SENATE

Friday, November 01, 1996

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence from today's sitting to Sen. Prof. Kenneth Ramchand. Sen. Philip Hamel-Smith has been granted leave from October 28 to November 1, 1996.

SENATOR'S APPOINTMENT

Mr. President: I have been advised that His Excellency the President has appointed Dr. John Bharath a temporary Senator during the absence from Trinidad and Tobago of Sen. Philip Hamel-Smith.

OATH OF ALLEGIANCE

Sen. John Bharath took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Report of the Auditor General on the accounts of the Legal Aid and Advisory Authority for the year ended December 31, 1995. *[The Minister of Public Administration and Information (Sen. The Hon. Wade Mark)]*

2. Report of the Auditor General on the accounts of the National Carnival Commission for the year ended December 31, 1989. *[Hon. W. Mark]*

3. Report of the Auditor General on the accounts of the National Carnival Commission for the year ended December 31, 1990. *[Hon. W. Mark]*

4. Report of the Auditor General on the accounts of the Airports Authority of Trinidad and Tobago for the years ended December 31, 1987—1990. *[Hon. W. Mark]*

5. Green Paper - A Policy Service of Trinidad and Tobago Towards a New Public Administration. *[Hon. W. Mark]*

Green Paper—Public Service Policy

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. President, in laying this paper, I would like to make a brief statement. During my contribution to the 1996 budget debate, Members of this honourable Senate might remember my expressed commitment to presenting a policy for the public service and for the information of Members and to provide in greater detail the context and the rationale for Government's strategic direction in respect of a more efficient, effective customer and service-oriented public service.

The policy has been formulated as a result of the Government feeling confident that it would be adopting a strategic management approach to the public service, having deliberately taken the time to scan the environment of this complex organization and to assess and evaluate its potential, both current and future.

Three evaluative impact studies of the public service were undertaken by CARICARD, the United Nations Development Programme and the Commonwealth Secretariat, respectively, and these have informed the policy formulation process with specific reference to transformation, reformation and change in the public service.

The primary purpose of the policy agenda is to focus the public service and its key stakeholders on the need to be action-oriented in order to propel it into the year 2000 in a state of readiness and preparedness. In particular, the focus of the public service must be on its role as provider of the support, the services, the information and the regulatory framework that would enable other sectors to be facilitated and enabled in their own efforts to grow and sustain a strong economy with attendant positive impacts on the human and social prosperity of our Republic.

This policy agenda, which is being presented to this honourable Senate is a rallying call to every citizen, public officers and non-public officers, service providers and service recipients, Government and Opposition, to participate actively in the modernization of the public service of Trinidad and Tobago. This could be achieved through public insistence on highest quality services from the Government through its administrative machinery, the public service.

Already, globally, citizens are demanding value-for-money services, and the same is true for Trinidad and Tobago. The public service is critical to the Government's plans and programmes and it is critical to the plans and programmes of the social partners engaged in the process of governance, for all of us must rely

on its proper functioning for some aspect of our day-to-day operations and existence, regardless of how minuscule or how far-reaching that reliance is.

Trinidad and Tobago has had a rich history of public administration and for the future this country deserves nothing less than the most modern and technologically functional and literate public service, playing a vital role in national development and prosperity. This policy agenda seeks to provide such a public service to the people of this nation. After due and widest possible consultation and amendments based on feedbacks, the policy agenda will become the White Paper which will dictate Government's implementation of a new public administration for the 21st Century in Trinidad and Tobago.

1.40 p.m.

May I encourage all stakeholders, through your good self, Mr. President, to forward their comments to the Ministry of Public Administration and Information within one month of today's laying of this paper, and in the process, let us work together for a new public administration in The Republic of Trinidad and Tobago.

Thank you.

ORAL ANSWER TO QUESTION

Brighton Industrial Estate (Expenditure)

12. Sen. Rev. Daniel Teelucksingh asked the Minister of Energy and Energy Industries:

(a) Would the hon. Minister please inform the Senate of the expenditure incurred in site preparation for the aborted industrial estate project at Brighton, La Brea?

(b) Is the Minister satisfied that such expenditure is justified *vis-à-vis* the work done on that project?

(c) What plans are there, if any, for that site where such expenditure was incurred?

The Minister of Energy and Energy Industries (Sen. The Hon. Finbar Gangar): Mr. President, to date the expenditure incurred in site preparation for the aborted industrial estate project at Brighton, La Brea, as per statement from the La Brea Industrial Development Company Limited (LABIDCO) for the period January 01, 1995 to August 31, 1996, is TT$115,318,794.10. This amount does

not include costs prior to January 1, 1995, nor does it include Petrotrin's loss of production.

Based on the following—

(i) information that has been available with regard to the geotechnical features;

(ii) problems associated with the leaking gas on the site;

(iii) decision by Atlantic LNG and Farmlands Mississippi Chemicals to relocate from the site;

(iv) the fact that preliminary feasibility and economic analyses do not indicate attractive rates of return;

(v) the unsuitability of the La Brea Industrial Estate for heavy gas based industries;

the Minister is satified that the expenditure incurred is not justified.

The Government recognizes the fact that substantial sums of money have already been expended, and it is in the interest of all citizens, particularly in the La Brea area, to optimize the use of the site. With this in mind, the Government is focusing its attention on uses that are compatible with the site constraints. Government is examining, therefore, several options for use of the site for light industrial activity particularly those that service the petroleum industry both on and offshore. Some of these options are:

(1) The site should be developed as a port of entry with customs and immigration services.

(2) Light industrial activity with low risks from possible adverse geotechnical conditions as well as gas seepage should be targeted. These include:

- offshore service industries
- pipe coating
- bio-remediation as an activity for both environmental and commercial purposes
- pipeline storage
- lime

- scrap metal
- brine plant and cement storage
- concrete batching plant
- rig overworking

(3) Container Terminal Operation

The management of the National Gas Company has submitted a revised land use plan to the board of LABIDCO for approval. This land use plan was catalyzed by a number of unsolicited approaches made to the National Gas Company which indicate that the La Brea Industrial Estate can be utilized to accommodate industries that provide support services to the petroleum sector, particularly offshore petroleum operations in the Gulf of Paria.

A number of other investors have also shown keen interest in setting up storage and transshipment operations, concrete batching plant, rig work over operations, manufacturing and other service industries. The land use plan was considered and approved by the board of LABIDCO.

