

*Leave of Absence**Tuesday, April 15, 2008***SENATE***Tuesday, April 15, 2008*

The Senate met at 1.30 p.m.

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

Mr. President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Arnold Piggott who is out of the country.

SENATOR'S APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ G. Richards
President.

TO: MR. FOSTER CUMMINGS

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

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, FOSTER CUMMINGS, to be temporarily a member of the Senate, with effect from 15th April, 2008 and continuing during the absence from Trinidad and Tobago of Senator Arnold Piggott.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 14th day of April, 2008.”

Oath of Allegiance

Tuesday, April 15, 2008

OATH OF ALLEGIANCE

Sen. Foster Cummings took and subscribed the Oath of Allegiance as required by law.

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

Bill to establish the Trinidad and Tobago National Steel Symphony Orchestra Corporation and for matters incidental thereto, brought from the House of Representatives [*The Minister of Community Development, Culture & Gender Affairs*]; read the first time.

PAPERS LAID

1. The Civil Aviation [(No. 1) General Application and Personnel Licensing] (Amdt.) Regulations, 2008. [*The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill)*]
2. The Civil Aviation [(No. 2) Operations] (Amdt.) Regulations, 2008. [*Sen. The Hon. C. Enill*]
3. The Civil Aviation [(No. 3) Air Operator Certification and Administration] (Amdt.) Regulations, 2008. [*Sen. The Hon. C. Enill*]
4. The Civil Aviation [(No. 7) Instruments and Equipment] (Amdt.) Regulations, 2008. [*Sen. The Hon. C. Enill*]
5. The Civil Aviation [(No. 8) Aviation Security] (Amdt.) Regulations, 2008. [*Sen. The Hon. C. Enill*]
6. The Civil Aviation [(No. 15) Air Navigation Services] (Amdt.) Regulations, 2008. [*Sen. The Hon. C. Enill*]

Statutory Instruments Committee

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): May I also advise that the Statutory Instruments Committee considered these regulations and found that there was nothing to which the attention of the Senate should be specially drawn. The minutes of the committee were circulated to Senators.

ORAL ANSWERS TO QUESTIONS

**Licensing Authority
(Computerization of)**

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

Would the Minister inform this Senate when the Licensing Authority will be fully computerized in order to bring relief to the drivers of this country and particularly to protect against any fraudulent activities within the Authority?

The Minister of Works and Transport (Hon. Colm Imbert): Mr. President, the computerization and modernization of the Transport Division of the Ministry of Works and Transport, commonly referred to as the licensing office, has been an objective of successive governments for more than 10 years. By way of background, in 1998 the then UNC government agreed to the implementation of the following initiatives aimed at modernizing the Transport Division:

1. Transformation of the Transport Division into a statutory authority to enable it to better manage its business;
2. Approval of a request for proposals for the supply, delivery and installation of computer hardware and software for the driving permit and vehicle registration system at the Transport Division;
3. The installation of an information technology system to replace the existing system at that time.

However, the Transport Division was unable to implement these initiatives due to a lack of adequate resources. In October 2000, the then UNC government made another attempt to modernize the operations of the Transport Division and agreed, among other things, that the Central Tenders Board be approached with a view to awarding a contract to a reputable firm to finance, build and fully automate a computerized system for all business functions of the Transport Division at the Ministry of Works and Transport. However, this initiative was not brought to fruition and the evaluation exercise was aborted. That was in 2000.

The next major attempt was in December 2003 when the present Government agreed to approach the United Nations Development Programme for technical assistance for the acquisition of a permits and vehicle registration information system for the Transport Division of the Ministry of Works and Transport. Tenders were subsequently invited by the UNDP in September, 2004 for the new system, using a two-stage evaluation process, involving an initial technical evaluation followed by an evaluation of financing proposals in accordance with the UNDP's tender rules, which mandate that the lowest qualified bidder be awarded the contract. Out of the firms submitting bids, two firms, one foreign and one local, were assessed as meeting the UNDP's acceptable threshold in the technical evaluation.

On opening the financial packages of these two firms, the foreign firm was deemed to be the lowest qualified bidder, with a bid in the order of US \$1 million, in contrast to the local firm which had submitted a bid of the order of US \$3.4 million. However, confidential information regarding the evaluation of tenders

was subsequently leaked by persons unknown to persons associated with the local firm. Subsequently, in an attempt to circumvent the clear and unambiguous provisions of the UNDP tender rules which require that the contract be awarded to the lowest qualified bidder, and notwithstanding the fact that the bid from the foreign firm was several million dollars lower than the bid from the local firm, the local firm protested and insisted that the foreign firm be disqualified and that it be awarded the contract.

