under the old Act, you have submission of financial statements and so on every six months, and in some areas nine months, after the close of the financial year. Why is it necessary that you want financial statements to be submitted quarterly? When you give me the answer, I will ask you something else.

**Mr. Imbert:** Mr. Chairman, this is committee stage and we are really dealing with amendments, not explanations of policy.

**Mr. Chairman:** No, at committee stage you deal with the details of the Bill, but in dealing with the details, you may need to expand to make sure your point is heard.

**Mr. Imbert:** The reason I said that, Mr. Chairman, is that the Member indicated that after I answer this question, he is going to ask me another question. So I just wanted to make that point.

**Mr. Chairman:** No, he is entitled to do that. You need not worry, I am here.  
[Laughter]

**Mr. Imbert:** So, Member for Caroni East, at present, insurance companies are required to submit quarterly returns, right now.

**Dr. Gopeesingh:** Do you have it here in the old Act?

**Mr. Imbert:** You see what I told you, Mr. Chairman.

**Dr. Gopeesingh:** I am not seeing it here. [Inaudible] every account balance sheet, abstract statement or so, in the case of so, within six months after the expiration of the financial year, in (b) within nine months after; in No. 3, within six months after, where is the "three months"? You are proposing now, quarterly returns.

**Mr. Imbert:** I can answer that, Mr. Chairman, but I hope this is not a plethora of questions.

**Dr. Gopeesingh:** I am entitled to ask. It is a process.

**Mr. Chairman:** Proceed!

**Mr. Imbert:** By way of circular letter in 2005, insurance companies were required to submit quarterly returns—2005, three years ago.

**Dr. Gopeesingh:** So Central Bank has issued a quarterly bulletin against the law, when the law says six months and nine months?

**Mr. Imbert:** No. By way of a circular letter by the authority vested in the regulator, a requirement was made for quarterly reports.

**Dr. Gopeesingh:** Why then are you asking for that to be put in here? Do you want to make it law?

**Mr. Imbert:** We are not asking for that. Member, if you read it carefully, the requirement to submit quarterly reports is already there. What we are saying is that now when you submit it, if there is a shortfall, you have to make good the shortfall within seven days of your submission.

*Question put and agreed to.*

*Clause 5 ordered to stand part of the Bill.*

*Clause 6.*

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

**Mr. Maharaj SC:** Mr. Chairman, clause 6. When you look at the content of clause 6, an interpretation can be that the inspector would be able to inspect the books, go in to the property of the registrant, inspect the books, and affect the enjoyment of property, and then you have later down in the section, that if there is prevention from exercising the powers, then there can be an application, an ex parte order to the Judge of the High Court.

Now, it will seem to me, if it is the policy of the Government to ensure that this exercise to entry can only be exercised after the person has withheld the consent, then I think that the Government should consider after the word "may" in section 50(1)(a), "may with the consent of the registrant, enter into the premises". Then after the words "require to exercise the powers urgently", "may apply for an Order of a judge in an inter partes hearing of the High Court and that Order if granted shall constitute the warrant". So that you would have an entry into the property of persons and the taking of property only after the intervention of a judge.

If it is otherwise, what happens is that the inspector, who is really appointed by the Cabinet—because the President acts on the advice of the Cabinet—would be able to enter the property and take property of individuals without due process

of law, and we are totally against an ex parte Order to go into property. I think the Government should consider in the light of the abuse of executive power which has occurred, especially within recent times, for the population and the interest of rights of people to be protected by having the intervention of a judicial officer before entry into a home or taking away property.

**Mr. B. Panday:** Mr. Chairman, the way this section is now, effectively I will not go into legal jargon because I am speaking to people generally. The way this thing is drafted now, is that as soon as this becomes law, the inspector, whoever is so authorized, can go and break down the door of an insurance company and enter the premises and do what they want. But if the people put in some good iron bolts and the inspector is unable to break down the door, it is then the inspector is entitled to go to the court for an ex parte Order. That is in the absence of the insurance company, and that is the point my hon. colleague is making.

First of all, people have a right to their property, and therefore, the Government has a right to say, "Look, I want to come in to examine your books and so on." Please ask. Ask for it first and if you do not get it, then you go to the court. In an inter partes proceedings—so the persons will have a chance to say, "Listen let them tell me what they are coming here for. Let them tell what they want. I will give it to them. But they came to break down my door and having failed to break down my door, they are now coming for an ex parte injunction in order to break down my door, not having asked me for anything yet." That is oppressive and we cannot and will not support this clause in its present position.

**Mr. Imbert:** Okay. There are two points here, both made by the Member for Tabaquite and amplified by the Member for Couva North; one is the question of the word "consent" or the introduction of the concept of "consent" and the other is the inter partes order. The Attorney General and the Central Bank officials are conferring on these matters right now. So is it possible to revert to this clause in due course?

**Hon. Members:** All right.

**Mr. Imbert:** Fine.

**Mr. S. Panday:** Mr. Chairman, also as they are conferring, I would like them to look at Chap. 84:01, the Insurance Act, section 50(3) and (4) and see the mischief you are trying to deal with in that Act when you are conferring with section 50(1)(a).

**Dr. Gopeesingh:** Can you give an explanation between a person authorized in writing, as opposed to any designated member?

**Mr. Imbert:** Yes. A person authorized in writing might be an external auditor, a consultant, someone external to the Central Bank. The designated member is a staff member.

*Clause 6 deferred.*

**Mr. Chairman:** So we will postpone consideration of clause 6 and we will revert to it after.

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

*Clause 8.*

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

**Mr. Imbert:** Mr. Chairman, I beg to move that clause 8 be amended as follows

- 8                   1. In the proposed section 65—
- (a) delete the words ", holders of any annuity contract, holder of any other class of insurance business offered by an insurance company" and the words ", holders of any annuity contract, holder of any other class of insurance business" wherever they appear;
  - (b) in paragraph (e), delete the words "or that its continuation in business is likely to involve a loss to the policyholders of the insurer"; and
  - (c) insert after paragraph (e), the following paragraph:
    - "(f) is likely to continue in business that would result in a loss to the policyholders of the insurer".