In accordance with the agreed land use plan, approval has already been granted by the board of LABIDCO for the first tenant occupying 10 acres of land, and other proposals from a number of other tenants are under active consideration for Phase I of the estate which comprises some 380 acres.

In addition, the port facilities are being regularly utilized for a fee by companies shipping asphalt products from Lake Asphalt of Trinidad and Tobago and subcontractors importing material, plant and equipment for the LNG project.

Thank you, Mr. President.

Sen. Rev. Teelucksingh: Mr. President, I have two supplemental questions. Firstly, since Government is not satisfied that that expenditure is justified, *viz-a-viz* the work done, what action will it initiate to account for such excessive and outrageous expenditure?

Secondly, since we are dealing with a vast sum of money spent on site preparation, would the hon. Minister indicate what will be Government's financial obligations, if any, for site preparation and other infrastructural work on the proposed LNG plant at Point Fortin and the relocation of the Farmlands project to the Couva area?

Hon. F. Gangar: Mr. President, in reply to the first supplemental question, I wish to advise this honourable Senate that an investigating committee was appointed by the Minister some time in March of this year to investigate all circumstances surrounding the development of the La Brea Industrial Estate. This committee is due to present its report to the Energy sub-committee of Cabinet within two weeks. After the presentation of this report to the Energy sub-committee of Cabinet and proper deliberations, the Government would determine what would be its further course of action.

With respect to the second supplemental question, it was a bit long-winded and I cannot recall exactly what Sen. Rev. Teelucksingh was asking. Maybe he can repeat the second question so I can respond properly.

Sen. Rev. Teelucksingh: Mr. President, since the Government had financial obligations with the project at La Brea, do we have any financial obligations for site preparation and other infrastructural work such as we had in the aborted project? Do we have such obligations for the proposed LNG plant at Point Fortin, and also the relocation of Farmlands to the Couva district?

Hon. F. Gangar: Mr. President, that also has been part of the term of reference of the La Brea investigating committee and at this point in time we would not want to pre-judge the results of this committee. I know the committee has completed its deliberations, the report is completed and it will be presented within two weeks.

At the appropriate time, it is my intention to bring an executive summary of the results of the investigation to this honourable Senate.

Sen. Mahabir-Wyatt: Mr. President, of the four options mentioned by the hon. Minister for port operations and container terminal, are there good roads to be able to bring containers and goods in and out? Have the building of roads—we all know the problems with the roads at La Brea—been taken into account by the committee drawing up the report?

Hon. F. Gangar: The condition of the roads between La Brea and San Fernando is a cause for concern for this administration. Current plans within the Ministry of Works and Transport call for the start of the feasibility study of the highway between La Brea and San Fernando to commence in December, 1996.

FOREIGN INVESTMENT (AMDT.) BILL

Bill to amend the Foreign Investment Act, 1990 [*The Minister of Foreign Affairs*]; read the first time.

1.50 p.m.

PRIVILEGES AND IMMUNITIES (ASSOCIATION OF CARIBBEAN STATES) ORDER

The Minister of Foreign Affairs (Hon. Ralph Maraj): Mr. President, I beg to move,

WHEREAS it is provided by section 9 of the Privileges and Immunities (Diplomatic, Consular and International Organizations) Act, Chap. 17.01 (hereinafter referred to a "the Act") that the President may by Order declare that any international or regional organization or agency named or described in such Order shall, to such extent as specified in the Order, be accorded the privileges and immunities set out in Part I of the Fifth Schedule therein:

And Whereas it is also provided by section 9 of the Act that every Order made under that section shall be subject to affirmative resolution of Parliament:

And Whereas the President has on March 27, 1996 made the Privileges and Immunities (Association of Caribbean States) Order, 1996:

And Whereas it is expedient that the Order now be affirmed:

Be It Resolved:

That the Privileges and Immunities (Association of Caribbean States) Order, 1996 be approved.

Mr. President, the purpose of this measure is to affirm the conferment on the Association of Caribbean States and on some of its officers certain privileges and immunities which Trinidad and Tobago has traditionally granted to international and regional organizations operating locally. These privileges and immunities are based on the international law and practice on the subject and on our legislation which gives legal effect to these treaty-based international norms.

The ACS was established on July 24, 1994 by the Cartagena Convention. The convention was, in fact, signed in Cartagena, Colombia by 25 independent states of the Caribbean and by France on behalf of the French territories: Martinique, Guadeloupe and French Guiana. In addition to the dependencies of France already mentioned, there are 10 non-dependent territories which are eligible for associate membership of the ACS. The convention has received the number of ratifications and is in fact in force.

The purpose of the Association is to identify and promote the implementation of policies and programmes designed to:

(a) harness, utilize and develop the collective capabilities of the Caribbean region to achieve sustained cultural, economic, social, scientific and technological advancement.

(b) develop the potential of the Caribbean Sea through interaction among member states and with third parties.

(c) promote an enhanced economic space for trade and investment with opportunities for co-operation in order to increase the benefits which may accrue to the peoples of the Caribbean from their resources and assets including the Caribbean Sea.

(d) establish, consolidate and augment as appropriate, institutional structures and co-operative arrangements responsive to the various cultural identities, developmental needs and normative systems within the region.

Mr. President, this Order is a very simple one. It seeks to confer on the ACS only those privileges and immunities which are provided for in the Privileges and Immunities Act, Chap. 17.01, and which, I have said have been granted in the past to other regional and international organizations.

Section 3 of the Order stipulates, pursuant to clause 1 of the Third Schedule to the Act, that the ACS shall possess such legal personality as may be necessary to allow it, *inter alia*, to contract, acquire and dispose of real property and to be a party to legal proceedings.

Section 4 of the Order, in conformity with Part I of the Fifth Schedule to the Act, accords to the ACS immunity from suit and legal process, recognizes the inviolability of the official archives, premises and grants exemption or relief from certain rates and taxes.

Section 5 of the Order, in keeping with Parts II and IV of the Fifth Schedule to the Act, grants to the Secretary-General and other specified senior officers of the Association, their staff and families, similar immunity from suit and legal process, inviolability of the residence and relief from taxes as are granted to a diplomat accredited to Trinidad and Tobago.

Section 6 of the Order, in conformity with Part III of the Fifth Schedule of the Act, restricts the immunities of those officers and servants not covered in section 5

of the Order to things done or things omitted to be done in the course of the performance of official duties, and it limits their privileges to an exemption from income tax in respect of emoluments received as an officer or servant of the ACS. It also makes it clear that nationals or residents of Trinidad and Tobago, in consonance with clause 1, Part III of the Fifth Schedule to the Act, only enjoy immunity from suit and legal process in respect of omissions or things done in the course of official duties.