In order to preserve the integrity of the tendering process and in order to be consistent with its tender rules, the UNDP refused to comply with the demands of the local firm, which retaliated with a bitter and aggressive public campaign of character assassination in the local media. A number of false allegations were made against the UNDP and its personnel, including false and mischievous allegations of conflict of interest. This was followed by an unsuccessful approach to the United Nations Secretary General to lift the diplomatic immunity of the UNDP representative in Trinidad and Tobago. The UNDP eventually aborted the tender process because of the controversy.

The Ministry of Works and Transport subsequently revised the terms of reference for the project in 2005 and executed a revised technical assistance agreement with the UNDP in 2006, with the principal objective of bringing about a technological solution to the present operational system at the Transport Division, including change management and organizational transformation components. In order to further strengthen the evaluation process and to minimize external interference, a new project steering committee was established, including representatives of the Ministry of Works and Transport, the public service trade unions and the Ministry of Public Administration and Information.

The UNDP subsequently issued a request for proposals in 2006 and six firms responded. After evaluation of the bids, Digi-Data Systems Limited was deemed to be the preferred tenderer and approval was granted by the UNDP's contracts committee at its headquarters in New York for final negotiations with Digi-Data. However, the same firm that had been unsuccessful in the previous tender round, protested again and initiated another unsavoury campaign of defamation and litigation. Eventually, in May 2007, UNDP indicated that it was not prepared to sign the contract agreements with the preferred tenderer because of the high exposure to financial and legal risks, among other things, including the threat of character assassination, and it withdrew from the procurement process.

From the experiences of successive governments over the last several years, it is obvious that a new approach is required to achieve the computerization and modernization of the licensing office. Accordingly, in order to resolve this matter once and for all, the Ministry proposes to undertake this project using a government-to-government arrangement, the details of which are currently being finalized. In the interim, the Ministry continues to provide computer literacy and computer training for staff in the Transport Division in preparation for the modernization of the division.

I wish to assure this honourable Senate and the national community, by extension, that this Government intends to initiate a modernization process for the Transport Division in 2008 using the government-to-government arrangement that I have just referred to.

Sen. Mark: Mr. President, could the hon. Minister indicate what steps or measures are being taken by his Ministry to address fraudulent activities against, for instance, the driving population, at the licensing department, as outlined in the question?

Hon. C. Imbert: Mr. President, the question that I was asked referred to the computerization of the licensing department. If the hon. Senator wishes to get an answer to that question, I would be happy to respond once he poses it in the proper manner.

Sen. Mark: If I can be guided by you, I did, in fact, indicate in the question: “with particular reference to fraudulent activities”. So it is in the question and that is why I am asking him to provide us with some clarification on that matter.

Mr. President: Senator, your question is, “when”, not, “what”. I think that the “what” would involve quite a bit of analysis from the Minister and, therefore, I think that that would really fall to be a new question. But I understand what you are saying.

Sen. Seetahal SC: Mr. President, my question to the Minister is: Since there is acknowledged fraudulent activity in the licensing authority, could he tell us, in the public interest, what measures, either the licensing authority or his Government is putting in place to correct that?

Mr. President: Senator, I think that follows from what I just said to Sen. Mark, and that is the question that was asked of the Minister was “when” something would be done and not “what” would be done. Having a little knowledge as to what would be involved, I do not think that the Minister would have that. If the Minister wishes to volunteer, he may volunteer to answer, but I think it is outside the scope of a supplemental question.

1.45p.m.

Sen. Seetahal SC: Mr. President, I understand what you are doing. My point is that over the years we have heard so much about this and the Minister did not assume this portfolio yesterday, so I am asking if he knows whether there are any measures or what is put in place to deal with this. He can simply say that there is none.

Mr. President: Let me repeat. I think that that falls outside the scope of a supplemental, but if the Minister wishes to volunteer an answer, he may volunteer an answer.

Sen. Rahman: Does the Government intend to accomplish this computerizing exercise in the present compound where the Licensing Authority is situated, in light of the numerous complaints from the travelling public about the congestion on Wrightson Road?

Hon. C. Imbert: No.

Sen. Mark: Could the hon. Minister indicate to us if there is a specific time frame for the conclusion of this government-to-government contract, that would bring some relief to the travelling public in our country?