**Mr. Maharaj SC:** Mr. Chairman, in respect of clause 8, this is another provision which I think is very important because it is a compliance provision for directions, and what it is saying is that if an insurance company is in the opinion of the officials with the inspector, and committing an offence or about to commit an offence or is not practising sound practices, et cetera, the inspector may direct the insurer, et cetera, to cease, to refrain from committing the act and to perform such acts. Then in subsection (2), it describes unsafe or unsound practices and it says that:

"...before a direction is issued, the person to whom the direction is to be issued shall be served with a notice..."

And it specifies what should be in the notice. But as you will see, Mr. Chairman, when that direction is given, that direction remains operative for a period of time, and then that direction will continue to operate, but there is only one notice given initially and there are not subsequent notices given when that direction has to continue.

**2.30 p.m.**

**Mr. Maharaj SC:** It would seem to me that even if it is not put in here specifically, the court may construe that there has to be notice. I think there is a duty on the Government to ensure that in respect of every action which has to be taken after the time has expired, the insurance company is given notice of the intention that it is going to be extended, so that the insurance company may make representations even though it may not have made representations initially.

**Mr. Imbert:** I understand your point, but this would need a little drafting work. It would need some work. So we will consider this concept of notice. You are talking about after subclause (5), right?

**Mr. Maharaj SC:** Yes, after (5).

**Mr. Imbert:** It says that "the Inspector may proceed to issue directions to the person served with the notice." After (5), right?

**Mr. Maharaj SC:** Yes.

**Mr. Imbert:** You are asking that at that stage there be another notice? That is what you are asking for?

**Mr. Maharaj SC:** After the initial direction.

**Mr. Imbert:** After the first notice, then the direction, then when the time runs out, the inspector now has the power to do something; you want a notice given to the registrant?

**Mr. Maharaj SC:** Yes.

**Mr. Imbert:** We will look at that.

**Mr. Maharaj SC:** When you mentioned representations in the clause, if you look at subclause (4):

"If the person served with the notice referred to...fails to attend at the time and place stipulated...the Inspector may proceed to issue directions..."

But if the person is served and the person does not attend, there should be a provision that the person could send written representations; because you are

saying that when the person is served and the person does not attend, then you can make a direction, but it must be fair, because the person may not be able to attend, but may be able to send written representation or be represented by an attorney an attorney-at-law. So he must be given the right to be heard.

**Mr. Imbert:** I understand. If you look at the clause very carefully—look at subsection (3)(c), page 5 at the top, it says:

“the time and place at which the person served with the notice may make representations.”

It does not strictly qualify it that those representations are so narrow, that it has to be the person himself coming to make representation.

**Mr. Maharaj SC:** If you look at the next one it says:

"may make representations"

But then it says:

“If the person served with the notice referred to in subsection (3) fails to attend at the time and place stipulated by the said notice, the Inspector may proceed to issue directions...”

So the representations are limited to—

**Mr. Imbert:** And you are saying—

**Mrs. Annisette-George:** The way (3)(c) and (4) are read together means that even in their absence the inspector can go ahead and issue the directions. It does not mean that if the representations have been made, let us say in writing, it does not exclude the inspector from taking that into account. All it means is that in the absence of the person, the inspector can issue the directions.

**Mr. Maharaj SC:** With the greatest respect, Attorney General, the Bill expressly says, with the cumulative effect of (3) and (4), that the representations are limited to the person attending and making representation.

**Mr. B. Panday:** What I would like to tell the Attorney General, and I am sure she would agree with me, is that where there is a possibility of ambiguity in the law, ought we not to remove the ambiguity if we have an opportunity so to do? That is all we ask.

**Mr. Imbert:** We will look at it. We will have to revisit this clause.

**Dr. Gopeesingh:** I am not completely happy with (i) in clause 8, (i) and (ii):

"perform such acts..."

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What does that mean?

**Mr. Chairman:** We are on clause 8.

**Dr. Gopeesingh:** Clause 8 subsection (e)(ii):

"perform such acts..."

That is broad and ambiguous; could the hon. Minister tell us what that means.

As we are on that, can I ask him to consider what he means under (2)?

"...contrary to generally accepted standards of prudent operation and conduct..."

What does that mean? Those two terminologies are broad and non-specific.

**Mr. Imbert:** The phraseology here is quite standard. When you have a public authority and you are giving them powers to take control of a situation, this phraseology where you say:

"perform such acts which in the opinion of the Inspector are necessary to remedy the situation..."—is standard.

If in so doing the inspector does something that is irrational, contrary to law or unreasonable, then that is a matter that could be challenged by way of judicial review. This is standard phraseology.

Secondly, the question of "generally accepted standards of prudent operation and conduct", a judge will determine what that means.

**Dr. Gopeesingh:** So the inspector of banks could go in and say that an insurance company does not meet the approved standard of conduct, arbitrarily, and then the person has to go to the court to seek redress?

**Mr. Imbert:** That is the only way you can do things like this.

**Dr. Gopeesingh:** That is a subjective type of evaluation; you cannot put into law what is subjective.

**Mr. Imbert:** Member for Caroni East, you cannot define in minute detail the meaning of the words "generally accepted standards of prudent operation and conduct". A judge would look at all the circumstances and determine whether what the inspector did was consistent with generally accepted standards of prudent operation and conduct.

**Dr. Gopeesingh:** Then the insurance company has to go before a judge. The inspector of banks may think to himself that something is not within reasonable standard, and what to him might not be what an ordinary man may think.