Section 7 of the Order grants to representatives of any organ, council or committee of the association privileges and immunities consistent with those granted to the Secretary-General and other senior officers of the ACS in section 5 of the Order.

Mr. President, in concluding my preliminary remarks, may I remind hon. Senators that the idea for the creation of the ACS had its genesis in the Report of the West Indian Commission which was established by the Caricom Heads of Government in 1989. The commission's report addressed the integration experience in Caricom and sought to project the movement into the 21st Century.

The ACS, I should point out, represents a market of 200 million persons and an aggregate Gross Domestic Product in the order of US $500 billion. Trinidad and Tobago campaigned vigorously and successfully for selection as the site for the headquarters of the association. As a member possessing one of the most industrialized and diversified economies in the region, this country is in a position to benefit economically, politically and diplomatically from acting as host for the headquarters of the ACS. The maximization of those benefits is of course dependent on the extent to which the members and associate members achieve the goals of co-operation and integration which underpin the formation of this association. The new reality of globalization of the international economy, widening and deepening of integration movement and the progressive liberalization of regional and international trade is propelling us in but one direction, closer co-operation and deepening integration.

Mr. President, having promoted actively the establishment of the ACS and having sought the site for the headquarters of the grouping and being conscious that the dynamics of the international economic environment require us to associate and co-operate with like-minded and similarly situated states and territories, the Government of Trinidad and Tobago intends to do its part to facilitate success by helping to put in place the physical, institutional and legal infrastructure required if the association is to achieve the goals set for it. This

Order is part of the process we have already begun. I, therefore, unhesitatingly recommend that hon. Members of this Senate support the confirmation of this Order.

Mr. President, I beg to move.

2.00 p.m.

HON. LOUIS JONES
VISITING MINISTER

Mr. President: Hon. Members, before putting the question, may I state that we are pleased to have with us sitting on the northern press gallery the Hon. Louis Jones, Minister of Housing of St. Vincent.

PRIVILEGES AND IMMUNITES (ASSOCIATION OF CARIBBEAN STATES) ORDER

Question proposed.

Sen. Orville London: Mr. President, considering over the past year that the hon. Minister has demonstrated by word and deed that he is faithfully following the policies of the previous administration of which he was such an integral part, we on this side have no difficulty in supporting this Motion.

Thank you.

Sen. Rev. Daniel Teelucksingh: Mr. President, I congratulate the hon. Minister for his tireless efforts in the interest of Caribbean integration and now hemispheric. I am happy to support this Motion.

I would like to share some concerns with the hon. Minister. There have been common criticisms of Caricom, the integration movement that is closest to us. Its dreams and objectives often remain in the cloudy summit where the Heads of Government meet. We have noticed that over the years there has been little filtering down to the masses. The lofty ideals never really caught the imagination of the rank and file. People's identification with the Caricom vision remains too slow a process, and similarly, the objectives of the Association of Caribbean States need the support of the nation as a whole, and not merely its negotiators at Heads of Government meetings or interministerial level. That is so very important.

Let me illustrate by referring to recent incidents in the Columbus Channel and the Gulf of Paria. The fishermen have been harassed over the years—the fisherman whose trawler was shot at by the Venezuelan Coast Guard, and earlier, the mysterious murder of the Vistabella fisherman in his boat. The rank and file

wonder at the efficiency of top level agreements and those never-ending bilateral talks. Many fishermen lose confidence in those agreements because they do not seem to work where it matters most.

Venezuela is our ACS partner. Even before the ACS inauguration, we ask with anger, great concern, disappointment and bewilderment; why the failure to find a lasting, reliable fishing agreement with talks in progress for so many years? There have been regular cases of piracy; heavy fines for our fishermen in Venezuelan courts; little or no legal representation in those courts for us; seizure of equipment; confiscation of their catch and excessive penalties. Notwithstanding the tireless efforts of the hon. Minister, I support the call to free the Columbus Channel and the Gulf of Paria from acts of aggression and piracy, and bring to an end our version of the Gulf War. This matter must be addressed at the next meeting of the ACS. Caricom should be also immediately informed that a short-term solution for our coast guard presence in the troubled area needs consideration.

Certainly, there is need for improved diplomatic presence in Venezuela, particularly in the area where our fishermen and their boats are impounded. The ACS must work not only at the summit, but also at ground level. Trinidad is privileged to be selected as the headquarters of the ACS Secretariat. Have we seriously considered the onerous obligation placed on us in being in a sense, the capital of the ACS? We certainly need to be a model nation if as the hon. Minister said in another place, we are hoping to become the diplomatic centre of the Association of Caribbean States.

The last administration dreamt of Trinidad and Tobago being the financial centre of the Caribbean. How can we, if we cannot manage the erratic dollar? If we are to become the diplomatic centre of the ACS grouping, then I believe that we must begin to practise better diplomacy in our domestic affairs. Diplomacy begins at home! I make reference to the industrial uneasiness in the health sector. The go-slow has been protracted at great discomfort and grief to many citizens. In the education sector the work-to-rule has its negative effects. Look at our need for diplomacy. Labour unrest must be resolved immediately because of its destabilizing consequences. As one of the leading partners of the ACS, could we find a better way to resolve our domestic conflict issues?

2.10 p.m.

I think that there must be some more enlightened way that should be preferred instead of the vociferous placard-waving and banner-toting protests, the work-to-

rules, strikes and shut down tactics. I think this was once good for an era of darkness. Have we matured at all to the extent that we are really qualified to be anybody's leaders? No wonder children these days slap teachers and walk out of the classroom! We have been chosen to be the capital of the ACS; we have to be leaders.

Industrial uneasiness produces instability which will hurt our domestic well-being and our international image. This is what we are talking about. We must set our house in order if we are to qualify to play an important role in hemispheric leadership.

I want to close by leaving a few questions with the hon. Minister. The first one is: Who will finance the construction of the building to house the ACS headquarters in Port of Spain? What will be the cost? Already I know that Trinidad and Tobago has donated the land at lower Richmond Street for that project. The next question is: What will be the nation's contribution to the ACS budget? What about the contributions of participating countries? Cuba chairs one of the ACS committees. How will the USA interpret this in the light of Helms Burton law and our application and interest in joining NAFTA? Which is given priority by the Trinidad and Tobago Government—ACS allegiance or membership in NAFTA? Will we be disadvantaged because of Cuba, since both the past administration and the present have shown determined interest in the NAFTA grouping? What is the priority?