Hon. C. Imbert: I will repeat the last part of my answer. The Government intends to initiate the modernization process in 2008.

The question was about when we intend to commence the process. That is the information I have with me at this time.

Sen. Dr. Charles: I thought that the Minister might wish to say if there is anything that he has done or can do in the interim given that this process that he will commence this year would take some time. Is there anything that he has done or can do to improve the situation with respect to records at the licensing division?

Hon. C. Imbert: I do not have the kind of quality information for which Sen. Dr. Charles is asking. Certainly, we have some short-term strategies. If you want a detailed response to that question, I prefer that you pose it as a question. I would be happy to answer it.

Tertiary Education (Grant of Financial Assistance/Scholarship)

11. Sen. Wade Mark asked the hon. Minister of Community Development, Culture and Gender Affairs:

- A. Could the Minister inform the Senate whether her Ministry has provided financial assistance or awarded scholarships to persons desirous of pursuing studies at universities in Trinidad and Tobago, the Caribbean region and/or internationally?
- B. If the answer is in the affirmative, will the Minister provide this Senate with the following information:
 - i) a list of the names of persons who have benefited from such assistance for the period 2002 to December 2007;
 - ii) the amount of financial assistance provided to each person; and
 - iii) the names of the institutions involved?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, questions Nos. 11, 12, 13 and 15 are not ready. The questions that we can answer this afternoon are Nos. 16, 56 and 57. We have the Ministers here to do so.

Question, by leave, deferred.

**Mr. Douglas Mendes SC
(Details of Retention of Services)**

12. Sen. Wade Mark asked the hon. Attorney General:

Could the Attorney General provide the Senate with:

- A. a detailed list of the matters in which Mr. Douglas Mendes SC has been retained by:
 - i) the Government of Trinidad and Tobago;
 - ii) the Integrity Commission;
 - iii) the National Lotteries Control Board;
 - iv) the Telecommunications Authority of Trinidad and Tobago; and
 - v) any other state enterprise and/or statutory authority during the period January 01, 2002 and December 31, 2007?
- B. Could the Attorney General also provide a detailed breakdown of the fees paid to the said Senior Counsel during the same period?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, questions Nos. 12, 13 and 15 are not available. Questions Nos. 16, 56 and 57 are ready.

Question, by leave, deferred.

**Ministry of Community Development, Culture and Gender Affairs
(Funding/Grants and/or Financial Support to Organizations)**

13. Sen. Wade Mark asked the hon. Minister of Community Development, Culture and Gender Affairs:

Could the Minister provide the Senate with:

- A. A list of all organizations that have received funding/grants and/or financial support from the Ministry of Community Development, Culture and Gender Affairs during the period January 02, 2002 to December 31, 2007?
- B. Could the Minister also provide the details of the amount provided and for what purpose?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, question No. 13 is not ready. However, we are prepared to answer questions Nos. 16, 56 and 57.

Question, by leave, deferred.

**Granting of Scholarships/Funding
(Committee Members)**

15. Sen. Wade Mark asked the hon. Minister of Community Development, Culture and Gender Affairs:

- A. Could the Minister provide the Senate with a list of the Members who comprise the committee in the Ministry of Community Development, Culture and Gender Affairs charged with the responsibility for determining the grant of scholarships/funding to needy individuals?
- B. Could the Minister provide the Senate with copies of the brochures/pamphlets containing the procedure and criteria adopted by the committee for determining the eligibility for scholarships/funding?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, question No. 15 is not ready. Questions Nos. 16, 56 and 57 are available.

Question, by leave, deferred.

**National Service Programme
(Structure of)**

16. Sen. Wade Mark asked the hon. Minister of Community Development, Culture and Gender Affairs:

- A. Could the Minister provide the Senate with the details of the structure of its National Service Programme?
- B. Could the Minister also inform the Senate of the amount of money allocated to this National Service Programme on a yearly basis for the years 2002, 2003, 2004, 2005, 2006 and 2007?
- C. Could the Minister indicate to the Senate the total number of citizens who have benefited from the National Service Programme and what type of programme was offered to these citizens during the period?

The Minister of Community Development, Culture and Gender Affairs (Hon. Marlene Mc Donald): Mr. President, I wish to advise as follows:

The Geriatric Adolescent Partnership Programme commonly called GAPP is the only programme funded under the allocation for national services in the Ministry of Community Development, Culture and Gender Affairs. The GAPP has been conceived as a social intervention initiative to bridge the gap between young people within the ages of 17—25 years and the elderly, many of whom reside in loneliness and solitude. The programme began in 1993, as a result of the foresight and proactive decision of the then government. It was designed both to narrow the widening generation gap between the youth and the elderly and to harness and direct the untapped energy and free time of the unemployed youth population, in the service of the elderly and by extension the nation as a whole.