**Mr. Dumas:** It must be wide. [*Crosstalk*]

**Mr. S. Panday:** Mr. Chairman, we are giving this inspector very wide, wide powers and this is a small country. With what has happened with the Integrity Commission, we must be careful as to how we are giving persons wide powers.

In the circumstances, I look at 65(1):

"Notwithstanding any other action or remedy available under this Act, if in the opinion of the Inspector..."

Look at the kind of power you are giving him.

"if in the opinion of the Inspector, a registrant, or any controller..."

He could take certain actions. That could be subjective; you would never know what is playing in his mind. We are saying that maybe we circumscribe that power, maybe restrain it, and say:

"Notwithstanding any action or remedy available, if the inspector has reasonable cause to believe..."—that he will act.

But not just give him a blank opinion as a layman. He must have some basis upon which to act; this is legal action.

**Mr. Chairman:** The Member has gotten your point and he wants to respond.

**Mr. Imbert:** The point is that, again, this is standard phraseology. However, you having suggested reasonable cause, when we are revisiting the drafting of this clause we will consider your recommendation.

Member for Princes Town, I did not interrupt you when you were speaking.

**Mr. Ramnath:** You are talking too much; you are not even the Minister. "Look de Minister there; why does she not go there?"

**Mr. Imbert:** If one looked at the original version of this clause that was sent to the Opposition on Saturday, there was an ouster clause in it ousting the inherent jurisdiction of the court. [*Interruption*]

**Mr. Chairman:** Member for Oropouche, as a student of law I think you can learn something here. [*Laughter*]

**Dr. Moonilal:** I will drop out if I have to learn from him. [*Laughter*]

**Mr. Imbert:** I want to repeat, this is very important. In the original version there was an ouster clause ousting the inherent jurisdiction of the court. We

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removed that; we felt that was inappropriate and we took it out. So it means any action of the inspector could be challenged by way of judicial review. Having said that, we will consider the form of words proposed by the Member for Princes Town.

**Mr. Maharaj SC:** There is one aspect of this clause, and it has to do with the fine; it is at clause 9. It shows the importance of what we talked about before. I think that if you have an ambiguous clause and you have to pay a fine of \$5 million, you have to remove the ambiguity; but I think the Government should also consider the whole question of having such a heavy fine; \$5 million in the case of a continuing offence to a fine of \$500,000 for each day that the offence continues.

I know what the rationale would be; it is an insurance company, et cetera; then in (b) it is a fine of \$5 million and imprisonment for five years. I think we have to be very careful in this clause, because the impression which is being given is that even if there is a case in the High Court pending, either in the Court of Appeal or the Privy Council, these criminal proceedings can be filed and can be determined. There is need for the Attorney General's Department to look at putting in a safeguard to ensure; something to the effect that:

"Criminal proceedings under this section shall not be determined by the court until any appeal process from the High Court is determined."

In other words, from this it could be that criminal proceedings could be instituted, could even be determined while the process in the Court of Appeal or the Privy Council is continuing. I think you should also look at that to ensure that is dealt with.

**Mr. Chairman:** We will revisit it.

**Mr. Sharma:** I wanted to raise a concern under 8 subsection (3)(c); no time period is specified here.

**Mr. Chairman:** What is your point under 8 subsection (3)(c)?

**Mr. Sharma:** No time period is specified.

**Mr. Imbert:** The time and place cannot be put into this law. It will be specific to each notice. The notice will say what the time period is.

**Mr. Sharma:** Also (6); I think 20 days is too short a period, considering it has a criminal offence if not treated with. Perhaps we need to expand that to 30 or 40 days.

**Mr. Imbert:** Actually it is the reverse; this is a period where you are taking action against an insurance company; you do not want it to be more than 20 days. If it is longer, it would actually be worse for the insurance company.

**Mr. Chairman:** We will revisit clause 8.

*Clause 8 deferred.*

*Clause 9.*

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

**Mr. Maharaj SC:** I will deal with my submission on this. It is connected under clause 10, because I will be objecting to judicial management being deleted.

*Question put and agreed to.*

*Clause 9 ordered to stand part of the Bill.*

*Clause 10.*

*Question proposed,* That clause 10 stand part of the Bill.

**Mr. Imbert:** Mr. Chairman, I beg to move that clause 10 be amended as follows:

“In the proposed section 68, delete the words ‘holders of any annuity contract, holder of any other class of insurance business offered by an insurance company’ and the words ‘holders of any annuity contract, holder of any other class of insurance business’ wherever they appear.”

**Mr. Maharaj SC:** Mr. Chairman, what the Government intends to do by this clause is to delete sections 68 to 75 of the Insurance Act. Sections 68 to 75 of the Insurance Act deal with judicial management of companies. Under the existing provision which it is intended to repeal, the Central Bank can apply to the court for an order that the company or any part of the business of the company be placed under judicial management. Then there is a process of judicial management to manage the assets of the company, even though there are problems in the company.

**2.45 p.m.**

What the Government wants to substitute is that process in which a judge of the High Court takes charge, listens to all the matters and determines what is in the best interest of the company having regard to due process of law.

What the Government wants to do by clause 10, is that after an off-site examination of the affairs of the insurance company, if it is of the view that it is

insolvent, or unable to meet its requirements, the Central Bank can just order the insurer to suspend business without even a hearing or intervention of the court by the Executive act. The insurance company would have to suspend its business forthwith for a period of 60 days and may direct the inspector to take charge of all the books, records or other documents et cetera, of the company, and then all the costs charged in respect of that shall be a first charge on the assets of the insurer.

So even if you have a mortgage—and banks have mortgages—this will now be the first charge and it gives a detail of the order ceasing to have effect if the board makes a further order permitting the insurer to resume business. So it takes away from the court the power it had to operate with due process of law in regulating the right of property, and the legislation is now putting this into the hands of the Executive.