Mr. President, I thank you.

The Minister of Foreign Affairs (Hon. Ralph Maraj): Mr. President, let me thank both Sen. London and Sen. Rev. Teelucksingh for supporting this Motion, which I consider to be very important as we seek to fulfill our obligations to the Association of Caribbean States, which is headquartered here in Port of Spain.

There are one or two matters raised by Sen. Teelucksingh to which I must respond. The first has to do with his concerns, of which he has spoken not for the first time, about Caricom and its effectiveness. He is wondering whether all the decisions we take at Heads of Government and at ministerial level filter down to the masses. I would say, without fear of contradiction, that by and large they do filter down. What is essentially operational in Caricom at the moment is a virtual free trade arrangement among the countries where there is access to one another's markets for the goods in each country.

I have made the point in the Senate before, that we must be a little careful about being pessimistic and exaggerated in our despair about Caricom. If we look

at Trinidad and Tobago and the market that Caricom provides for our manufactured items, we would see immediately how Caricom benefits the man-in-the-street. The manufacturing sector in Trinidad and Tobago is one of the most dynamic in the region. It employs an increasingly large number of people—ordinary men and women—and without that Caricom market, may I say that the manufacturing sector will be stymied in its growth and unemployment will occur. We have to be very grateful that we are part of Caricom because that is where the manufacturing sector cuts its teeth and develops the expertise and competitive capacity which now position it to be able to go beyond Caricom.

That is why this administration is seeking to create market access all the time for products emanating from Trinidad and Tobago. Our manufacturers have now overcome Caricom. Whilst they will continue to sell in Caricom, they need to sell in the Dominican Republic, Venezuela, Colombia and in the Mercosur countries and so forth. When one is talking about manufacturers, when one is talking about industrial expansion, these are not just words or airy-fairy ideas, "caught up in the clouds" as the Senator says. These are bread and butter issues because industrialization, industrial expansion, growth of the manufacturing sector mean employment—people being able to feed their families, buy books for their children and send them to school. This is the paradigm that we are upon in this administration. We are seeking to encourage private sector growth so that people can lead dignified lives.

That really is the response I would like to make to the Senator. Whilst we will continue to make critical appraisal of Caricom, whilst we would want free movement of skills to encompass all categories of workers, whilst we would want to have the single market and the economy, common currency and so forth and the Charter of Civil Society implemented, whilst we would want to have the Caribbean Court of Appeal; all these issues developed, the fact is, as an economic arrangement, Caricom is of tremendous benefit to the ordinary people in the islands which comprise this integration. That is a fact, Mr. President, and I hope I have demonstrated the truth of that fact by the reference I have made to our manufacturing sector and the role it plays in our economy and the lives of our people.

The Senator is wondering about the ACS as well and whether it will experience what he considers the same type of development. May I let him know that we are very optimistic that the ACS will fulfill its promise. We are of the view that the ACS is a unique, multilateral organization in the hemisphere because it is the only one

which combines economic, political, cultural, scientific and technical co-operation. It is really a movement which we feel will bring the peoples of the ACS countries together in a very real way, would create a trading bloc, which will encourage investment flows and ensure that the Caribbean Sea is protected, and will ensure cultural fusion. We have no doubt that these benefits will reach the ordinary man. If we are talking about investment and trade, we are talking about direct benefits. We made that point before.

He referred to the incident of shooting involving a Trinidad and Tobago boat and a Venezuelan naval vessel. He is right. The ACS, because of the kind of organization that it is, will remain, will become, will emerge as a multilateral forum where disputes involving countries can be taken for resolution.

2.20 p.m

May I say that I do not think that the recent incident to which the Senator referred necessitates an activation of the ACS process at this time, because we feel that it ought to be resolved first of all by the parties involved at the bilateral level and that is what we are doing at this point in time.

May I inform the honourable Senate that I have written a strong letter of protest to the Venezuelan Government on the action of its vessel and I have suggested to them that we convene a meeting of the Commission for the Prevention and Investigation of Fishing Incidents in Port of Spain on Monday, so that we can focus on exactly what took place in respect to this particular incident, because there are conflicting reports coming out of both capitals on the matter and we want to get to the bottom of it.

I also want to remind the Senator that we have not just had endless discussions without having reached a fishing agreement. The fact of the matter is, the fishing agreement which expired at the end of last year was the one which was negotiated and agreed upon in 1985 and which lasted for five years. It came into force by being rolled over subsequently for each year following and we were not able to arrive at a rolling over at the end of 1995, so it went for ten years. That fishing agreement was in place for ten years and as a result of that, hundreds of fishermen in Trinidad and Tobago benefited tremendously from the rich shrimping grounds of Venezuela and similarly, Venezuelan fishermen were able to come into Trinidad and Tobago and fish on our north coast. So that there was an agreement in place for ten years and the fishermen of both countries benefited from that. We have to lament as we ought to, fishing incidents and experiences that our fishermen

undergo and reports of these incidents. We have to remember two things: One is that much more than fishing takes place in the Gulf of Paria, and much of the incidents and violence that we hear about need not be associated with fishing. That is all I would say on this particular matter for now.

Secondly, we must remember that when there is a fishing agreement between two countries which lie in such close proximity to each other and with such sensitive maritime boundaries, there is a position where the fishermen of one country are allowed to go into the property of another country and exploit the resources that belong to the people of that country. That is the situation, and it is an inherently volatile one and a recipe for all kinds of conflagration, turbulence and discord, but we have been managing it, contrary to the common perception. It has been managed very well.

If one looks at 1994, and 1993 in particular, when we ensured that the mixed commission involving persons from both sides met frequently and regularly, the records will show that there were very few incidents. What happened was that when the agreement expired at the end of last year, the fishing commission went out of existence. The Prime Minister, on his recent visit to Venezuela, conferred with the President and they came to the conclusion that even whilst we do not have a fishing agreement in place, we should, by a Memorandum of Understanding, reactivate the commission. That has been done and we are now seeking to have that effective. That is the history. It is not as though a lot of talk is going on and one is not reaching any conclusion. Things have been in place and persons have benefited through this fishing agreement. From Cedros children have been fed by their fathers being able to go to Venezuela and fish, so it has very real implications.