At that time, with an expanding number of secondary school graduates, there was the recognition that members of the baby boom population in the 1940s would be aging in the 1990s and beyond and would require care and attention. The programme facilitates directly character development in the youth population through the following objectives: developing a sense of self-worth and discipline among the youth; fostering in our youth positive attitudes for the caring and respect for the elderly; promoting among the youth an appreciation for service to the community and country; providing avenues for young people to achieve their potential in a nurturing and caring environment; inculcating within the minds and hearts of the young people the virtues of understanding and embracing the norms and values of the society, while at the same time injecting a sense of self-pride and patriotism and promoting a sense of self-confidence and law-abiding spirit within the youths, so that they can be proud citizens of Trinidad and Tobago, while indirectly providing companionship and care-giving services to the elderly.

The programme comprises two distinct components, namely, Training for Service Delivery, Levels I and II and Post Training Service to the Elderly. During

Oral Answers to Questions
[HON. M. MC DONALD]

Tuesday, April 15, 2008

the Training for Service Delivery component, Level I, trainees are exposed to teaching in the following subject areas:

- (1) basic nursing skills;
- (2) nutrition for the elderly;
- (3) home management;
- (4) parenting;
- (5) life skills, including:
 - literacy;
 - communication;
 - self-esteem and confidence building;
 - crisis management;
 - entrepreneurial skills;
 - safety;
 - protecting the elderly from abuse and preparation for the world of work.

In 2006, the second level of training was introduced with Level II focusing on specialized training for graduates of the programme who are desirous or pursuing a career in elderly care and have achieved the required standard for entry.

Trainees at this level are exposed to the following: advanced nursing skills; advanced nutrition and home management; coping mechanisms for treating with the elderly; medication management; coping with persons with Alzheimer's disease; advanced physiotherapy; dealing with anger in the elderly and parenting.

In the Post Training Service component, a community home care placement service exists for regulating and monitoring the services provided to the elderly by graduates of the GAPP. This service evolved out of the need expressed by the elderly for support and companionship, particularly during the period in which they were exposed to the trainees. Support is also provided to incapacitated persons.

Sums allocated to the GAPP on a yearly basis from 2002 to 2007 are as follows:

Year	Sum Allocated (\$)
2002	3,595,340
2003	3,874,841

2004	5,316,088
2005	7,316,678
2006	8,376,981
2007	11,956,847

These sums have provided training for 5,090 young persons, including 749 at Level II, while a total of 3,177 elderly or incapacitated persons throughout the country have benefited directly from the companionship and care-giving services of the programme.

The GAPP must not be seen exclusively within the context of the young interfacing with the elderly, but as a programme essentially and urgently designed to equip our treasured young citizens with the necessary abilities to live a type of life which would meet the requirements of civic responsibility.

In effect, the programme joins with the other social development initiatives undertaken by the Government which assist in re-directing the attention of the youths away from temptation to engage in anti-social and criminal behaviour and into a desire to live a productive and disciplined life as proud citizens of Trinidad and Tobago.

Sen. Dr. Nanan: Mr. President, we got a breakdown in terms of the actual allocation of 2002—2007. Can the Minister give us some idea of the administrative costs over those years?

Hon. M. Mc Donald: I am unable to answer that particular question as I do not have the information before me. I can answer it once the question is posed.

Sen. Rahman: Could the Minister advise whether any assessment reports have been prepared on these programmes and if they are available for examination?

Hon. M. Mc Donald: Mr. President, I am aware that reports have been prepared and once posed, I would be able to supply the information.

Sen. Mark: How many citizens of this country were trained as a result of this initiative taken under the national service scheme?

Hon. M. Mc Donald: As I have said, we trained 5,090 young persons during the period.

Sen. Rahman: My question was if there are any available reports. This has been going on since 2002. I wanted to know if there are reports already prepared to assess the programme not that you will have to prepare now.

Mr. President: I think that that question has been asked and answered.

Hon. M. Mc Donald: I think that that question has been asked and answered.