So what you have here is a very serious situation and all that it says is that the court is given the power—after all this is done—to order a winding-up, but it takes away the powers of the judicial management. It seems to me that this is very draconian and it is a measure which we cannot support, and I think the Government ought to look at it. This is linked with some of the conditions which we had stated for supporting this measure, and some of those conditions, very briefly, were where you had to have the assets of these companies transferred to a holding company and be able to ensure that the assets were properly managed. Therefore, what the Government is doing is taking away judicial power when it should be increasing the intervention of the court.

**Mrs. Persad-Bissessar:** Added to this, in this very clause, you are also placing a winding-up order under the Companies Act and if you have a winding-up order made under this Act, you have priorities being given to creditors, and that priority, under the Companies Act places the people whom you are trying to help and save; the policyholders, the annuitants and so forth but they are very low on the priority list of creditors whom we pay on a winding-up order.

So when we look at the parent law for companies, we see where you have to pay off first in the winding-up of a company, in addition to all other debts, rates, charges, taxes, salaries and wages, severance benefits and so forth. So where would the people whom we are trying to help, the policyholders and the annuitants fall? What would be left after all these creditors are given priority to them?

Again, in supporting that point, the winding-up that you are proposing by court order takes many years, anybody operating in the court system will know

you are going to be stuck there for years, and then at the end, the people whom you are trying to protect would get zilch at the end of the day because of the priority listing.

**Mr. Maharaj SC:** Mr. Chairman, may I add that without a judicial intervention, the assets go directly to the Executive; so the Executive is the prosecutor, the judge, and holds and disposes of the assets. In this particular case, because we cannot delink this from what we are doing in this case because if this is passed, it will be the first victim—if I may put it that way—and the assets of those operations include the media. Therefore, you will have the Government controlling and managing the media; TV6, *Trinidad Express*, 10 radio stations and several media houses in the Caribbean, and it has serious precedent. The same thing applies for Republic Bank because this will give the Government direct management and operation of Republic Bank and this is the gist of the matter.

**Mr. Imbert:** Mr. Chairman, I must confess it is a little difficult to remember everything said by Members opposite when they speak for so long. But I will try to deal with the issues raised.

**Mr. B. Panday:** It is important and we are trying to teach the children; it is a teaching technology.

**Mr. Imbert:** No problem. I am like a child sometimes when it comes to that but let me deal with the issues. The policyholders are protected by the funds in the statutory—Member for Siparia, are you with us? You asked the question. The policyholders are protected by the money in the statutory fund which is used to deal with problems with respect to policyholders funds; it is not used to pay receivers.

**Mrs. Persad-Bissessar:** With respect, you are speaking of situations when the statutory fund is in breach of the fund and so forth. You go in there because they are not complying with the amounts for the fund so it is already depleted. What happens then? That is not any comfort to me.

**Mr. Imbert:** The point I am making is that the other funds of the company, these things would be a first charge on it, but the policyholders would be a first charge on the Statutory Fund.

**Mrs. Persad-Bissessar:** If there is anything left.

**Mr. Imbert:** If you say so. Let me deal with the point raised by the Member for Tabaquite. We are advised that the judicial management process is time consuming, cumbersome and costly and it is the considered view of the Government that this is a superior alternative.

**Mr. B. Panday:** If a murder trial is expensive then hang the—

**Mr. Imbert:** I want to correct a misconception that has been put into the record by Members opposite. The Central Bank of Trinidad and Tobago is not the Government. Members opposite keep saying the Executive; the Central Bank is the board that is referred to here, not the Government.

**Dr. Gopeesingh:** In subsection (5), what I understand here is that the Inspector of Banks can go into an insurance company anytime and ask for their books or whatever personal documents it may have and if it fails to produce, it is fined \$5 million.

**Mr. Chairman:** Do you have an alternative?

**Dr. Gopeesingh:** This is against their constitutional right, this is draconian.

**Mr. Chairman:** What is your suggestion?

**Dr. Gopeesingh:** We want this clause deleted.

**Mr. Imbert:** Mr. Chairman, let me make a general point here. Currently in the Insurance Act, the paid-up capital requirement is \$3,000,000; I am advised that the international norm is 5 per cent of liabilities. So let us take the instant case of Colonial Life which has liabilities of approximately \$16 billion, using the international benchmark, the statutory fund of Clico should be \$800 billion, 5 per cent of \$16 billion. Right now, the Insurance Act only requires, sorry—the paid-up capital of Clico should be \$800 million; right now the law requires it to be \$3 million.

The reason for these fines is that the current situation with the Insurance Act—the Act is a bit antiquated—so if the paid-up capital was \$800 million rather than \$3 million, which is what is required now, that \$800 million would be available to deal with problems with policyholders, statutory fund and so forth. So you have to put these fines in the context that right now the only protection policyholders have is paid-up capital of \$3 million, when, if you use international norms, it would be \$800 million.

So these amendments are interim, the inspector is going to be having wide-ranging consultations—and I said that in my contribution to the debate—with the insurance industry throughout 2009, and there will be a comprehensive overhaul of the Insurance Act and all these clauses would be revisited during this year.

*Question put and agreed to.*

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

*Clause 11.*

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

**Dr. Gopeesingh:** Mr. Chairman. I want to make a point on clause 11.

**Mr. Chairman:** There will be a suspension. Hon. Members, the Committee Stage will be suspended until 3.15 p.m.

**2.57 p.m.:** *Committee suspended.*

**3.30 p.m.:** *Committee resumed.*

[Chairman: Mr. Sinanan]

**Mr. Imbert:** Mr. Chairman, we have thought about the points made by the hon. Members opposite and we have considered their views very, very carefully and as a consequence, a list of amendments has been circulated which would involve revisiting of some of the clauses, starting with clauses 3, 4, 8 and 10. [Interruption]

**Mr. Chairman:** No, we had agreed to revisit clause 8.

**Mr. Imbert:** I can explain what these amendments are intended to do.

**Mrs. Persad-Bissessar:** Mr. Chairman, if I may say at the outset, in looking at these, I do not see any of the recommendations we have made being incorporated here. So when you are going through you can tell me which ones will take on board our recommendations.