In recent times, as a result of the visit of the Prime Minister to Venezuela, we now have the opportunity of co-operation between the coast guards of both countries at a level that we have not had before. Very intimate co-operation is possible and I made the point the other day that it is indeed very ironic that whilst we have had reactivated in Venezuela that drug commission where there were the coast guards of both countries talking about co-operating with each other, sharing of information, patrolling in the Gulf to deal with drug trafficking and piracy and so forth, there was this incident taking place. It is very unfortunate, because that is what is going on for the first time. The drug commission has been re-activated and my colleague would know of this, I am sure he will be attending a meeting soon with his counterpart in Venezuela to have co-operation at the highest level in terms

of security. So we are moving and it is not only there. I need to talk about this because these things came up in the contribution.

There is co-operation in energy, the Minister of Energy will let you know about that; there is co-operation in the Ministry of Public Utilities, the possibility of sourcing cheap electricity; there is co-operation in agriculture, our Minister of Agriculture is supposed to go to Venezuela soon; Caricom is going to be negotiating a free trade arrangement with Venezuela and you know what the possibilities are in that. It means that the Venezuelan market, with a resurgent economy, is going to be a market for our products and has very direct implications for employment. These are opportunities which are there and which we have created and furthered and are going to pursue.

We have all these things going, we will pursue them, but, we will not allow our fishermen to be shot at and we will not allow them to be taken advantage of. We will seek to solve this matter bilaterally as we are doing but there is always the possibility of the multilateral option, but I do not want to go into that for the time being, we will leave that for later.

About the headquarters of the ACS, I had predicted once that we are going to become the diplomatic centre of the region as a result of the ACS headquarters being in Trinidad and Tobago. I see it coming to pass. Embassies are opening here, some are returning, new ones are coming. The Panamanians are here for the first time; the Mexicans have returned in recent times; the Cubans are here for the first time; the Argentinians are going to be here, in fact, I signed an agreement with the Argentinian Ambassador this morning for the establishment of a mixed commission involving public and private sector which would generate trade and economic activity. We are moving full speed ahead with our integration process. In fact, I have had the privilege of being at the President's dinner last night which he has annually for the Diplomatic Corps, and when one looked at the attendance at that dinner, it was the best I have seen in the last five years.

There were ambassadors from Turkey, Spain, from all over. They came because they have seen Trinidad and they are hearing the good news of Trinidad. Trinidad is good news and they realize it is the place to be. Our economic and diplomatic successes have ensured that we have been seen as the place to be. They ask, have we matured to assume this leadership role? I would say, yes, Mr. President, we have matured and are in a position to assume this leadership role. We are a democracy, we change governments by the democratic process, we are a literate population and we have a clear policy of where we are going.

2.30 p.m.

We have problems, Mr. President, but tell me of a country that does not have industrial problems, or one that does not have environmental problems, or one where the children are perfect. We all have problems but we are going to solve those problems. The team of which I am a part is going to solve the problems of Trinidad and Tobago, have no fear about that. *[Desk thumping]*. I have made the point before and I will make it here again: at the end of the term of office of this Government, Trinidad and Tobago is going to be a shining jewel in the hemisphere. There is no doubt about that, Mr. President. *[Desk thumping]*

We are very confident about the future and I hope my buoyancy epitomises that confidence, Mr. President. I thank everyone for their support.

I beg to move.

Question put and agreed to.

Resolved:

That the Privileges and Immunities (Association of Caribbean States) Order, 1996 be approved.

ARBITRATION
(FOREIGN ARBITRAL AWARDS) BILL

Order for second reading read.

The Minister of Foreign Affairs (Hon. Ralph Maraj): Mr. President, I beg to move that a Bill to give effect in Trinidad and Tobago to the New York Convention on the recognition and enforcement of Foreign Arbitral Awards be now read a second time.

This Bill has as its main object, the giving effect in Trinidad and Tobago to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958, which is more familiarly known as the "New York Convention."

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, (New York Convention) was adopted by the United Nations on June 10, 1958 and entered into force on June 7, 1959. There are now 110 states which are party to the convention. Trinidad and Tobago acceded to the convention on February 14, 1966 and on the presentation of its instrument of accession made the following reservation:

> "In accordance with Article I of the Convention, the Government of Trinidad and Tobago declares that it will apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State. The Government of Trinidad and Tobago further declares that it will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the Law of Trinidad and Tobago."

The convention seeks to ensure that arbitral awards are binding and enforceable according to the rules of procedure of the country where the award is to be relied upon. It also regulates the judicial enforcement of arbitration agreements and arbitral awards to facilitate the submission of disputes to arbitrators.

The New York Convention has the distinction of being one of the most successful treaties in the field of private international law. Its remarkable success can be gleaned from the large number of court decisions in which the convention has been interpreted and applied internationally. The convention also continues to play a major role in the strengthening and diffusion of international arbitration.

Arbitration has emerged as one of the most useful mechanisms for the settlement of disputes in commercial enterprises. It is a flexible mechanism as it allows the parties to choose the personnel of the tribunal; the principles of law to be applied—this being useful should the parties be from different legal systems—and the power to be exercised by the tribunal. Arbitration is equally useful when technical problems are under consideration, as the arbitrators could be selected for their technical knowledge. The contesting parties would, therefore, be more prepared to accept the decisions in preference to those determined by a court.

It is important to note that the convention was always intended to be applied by domestic courts, with Article I defining the scope of application of the convention. Paragraph 2 of Article I, describes arbitral awards as those which are not only awards made by arbitrators appointed for each case, but also those made by permanent arbitral bodies to which the parties have submitted such a case.

Article III of the convention contains the requirement that all arbitral awards are binding and enforceable according to the rules of procedure of the state where the award is relied upon. The convention also seeks to ensure that the conditions of the awards or fees or charges imposed are on par with those imposed on the recognition or enforcement of domestic arbitral awards.

The rules of procedure which are required for the recognition and enforcement of awards are contained in Articles IV and VII. The provisions form the heart of the convention and include, for example, that the party applying for recognition and enforcement shall, at the time of submitting the application, supply the duly authenticated original award or a duly certified copy and the original agreement referred to in Article II or a duly certified copy of the same.

The recognition and enforcement of awards can, however, be refused at the request of the party against whom it is invoked, subject to certain considerations. These conditions are reflected in Article V. For example, if the parties to the agreement referred to in Article II were, under the law applicable to them, under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it; or the party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings.