**Mr. Imbert:** Certainly. Mr. Chairman, I beg to propose that we revisit clauses 3, 4 and 10.

*Question put and agreed to.*

*Clause 3 recommitted.*

*Question again proposed,* That clause 3 stand part of the Bill.

**Mr. Imbert:** Mr. Chairman, with respect to clauses 3, 4 and 10, the proposed amendment is simply tidying up the legislation by inserting a definition of “annuity contract” which would then allow us to delete several words within the Bill where “annuity contract” is repeated thereafter. So the proposed amendment to clause 3 reads as follows:

1. Delete the definition of “annuity contract” and substitute the following:  
 “‘annuity contract’ includes a contract for an annuity at the accumulation stage or the pay out stage which is sold or issued to individuals only”.

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2. Insert the following paragraph:

- (c) in the definition of the term “policy” by inserting after the word “documents” the words “and includes annuity contracts”.

So within the meaning of the word “policy” we now include “annuity contracts” and therefore a policyholder will be somebody who holds policies, which include annuity contracts. Those are essentially the changes we have made to clauses 3, 4 and 10. When I come to clause 8, I will deal with the matter raised by the Member for Siparia.

**Mr. Sharma:** Mr. Chairman, in clause 3, how does this affect companies that purchase annuities for its employees by not naming the employees but naming a group of employees?

**Mr. Imbert:** It is strictly for the purpose of individuals, this intention.

**Mr. Sharma:** How do companies purchasing annuities—

**Mr. Imbert:** When a company purchases an annuity, it is always for the benefit of an individual, because there is an element of life insurance involved in it.

**Mr. Sharma:** Yes, but in this case it would be unnamed individuals. Is that correct?

**Mr. Imbert:** Annuity contract is always in the name of someone.

*Question put and agreed to.*

*Clause 3, as amended, again ordered to stand part of the Bill.*

*Clause 4 recommitted.*

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

**Mr. Imbert:** Mr. Chairman, again, now that we have within the definition of policy the word, “and includes annuity contracts” we no longer need these words in clause 4, so we are simply taking them out. The amendment reads as follows:

In the proposed section 6A (1)(b), delete the words “, holder of any annuity contract, holder of any other class of insurance business offered by an insurance company”.

*Question put and agreed to.*

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

*Clause 10 recommitted.*

*Question again proposed, That clause 10 stand part of the Bill.*

**Mr. Imbert:** Similarly, Mr. Chairman, again, in clause 10 we are doing the same thing. We no longer need to have these words because we have amended the definition of “policy”. The circulated amendment reads as follows:

In the proposed section 68, delete the words “holders of any annuity contract, holder of any other class of insurance business offered by an insurance company” and the words “holders of any annuity contract, holder of any other class of insurance business” wherever they appear.

**Mrs. Persad-Bissessar:** Mr. Chairman, we had made several recommendations about clause 10; very serious recommendations; very serious concerns raised. I see no change whatsoever from our recommendations.

**Mr. Imbert:** We took the vote on clause 10 already.

**Mr. Maharaj SC:** They have rejected our recommendations.

**Mrs. Persad-Bissessar:** He is now taking the amended clause 10.

**Mr. Imbert:** No. We had taken the vote on clause 10 already. You had made proposals and we had not acquiesced to your proposals.

*Question put and agreed to.*

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

*Clause 6 reintroduced.*

**Mr. Imbert:** What was the issue with clause 6?

**Mrs. Persad-Bissessar:** We raised several issues with clause 6 and I see nothing in your proposed amendments to take them on board. We talked about in clause 6, section 50A, “may enter”; the Member for Tabaquite talked about “with consent”. Then the issue of the ex parte order for a judge, we do not see anything.

**Mr. Imbert:** For the moment.

**Mr. B. Panday:** They reject it! That is what he means.

**Mr. Imbert:** We are of the view that consent is implied in clause 6. That is our view, and we also hold fast to the view that the order should be ex parte. What I would say, however, is that we will reflect this evening, because the other place is meeting tomorrow. We will reflect on your requests but at this time we are

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proceeding. [*Interruption*] So that we are firm that this implies consent and we believe it should be ex parte rather than inter partes; and we will reflect on your views this evening.

*Question put and agreed to.*

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

*Clause 8 reintroduced.*

**Mr. Imbert:** Mr. Chairman, if we look at clause 8, the second page of the amendments to clause 8, in particular, you will see that we are now qualifying the powers of the inspector in terms of the first period of notice. For example:

“no direction made under subsection (6) shall be final until the period of twenty working days expires and—

- (a) No representations are made to the Inspector; or
- (b) upon representations being made, the Inspector is not satisfied that there are sufficient grounds for revoking the direction.”

So we have listened to you and we have met you part of the way.

**Mr. Maharaj SC:** No. That obviously was an amendment drafted before today’s sitting and you forgot to circulate it and it does not take into account anything that we made in respect of this. So as far as you are concerned, you have the majority; you have rejected our suggestions and we are reflecting. [*Interruption*]

**Mr. Imbert:** Mr. Chairman, I would like to speak but I would wait until all Members of the Opposition have had their say.

**Mr. S. Panday:** Why did you not take on board clause 8, the compliance directions:

“Notwithstanding any other action or remedy available...in the opinion of the Inspector...”

We thought that this was draconian legislation and hence we ought to put measures in place to ensure—

**Mr. Imbert:** We are doing it.

**Mr. S. Panday:** Well, why did you not put it in the amendments? It seems to me, as the Member for Tabaquite said, these are pre-printed amendments, and coming and fooling us here and telling us that you met us halfway? [*Interruption*]

**Mr. Imbert:** Mr. Chairman, we are prepared to change the words, “if in the opinion of the Inspector” to “if the Inspector has reasonable cause”.

**Mr. B. Panday:** That will not solve it.

**Mr. Imbert:** Is that not what you asked for?

**Mrs. Persad-Bissessar:** No—

**Mr. Imbert:** Could the Member for Princes Town tell us what you asked for? Did you not ask for “if the Inspector has reasonable cause” rather than, “if in the opinion of”?

**Mr. S. Panday:** “...if the Inspector reasonably believes”.

**Mr. Imbert:** Same thing. So, Mr. Chairman, we will delete, “if in the opinion of the Inspector” and replace it with, “if the Inspector reasonably believes”.

**Mrs. Persad-Bissessar:** That does not change anything.

**Mr. Imbert:** But we have accommodated you. [*Crosstalk*]

**Mr. Chairman:** Order!

**Mr. Maharaj SC:** The proposition I made on behalf of the Opposition— [*Inaudible*] [*Mike off*—notice to the insurance company for every direction and I also made a suggestion that the clause give the impression that if the insurance company did not attend at the time and place stipulated, the adverse order could be made, and I asked for it to be possible for the person, if not attending, to make written representations to the board or the inspector or to make written representations through an attorney-at-law present.

Then based on what the Attorney General said, it was ambiguous, obviously and having regard to the fine, which was \$5 million and \$500,000 for each day, you could not have an ambiguous provision. I also made the submission that the fine ought to be reduced and I also stated that having regard to how this matter was drafted, the criminal proceedings may be instituted and may be determined while an appeal process was proceeding in the High Court and, therefore, steps should have been taken to remove such a situation.

Nothing along those lines has been reflected in your amendment to clause 8 or has been given any explanation of. So, obviously, with the greatest respect to the Government, they forgot what we said. It seems as though it is really just a cosmetic exercise in considering our representations.

**Mr. Imbert:** Thank you, Member for Tabaquite. The fact is that we are making amendments to subsection (e)(7) and we are deleting what is there and we

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are making the language tighter to make it clear that the direction shall only be final when these criteria are met.

With respect to your other points, these were made not too long ago. Some of your points are quite complex. These are the amendments that we believe should be made at this point in time. As I said, this goes to the other place tomorrow and we will consider your recommendations very carefully overnight, and if any of your recommendations have merit, we will certainly accommodate them in the other place and then they will have to come back to this place.

**Mr. Maharaj SC:** Mr. Chairman, I construe that to be contempt of the people I represent, the Opposition represents; contempt of this House and contempt of the Constitution of Trinidad and Tobago. That is not fair.

**3.45 p.m.**

**Mr. Imbert:** Mr. Chairman, with your leave, I cannot allow that to stay on the record. It is common practice that if amendments are proposed in this place and the Bill has to go to the other place these amendments can be incorporated in the other place and returned to this place for approval. That is common place.

*Question put and agreed to.*

*Clause 8, as amended, ordered to stand part of the Bill.*

*The Preamble approved.*

*Question put and agreed to, That the Bill, as amended, be reported to the House.*

*House resumed.*

*Bill reported with amendments.*

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

*The House divided:           AYES   26           NOES   13*

AYES

Imbert, Hon. C.

Manning, Hon. P.

Nunez-Tesheira, Hon. K.

Gopee-Scoon, Hon. P.

Kangaloo, Hon. C.

Abdul-Hamid, Hon. M.  
Dumas, Hon. R.  
Ross, Hon. J.  
Taylor, Hon. P.  
Swaratsingh, Hon. K.  
Parsanlal, Hon. N.  
Beckles, Miss P.  
Mc Donald, Hon. M.  
Hunt, Hon. G.  
Le Gendre, Hon. E.  
Browne, Hon. Dr. A.  
Callender, Hon. S.  
Cox, Hon. D.  
Jeffrey, Hon. F.  
Hospedales, Hon. A.  
Joseph, Hon. R.  
Hypolite, N.  
Regrello, J.  
Rowley, Dr. K.  
Roberts, A.  
Sinanan Ojah-Maharaj, Mrs. I.  
NOES  
Maharaj, R. L. SC  
Panday, B.  
Persad-Bissessar, Mrs. K.  
Ramnath, K.  
Moonilal, Dr. R.

Gopeesingh, Dr. T.

Bharath, V.

Panday, S.

Panday, Miss M.

Sharma, C.

Peters, W.

Rafeeq, Dr. H.

Baksh, N.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

**CENTRAL BANK (AMDT.) BILL**

*Bill accordingly read a second time.*

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

*House in committee.*

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

*Clause 4.*

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

**Mr. Imbert:** Mr. Chairman, I beg to move that clause 4 be amended as follows:

1. Delete clause 4 and substitute the following:

“4. The Act is amended in section 44C—

By deleting the terms and definitions for “Inspector of Financial Institutions” and “institution” and by substituting the following terms and definitions respectively: “Inspector” means the Inspector of Financial Institutions appointed under section 7 of the Financial Institutions Act, 2008; “institution” has the meaning assigned to it under the Financial Institutions Act, 2008 and includes an insurance company registered under the Insurance Act or a society registered under the Co-operative Societies Act;” and

- (a) By inserting after subsection (2) the following subsection:
- (3) Notwithstanding the provisions of the Cooperative Societies Act, the provisions of this Part shall apply to societies registered under the Cooperative Societies Act.”

An amendment was circulated which takes into account a recommendation made by the Member for Siparia during the debate. The question was asked and answered with respect to co-operative societies. We are now including within the definition of “institution”, “society registered under the Cooperative Societies Act”. This was a request made by the Member for Siparia and we are acquiescing to the request.