The recognition and enforcement of awards may also be refused if the competent authority in the country where recognition and enforcement is sought, finds that the subject matter of the difference or dispute is not capable of settlement by arbitration under the law of that country; or the recognition or enforcement of the award would be contrary to the public policy of that country. Paragraph 2 of Article V deals with that.

Should a party submit an application for the setting aside or suspension of an award to a competent authority, the authority before which the award is sought to be relied upon may, if it considers it appropriate, suspend the enforcement of the award and may also order the party to give suitable security.

Article VII states that the provisions of the New York Convention shall not affect the validity of multilateral or bilateral agreements on the recognition and enforcement of arbitral awards entered into by the contracting parties nor deprive any interested party of any right he may have in an arbitral award, in the manner and to the extent allowed by the law or the treaties of the country, where such an award is sought to be relied upon.

Mr. President, if we look at the Bill we would see that it contains eight clauses and a Schedule. Clause 2 is the Interpretation clause and it is self-explanatory.

Clause 3 provides for the certification by the Minister of Foreign Affairs, of the fact that a particular state is, or was at a time specified, a party to the New York Convention.

Clause 4 is the enforceability provision. It states that an award is enforceable in Trinidad and Tobago either by action or in accordance with the provisions of section 20 of the Arbitration Act, Chap. 5:01. The clause further provides that an award under this Bill will be binding on the persons directly affected who can rely upon it by way of defence, set-off or otherwise in any legal proceedings in Trinidad and Tobago.

Clause 5 lists the documentation which must be produced for the enforcement of an award. This provision is similar in content to Article IV of the New York Convention.

Clause 6, which is a very important clause, contains an exhaustive list of the circumstances under which the enforcement of an award may be refused. The provisions are also reflective of paragraphs 2 and 3 of Article V of the New York Convention. Clause 6(4) seeks to simplify paragraph 1(c) of Article V by providing that an award, which contains decisions on issues which were not submitted to arbitration, may be enforced but only to the extent that the award contains decisions on matters submitted to arbitration and can be separated from those on matters which were not submitted.

2.40 p.m.

Clause 7, which is similar in content to Article VI of the convention, will empower the court or a competent authority, before which the enforcement of an award is sought, to adjourn the proceedings where an application for the setting aside or suspension of the award has been made. The court hearing an application for the setting aside or suspension of an award may, on the application of the party seeking to enforce the award, order the other party to provide security. This interim measure of protection will serve to preserve the rights and interests of all concerned parties.

Clause 8 is the savings clause as it is intended to preserve the right of an individual to seek the enforcement of an award otherwise than under this Bill.

The Schedule of the Bill contains the text of the convention which I explored earlier on.

Mr. President, "arbitration" for the purposes of the New York Convention, and this Bill, means any arbitration whether or not administered by a permanent arbitral institution and, for the most part, should not apply to alternative dispute resolution mechanisms such as mediation and conciliation. It is also important to note that an

arbitrator is not a judge and the award should not be confused with a determination by a court. The New York Convention and this Bill do not purport to govern arbitration proceedings but deal strictly with the recognition and enforcement in a contracting state and domestically of arbitral awards made in another contracting state.

The legislation, which I have the honour to introduce, does not contain any substantive provisions which can be applied to the determination on the competence of arbitrators. Even though the Bill is, therefore, limited in scope, arbitrators should ensure the validity and enforceability of the award in the country of origin because the annulment of their decision in the country of rendition could affect its enforcement in other countries.

The Arbitration (Foreign Arbitral Awards) Bill is, therefore, a clear reflection of the New York Convention, the provisions of which have entered the annals of customary international law and is commended to this honourable Senate.

Mr. President, I beg to move.

Question proposed.

Sen. Danny Montano: Mr. President, I listened to the contribution of the Minister this afternoon and I was hoping that in his contribution he would have indicated to me and to this Senate what benefits specifically accrue to Trinidad and Tobago as a result of this Bill. We heard a lot about what the provisions of the Bill do, but he did not really articulate the particular benefits that will accrue to nationals of Trinidad and Tobago.

I fully understand and appreciate that in the context of globalized training and free trade, it is necessary that persons who come to our shores to do business must feel that in their business dealings, contractual or otherwise, if there are disagreements and the disagreements are settled by arbitration outside of Trinidad and Tobago, they must be reasonably assured that the arbitration awards can, in fact, be enforced in Trinidad and Tobago. The Bill works in such a way, according to my understanding, that those awards can be enforced here and *vice versa*, but the fact that we have acceded to the treaty, we can in fact, if awards are made here, have them enforced in the other countries that have also signed the convention.

With regard to the foreign awards that are brought here to Trinidad and Tobago, my comment on this piece of legislation is to alert my fellow Senators and

the wider population to the fact that arbitration is an extremely expensive undertaking. I had one experience with that some years ago and it was in Trinidad, the company in question had a potential claim with the Ministry of Works and Transport and the claim was approximately TT $1 million. When we looked at the situation the cost of the arbitration alone was going to run between $500—$750 thousand and that involved having to bring engineers from abroad and so forth. So we were facing a potential bill, a cost of nearly $750 thousand on the prospect of trying to get back $1 million. At the end of the day the directors felt the risk was too great and the proceedings were, in fact, abandoned.

However, I would alert my fellow citizens to the fact that any company doing business with foreign companies and if they are going to be subject to arbitration outside of our shores, the cost of those proceedings is going to be almost prohibitive. Our dollar is now less than TT $6.00 to US $1.00. The cost of entering into any quasi-legal negotiations outside of Trinidad and Tobago becomes virtually impossible. If our nationals could raise TT $1 million to fight the arbitration in New York, he will, in fact, only realize about US $150,000, and that will have to pay for his lawyers, hotel costs, all the specialists, engineers and everything else. He is virtually dead before he starts.

The difficulty with this legislation as I see it—while I feel that it is to a very large extent necessary as we open our doors to foreign trading, I raise the *caveat* that it is not all gold on the edges, we face some very real risks here.

Again, it comes back to the cost of the arbitration. Would our nationals and our national companies be able to afford the cost of competent arbitration proceedings outside of Trinidad and Tobago? Would we really be in a position to afford it? If we cannot afford the best representation as we might be able to afford here in Trinidad and Tobago, then, in fact, the chances of losing the proceedings and having significant judgments against our nationals, and our local companies, are very great. We all look at the television and the foreign news and we all understand the impact and the value of really competent and very often expensive representation. We all understand that there seems to be a relationship between the cost of the legal fees and the likelihood of success—without trying to cast aspersions on any of my brothers who are attorneys in the midst here.

2.50 p.m.

There is a danger, because while we need this kind of provision—and certainly it gives the advantage to our nationals who are seeking to go to arbitration in

Trinidad, and then have the arbitration enforced the other way around—we are very much exposed and that is what this particular Bill is dealing with, foreign awards, not local. We are dealing with foreign awards to come down here.

The long and short of it is, the playing field in this situation is far from level and it is not a case that anybody has made it so. The fact of the matter is, the mere fact that the foreign exchange is weak at $6.00 and getting weaker, puts us at a serious disadvantage because these multinational corporations will think nothing of spending US $2 million in an arbitration matter, and our local companies could never, ever match those resources to fight an arbitration award outside of Trinidad and Tobago. The award is made; they come here, and we have to roll over and play dead. We would not have the financial strength individually to deal and to fight these arbitration matters. That is my concern, Sir.

It has been said also that Government acceded to the convention in 1966 and the new Government has only now sought to bring the legislation to the Parliament, begging the question as to why it was not done before. I raise the question: Was it really necessary before? In a closed economy such as we had, and such was the order of the day, not only in our sister nations but all over the world, was it really necessary? I certainly take issue with some of the comments that have been made in that regard, that there was any negligence on the part of the former regime.

Mr. President, with those few comments, I would ask the Minister in his winding-up to address my concerns as to the position of our local companies and nationals insofar as the award being made against them, and arbitration proceedings being made outside of our shores, and the relative cost, and what his views are on that.

Thank you, Sir.

The Minister of Foreign Affairs (Hon. Ralph Maraj): Mr. President, I would like to thank Sen. Montano for his contribution and from what I can gather from what he said, he clearly supports the Bill. I want to thank him for that. He did raise questions as to why I did not explore the benefits of the Bill and in raising the question he sought to get an answer. I think he himself answered the question, because he talked about globalization and the polarization of the world economy; the need to have systems and mechanisms in place to ensure that your country is inserted into the global economy, and this Bill must be seen within that context. Like the investment protection and promotion agreements that we sign, like the

double taxation agreement that we signed with countries, this particular Bill gives assurance to companies wanting to come and invest in Trinidad and Tobago that if there are disputes with other entities, that we do have the legislation to take care of that.

He made a point about the exchange rate, but I do not know whether there is any need for me to answer that question because, clearly, the exchange rate and the cost of arbitration and so forth have nothing to do with the provisions in the legislation. I think that it is a commonly accepted fact that when you have fluctuations in your exchange rate, the cost of things are affected across the board; and the capacity of companies to be able to handle arbitration awards or make counter charges as a result of the fluctuation of the exchange rate, I do not see how those matters really relate to the provisions of the legislation and what it seeks to do, which is to augment the attractiveness of Trinidad and Tobago, really, as a location for investment and to give certain assurances to foreign investors and local companies.

With those few remarks, Mr. President, I thank Members for their support, and I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 8 ordered to stand part of the Bill.

Schedule ordered to stand part of the Bill.

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

Senate resumed.

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

3.00 p.m.

REPEAL OF SCHEDULED LAWS BILL

Order for second reading read.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, I beg to move,

That a Bill to repeal the Bahamas and Leeward Islands Light Dues Ordinance, Chap. 18 No. 7; the Customs A.T.A. (Admission Temporaire/Temporary Admission) Carnet System Act, 1986 and the Montreal Trust Company Act, Chap. 9:31, be now read a second time.

Mr. President, the purpose of this Bill is to repeal three pieces of legislation which are no longer applicable to present-day circumstances and it is, in effect, a tidying up exercise. In order to put this Bill in perspective, I would like to remind hon. Senators that when this administration took office, it decided that for legislation which was passed by the Parliament of Trinidad and Tobago and which was not effective, a study should be done about them in order to determine what should be proclaimed, what should be repealed and what should be amended. In other words, what should be done in order to have them either effective or remove them from the laws.

As Senators would recognize, it is undesirable as a matter of public policy for legislation which has been passed via the democratic process to remain in limbo. The elected representatives of the people would have voted at a time for the particular piece of legislation and, therefore, if the laws are not enforced, it is also the duty of the representatives of the people to have those laws repealed. It was discovered that there were some 21 pieces of legislation which were passed as far back as 1968, 1975 and some were also passed in 1981. I do not wish to read those pieces of legislation here, but suffice it to say that an inter-ministerial committee was set up, the particular pieces of legislation were looked at and the committee reported. It is based on that report that we are now having this Bill to repeal these three pieces of legislation.

The Bahamas and Leeward Islands Light Dues Ordinance was passed in 1934 and has become redundant since the obligation to pay dues for the use of lights in the harbours of Trinidad and Tobago has been imposed under the Shipping (Navigational Aids Dues) (No. 2) Regulations, 1989 made under the Shipping Act, 1987.

The Customs A.T.A. (Admission Temporaire/Temporary Admission) Carnet System Act, 1986 was intended to facilitate the temporary importation of goods for display or use at exhibitions, fairs and similar events. However, efforts to have an appropriate body to be the guarantor for the payment of duties and taxes in the event that the goods were not exported have been futile.

The Montreal Trust Company Act no longer serves the purpose for which it was enacted as the company no longer exists in Trinidad and Tobago and the

security deposit which was lodged with the Comptroller of Accounts has been released. The legislation is therefore useless.

Mr. President, having regard to the fact that these pieces of legislation are really no longer useful in Trinidad and Tobago, this Bill is to repeal those pieces of legislation as a tidying up operation.

I beg to move.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

Schedule ordered to stand part of the Bill.

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

Senate resumed.

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

3.10 p.m.

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS)(AMDT.) BILL

Order for second reading read.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, I beg to move,

That a Bill to amend the Motor Vehicles Insurance (Third-Party Risks) Act, Chap. 48:51, be now read a second time.

The purpose of this Bill is to reform the law which deals with the rights of victims of motor vehicular accidents in their efforts to get compensation to which they are entitled.

The Motor Vehicles Insurance (Third-Party Risks) Act prohibits the use by any person causing or permitting any other person to use motor vehicles on public

roads without there being in force in relation to the user of the motor vehicle, by that person or that other person, a policy of insurance or such a security in respect of third party risks as complies with the requirements of the Act.