**Mrs. Persad-Bissessar:** Mr. Chairman, they say beware of Greeks or Trojans bearing gifts. On one hand you are giving, but you are taking away. I have to go to clause 5 and explain why I will not support this amendment in clause 4. You said in clause 4 that you are now including the cooperative societies.

In clause 5 you are saying that they will not get financial assistance. What is the point of putting them there? When you get to clause 5(b), you are saying to provide financial assistance to companies and then other than an insurance company. You are now amending it to read other than the cooperative societies. Even though you appear to have assisted us, I do not agree to this amendment.

**Mr. Imbert:** I can address that. In the matters before the House, we made it crystal clear that at this time it is not the intention of the Government to change the law to allow Central Bank’s funds to be put into an insurance company. In the instant case of Colonial Life Insurance Company, whatever funds are to be provided to assist the company will come from the Government, as distinct from the Central Bank.

If you look at the Insurance Act you would see that we have excluded insurance companies from companies that would receive assistance from the Central Bank. That is explained in the table you got over the weekend. Banks have a reserve with the Central Bank where they get no interest. They pay fees to the Central Bank. Part of their assets is lodged with the Central Bank not earning income. Insurance companies have no such corresponding income. We are excluding insurance companies from financial assistance by the Central Bank. In the case of Clico that financial assistance will come from the Government. Similarly, if any financial assistance is to be given to a cooperative society that would come from the Government, rather than Central Bank. There is a logic to these amendments.

**Mr. Bharath:** On this particular matter, one of the explanations given for not supporting insurance companies is the fact that it says that banks can present systemic risks if they fail. It is part of the explanation given on the table. There will be insurance risks that will present systemic risks as has been talked about in this debate. Are you saying that in all instances if an insurance company fails the Government will support it with government funds as opposed to Central Bank's funds?

**Mr. Imbert:** No. I want to clarify something. I said in my contribution that during 2009, the inspector will be holding comprehensive consultations with insurance companies.

Arising from these consultations would be new and improved requirements for their statutory fund and paid up capital. Once a regime can be developed which would provide a fund whereby insurance companies are required to contribute to a fund to protect policyholders, that fund can be used to deal with financial problems in insurance companies. No such regime exists at this point in time.

In other countries it is a policyholders deposit scheme where contributions are made to create a scheme to deal with problems within insurance companies. During 2009 all that will be discussed with insurance companies. Towards the end of this year, there will be a comprehensive overhaul of insurance legislation, at which time this concept of the manner in which financial assistance is given to insurance companies—. It is too complex at this point and there needs to be buy-in by the insurance industry, before you make those profound changes to the Insurance Act.

Deal with your specific point. It has to be on a case-by-case basis.

**4.00 p.m.**

**Mr. Maharaj SC:** I have a duty as a lawmaker of Trinidad and Tobago to point out to the Government that although this Bill is being passed under section 13(1)—and it acknowledges that it is passing this measure even though it may be inconsistent with sections 4 and 5 of the Constitution—the Parliament cannot lawfully, with respect to any fundamental right and any circumstance, legalize unequal treatment.

Section 4(d) of the Constitution guarantees to every individual in Trinidad and Tobago the right to equal treatment from any public authority. It is not reasonably justifiable in a society which has a proper respect for the rights of individuals

because the Executive, under the Legislature, has to make a judgment call on a matter that may ultimately have to be decided.

You cannot say, because one falls under the Cooperative Societies Act and the other the Insurance Act that they are not proper comparisons. You are providing assistance for banks and you are saying that in respect of persons similarly circumstanced in losing their deposits or about to lose their deposits you are not providing assistance. It is state funds and if your policy is discriminatory—I know that the Government's answer will be that it is not a court of law, but I have a duty to point out that this will encourage possible litigation and that taxpayers' money will be spent in paying high-priced lawyers and we will not get the information here. I think this is discriminatory and, therefore, we cannot support it.

**Mr. Imbert:** I refer the distinguished Member to the decision of the Court of Appeal in *Pamponette et al.* I think the Member was counsel in that matter. The Court of Appeal ruled recently in a matter which distinguished counsel was representing some maxi-taxi operators, *Pamponette et al.* The Court of Appeal made the point that the people have to be similarly circumstanced. You cannot claim equality when the circumstances are different. There is a clear distinction between a bank that puts money into reserve funds in the Central Bank without earning interest and an insurance company. There is no equal circumstance here. Go and read the judgment of the Court of Appeal.

**Mr. Chairman:** Hon. Members, on a lighter note, I have said before—

**Mrs. Persad-Bissessar:** You have now passed a law to get the insurance company to put money into statutory funds.

**Mr. Imbert:** No, no. It is the reserves.

**Mr. Maharaj SC:** That is not the final say; the Privy Council is. I would ask the Member to remember Central Broadcasting Services Limited and Sanatan Dharma Maha Sabha, in which your Government was held to be discriminatory.

**Mr. Chairman:** That brings me to the point on a lighter side. You should be aware that if ever the Leader of Government Business and the Member for Tabaquite were to get together, they would make a very formidable team.  
[Laughter]

*Question put and agreed to.*

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

*Clause 5.*

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

**Mr. Imbert:** Mr. Chairman, I beg to move the following amendment:

Paragraph (a) is amended by deleting the words “, holders of any annuity contract or holders of any other class of insurance business” and substituting the words “or members”.

Paragraph (b) is amended by inserting after the words “Insurance Act” the words “or a society registered under the Cooperative Societies Act”.

I want to say at this stage that we may tweak this between now and the other place. Apparently, it is not just members; it is holders of deposit accounts and so on in a cooperative society.

**Mr. Maharaj SC:** In respect of clause 5, the Government is seeking power to provide financial assistance to companies. There is no criteria specified, so the Government is giving blanket discretion—

**Mr. Imbert:** We are excluding financial assistance to insurance companies and credit unions.

**Mr. Maharaj SC:** Such financial assistance is to companies which carry on the business of a financial nature and you are excluding a regulated insurance company. So you are providing financial assistance to companies, but you are excluding financial assistance to insurance companies. Is it to all companies which carry on the business of a financial nature?

**Mr. Imbert:** It is as written; it is all companies that carrying on business of a financial nature as licensed under the FIA. You take the whole assembly of financial institutions licensed under the FIA and you take out insurance companies and we are now making it crystal clear also that credit unions will not be covered by that. The law currently allows this; this is not new.

**Mrs. Persad-Bissessar:** What is new in this now is that you are making an express provision, having brought the insurance companies under the FIA. Having brought the credit unions under the FIA, you are now excluding them from the benefit they could have gotten under section 44(D)(5).

**Mr. Imbert:** I explained that. It is not as simple as that.

**Mrs. Persad-Bissessar:** How will the policyholders and the credit union shareholders be helped and by whom?

**Mr. Imbert:** Member for Siparia, with the greatest of respect, for the fourth time, the Central Bank will assist banks and the Government, on a case by case basis, will assist insurance companies and credit unions, if the circumstances warrant. In the instant case, if you look at the MOU, the Government is committed to assist Colonial Life Insurance Company Limited. If there is another insurance company which presents a similar situation and, in the judgment of the Central Bank, it requires assistance, it will be given. It is on a case-by-case basis. Assistance for insurance companies and possibly credit unions will come from the Government, whereas assistance for banks will come from the Central Bank. I have now said that five times.

**Mrs. Persad-Bissessar:** Does it say that in any law that Government will assist credit unions and insurance companies that are in a state of—

**Mr. Imbert:** If you look at the Memorandum of Understanding, which was signed on Friday and circulated in this House on Monday, it is crystal clear that the Government will assist Colonial Life and British American. We said that we will do a comprehensive review of the Insurance Act. Clearly, having accepted your proposal that we bring credit unions within the ambit of the Central Bank, we now have to do comprehensive adjustments to the laws regulating co-operative societies. That cannot be done here today and will obviously be done during 2009 and a regime established where assistance can be given, not by the Government, but out of a fund or some other institutional framework, to insurance companies and credit unions.

**Mr. Maharaj SC:** Mr. Chairman, I just want to put this clause in perspective. This financial assistance will come in, obviously, where the Government believes that the company is insolvent, is going to collapse. Am I correct?

**Mr. Imbert:** I think it is a bit extreme to use the word “insolvent”—where they are in difficulty.

**Mr. Maharaj SC:** In need of financing.

**Mr. Imbert:** In need of financing.

**Mr. Maharaj SC:** If you are going to do that, obviously, at some stage, the Government or the Central Bank will have to make a decision that the company needs financial assistance. If it does, then there must be some provision that before the Central Bank intervenes to provide that assistance—because the insurance company may believe it does not need financial assistance.

I merely want to draw the Government’s attention to a situation in this country where there was exercise of power by the Central Bank in a matter with respect to

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banks and there was a provision for impartial valuation. Because those steps were not taken, even though the courts of Trinidad and Tobago authorized the action of the Government and said it was lawful, the Privy Council reversed it and ordered the Central Bank to pay damages. The reference for the Government is Privy Council Appeal No. 78 of 2002, *Gulf Insurance Limited v The Central Bank of Trinidad and Tobago*.

If you are going to exercise this power, you should guard it, but it should be exercised and some of the criteria made available to the insurance company and to the public.

**Mr. Imbert:** Mr. Chairman, I have heard what the Member said and we will consider what he has said very carefully. It is not a case of apples and apples; insurance companies and banks are very different. One deals with payments and the other does not necessarily deal with payments. We think we need to proceed with this amendment to the Central Bank Act.

As I said, the Government intends to do a comprehensive overhaul of the Insurance Act this year. All the points you have made will be taken into consideration and similarly there will be an overhaul of the Act which deals with credit unions and co-operatives.

*Question put and agreed to.*

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

*Preamble approved.*

*Question put and agreed to, That the Bill, as amended, be reported to the House.*

*House resumed.*

*Bill reported, with amendment.*

**4.15 p.m.**

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

*The House divided: Ayes 26 Noes 13*

AYES

Imbert, Hon. C.

Manning, Hon. P.

Nunez-Tesheira, Hon. K.

Gopee-Scoon, Hon. P.  
Kangaloo, Hon. C.  
Abdul-Hamid, Hon. M.  
Dumas, Hon. R.  
Ross, Hon. J.  
Taylor, Hon. P.  
Swaratsingh, Hon. K.  
Parsanlal, Hon. N.  
Beckles, Miss P.  
Mc Donald, Hon. M.  
Hunt, Hon. G.  
Le Gendre, Hon. E.  
Browne, Hon. Dr. A.  
Callender, Hon. S.  
Cox, Hon. D.  
Jeffrey, Hon. F.  
Hospedales, Hon. A.  
Joseph, Hon. R.  
Hypolite, Hon. N.  
Regrello, Hon. J.  
Rowley, Dr. K.  
Roberts, A.  
Sinanan Ojah-Maharaj, Mrs. I.  
NOES  
Maharaj, R. L. SC  
Panday, B.  
Persad-Bissessar, Mrs. K.

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Ramnath, K.

Moonilal, Dr. R.

Gopeesingh, Dr. T.

Bharath, V.

Panday, S.

Panday, Miss M.

Sharma, C.

Peters, W.

Rafeeq, Dr. H.

Baksh, N.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

#### ADJOURNMENT

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Speaker, I beg to move that this House do now adjourn to Friday, February 06, 2008, at 1.30 p.m. merely to consider any amendments that might come from the Senate with respect to the two Bills before us. That is all we intend to do on Friday. We would have a very short sitting.

**Mr. Speaker:** Are there any Motions today?

**Mr. Imbert:** We would do it on Friday.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 4.18 p.m.*