The Act also makes provision for the protection of third parties against risks arising out of the use of motor vehicles. The protection given in the Act includes ensuring that persons who suffer injuries or damage, and in the case of a person who suffers death, for that person's dependant or estate, to receive compensation from the insurers of the insured owner, if the insured owner is held liable for the accident, or the insurers considered that the insured was responsible for the accident.

If I may put it in a way in which Members of this honourable Senate who are not lawyers and who may not have had experience in these matters would understand. If "A" is a passenger in "B's" vehicle and "B's" vehicle gets into an accident with "C's" vehicle, and "A" is injured as a result of that accident, and "C" is liable for the accident, "A" would be entitled to receive from the insurers of "C's" vehicle, compensation for the injuries, loss and damage suffered.

What happens in many motor vehicular accident cases is that a person who is injured would obviously have to claim against the wrongdoer or the tortfeasor. After the person makes that claim—he might claim against the owner of the vehicle which is responsible for the accident—the owner of the vehicle may say that he is not liable and that matter would have to be determined in the courts if there is no agreement. When that matter is determined in the courts—it may be the High Court; then you will have a Court of Appeal hearing; then you would probably have even the judicial committee of the Privy Council—the victim first must establish liability against the owner in the court system, whether it be the High Court or the final Court of Appeal. The victim cannot take any steps against the insurance company for the compensation that is due to him until the matter against the owner is finally determined. If the insurers are not going to pay, it would mean that the victim would then have to commence another set of proceedings, and these proceedings would be against the insurance company to get the moneys which have been ordered by the court. So the victim is placed in a situation where he or she would have to file two sets of proceedings in cases where the insurers are not agreeing to pay.

In the meantime, the victim is obviously not only suffering from the trauma of the injury, but if there are dependants from the trauma of a death, the victim's

family would be suffering from the fact that there is no money available for that compensation.

What this Bill is attempting to do is to reform the law in such a way that it could be easier for victims to collect compensation from insurers. One of the ways that it would be reforming the law would be to permit, in certain circumstances, and subject to the discretion of the court, a situation where a victim can, in one action, file the claim against both the owner of the vehicle and the tortfeasor and also against the insurance company, so that the issues can be determined in one action. That is only one of the areas of reform with which that Bill would attempt to deal.

As I go through the different clauses of the Bill I would explain the other aspects of reform. This Bill had its origin, if I may say so, some time in 1992, when the Law Commission, as a result of complaints and representations that were made to it, felt that some reforms ought to be effected to deal with these injustices. A Bill was drafted by the Law Commission and I understand that there was extensive consultation with the interested parties and that a final Bill was made available in 1994. That Bill, obviously, did not see the light of day during the last administration. This administration decided that this was a bill which should be brought forward.

The Bill seeks to reduce the hardship by, as I mentioned, having two separate actions filed by the victim. It also has taken the opportunity to increase, to a much higher amount, the limit to which an insurance company would be responsible for claims. As Senators would have recognized from the Bill and from the Act, there are certain limits in respect of property damage, personal injuries and in a series of claims in either cases that an insurance company would be liable to pay.

In other words, if I may explain it. If an insurance company insures a motor vehicle and that vehicle is considered to be wrong in an accident, and if the victim gets a judgment against the owner of the vehicle, under the present law the insurance company is liable to a certain extent in respect of personal injuries.

3.20 p.m.

Mr. President, section 4(2) states that:

"In the case of death or of bodily injury, a policy of insurance shall not be required to cover—

(e) liability in respect of any sum in excess of two hundred thousand dollars arising out of any one claim by any one person;

(f) liability in respect of any sum in excess of one million dollars arising out of the total claims for any one accident for each vehicle concerned."

One sees that the existing law has put certain limits to which insurance companies would be liable, and in respect of personal injuries and series of claims there were these limits.

This Bill seeks to increase those so that when injured parties get compensation and the owners or drivers of vehicles are men or women of straw, they would be able to get their money from the insurance company.

Mr. President, there have been cases where an injured party would recover one million dollars against the tortfeasor for the accident, but the insurance company would not have been liable for one million dollars, therefore, the victim would merely have been paid the amount under the Act for which the company was liable, and would then have to try to get the other set of money on judgment summons or matters like that.

When one looks at clause 3 of the Bill one sees that "licensed trailer" is being defined. What is being done with respect to clause 3 is to ensure that if a trailer is involved in an accident—if there is a trailer being towed or is attached to what is considered to be a motor vehicle, because a trailer can in effect cause an accident—there can be no dispute so that as a result of that accident the insurance company would say that it is not covered by the Act. So, clause 3 is, in effect, making it clear as to what is a licensed trailer as defined by the Act. If that trailer is in some way responsible for the accident and injury, the insurance company would be liable in respect of that injury.

Mr. President, in respect of the definition of "public road" one would see that that definition is now being extended. What used to happen is that sometimes there would be an accident in what was considered to be a private road and since the accident would have had to occur on a public road for the insurance company to be liable, the insurers would sometimes say that they are not liable because the accident did not happen on a public road—it may have occurred in a yard to which the public had access all the time. Public road, Mr. President, is now being given a very extended meaning:

"...any street, road or open space to which the public has access and any bridge over which a road passes, and includes any privately owned street, road or open space to which the public has access either generally or conditionally;"

One would see that trailer is defined in clause 3(d) as:

> "...any vehicle which has no independent motor power of its own and which is attached to a motor vehicle, but does not include a side-car attached to a motor cycle;"

A motor cycle falls under the definition of motor vehicle under the Act.

Mr. President, under section 3(2) of the Act one would see that:

> "If a person acts in contravention of this section, he is liable to a fine of five hundred dollars and to imprisonment for six months, and a person convicted of an offence under this section shall (unless the...) be disqualified for holding or obtaining a driving permit under the Motor Vehicles and Road Traffic Act for a period of twelve months..."

One would recognize that under the law, driving without a motor vehicle third-party risk insurance is a serious matter and one of the things this Bill also attempts to do is to increase the penalty which would be imposed. One would see, therefore, that that is being increased to five thousand dollars for the words "five hundred dollars" to two years for the words "six months" and three years for the words "twelve months".

The legislation is imposing heavier penalties for persons who use a motor vehicle on a public road without the requisite insurance. This is being done in an attempt to send a signal to persons who use the roads that they should not drive motor vehicles on the roads without the requisite insurance.

Mr. President, I would have to continue my contribution on another day because the Leader of Government Business wants to adjourn the sitting.

Motion made and question proposed, That the Senate do now adjourn to a date to be fixed. *[Hon. W. Mark]*

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 3.30 p.m.