**Multimillion-Dollar International Waterfront Project
(Status of)**

25. Sen. Wade Mark asked the hon. Minister of Planning, Housing and the Environment:

With respect to the multimillion-dollar International Waterfront Project, could the Minister inform the Senate:

- (i) how many contracts were signed between the State and UDeCOTT, for the management of the project ;
- (ii) the names of any other company that signed contracts with UDeCOTT for project management and construction from the commencement of the project to December 31, 2007;
- (iii) the details of the amount of money paid to each of these contractors;
- (iv) whether these contracts were the subject of competitive tendering or a sole selective basis; and
- (v) if the contracts were on a sole selective basis, what were the rationale and reasons for same?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, as we have stated before, the next questions on the Order Paper to be answered are Nos. 56 and 57.

Sen. Mark: Will the Minister indicate to the Senate when this question will be answered?

Sen. The Hon. C. Enill: Mr. President, question No. 25 was prepared and submitted to the Parliamentary Questions Committee. They reviewed the question and it requires an amendment. As soon as the amendment is made the question would be approved. That is the status on that particular question. It is also the status on questions Nos. 26, 34, 42, 43 and 44.

Question, by leave, deferred.

2.00 p.m.

**Official Residence
(Details of Payments)**

26. Sen. Wade Mark asked the hon. Minister of Finance:

- A. Could the Minister provide the Senate with the details of the final cost of the construction of the Prime Minister's residence and Diplomatic Centre?

- B. Could the Minister also provide the Senate with the details of payments of value added tax, income and corporation taxes, and all other corporate taxes by the Shanghai Construction Corporation of China during the period of construction of the said Prime Minister's residence and Diplomatic Centre?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, as was just discussed, that question was deferred by the Parliamentary Questions Committee (PQC) for amendment.

Question, by leave, deferred.

**Conduct of the Chief Justice
(Legal Advice Offered on)**

28. Sen. Wade Mark asked the hon. Prime Minister:

- A. Could the Minister make available the official legal advice offered to him by Dr. Lloyd Barnett, QC and Mr. Mark Strachan, QC from Jamaica and the United Kingdom respectively on which his decision to have the President of the Republic establish a tribunal to investigate the conduct of the Chief Justice?
- B. Could the Prime Minister also provide the Senate with details of the legal costs and fees paid to both Dr. Lloyd Barnett, QC and Mr. Mark Strachan, QC for the said advice?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, question No. 28 is engaging our attention.

Question, by leave, deferred.

**Todd's Road
(Status of Land Distribution)**

34. Sen. Wade Mark asked the hon. Minister of Agriculture, Land and Marine Resources:

- A. Could the Minister provide the Senate with the rationale, if any, for the allocation and distribution of the 3,000 acres of land cultivated with citrus located at Todd's Road?
- B. Could the Minister also state whether these lands were sub-divided and if so, by whom?
- C. Could the Minister further inform the Senate whether the final distribution and allocation exercise was approved by Cabinet and if so, when?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, question No. 34 was deferred by the PQC for amendment. As soon as it is available, the question will be answered.

Question, by leave, deferred.

**Securities and Exchange Commission
(Government's Measures to Strengthen)**

42. Sen. Wade Mark asked the hon. Minister of Finance:

Could the Minister state the measures, legislative or otherwise, the Government intends to take to strengthen and support the Securities and Exchange Commission in its efforts to ensure that companies listed on the Trinidad and Tobago Stock Exchange submit annual reports on a timely basis to allow shareholders to be better able to monitor and protect their investment?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, question No. 42 was deferred by the PQC for amendment. The answer was in fact prepared and submitted and an amendment is required.

Question, by leave, deferred.

**Hi-tech, Closed-circuit Television (CCTV) System
(Implementation of)**

43. Sen. Wade Mark asked the hon. Minister of National Security:

Could the Minister inform the Senate whether the Government plans to implement fully a hi-tech, closed-circuit television (CCTV) system in urban areas in Trinidad and Tobago to facilitate proper and timely policing in these areas?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, question No. 43 will be available on the next occasion. It is going to Cabinet for approval.

Question, by leave, deferred.

US Dollar Value in the Global Market

44. Sen. Wade Mark asked the hon. Minister of Finance:

- (a) Could the Minister state whether the Government is aware that the value of the US dollar is on the decline in the global market?

- (b) If the answer to (a) is in the affirmative, could the Minister advise the Senate of the effects of the decline on:
- (i) the foreign reserves of Trinidad and Tobago;
 - (ii) the Heritage and Stabilization Fund; and
 - (iii) the foreign debt of Trinidad and Tobago?
- (c) Could the Minister also advise what steps the Government intends to take to protect the Trinidad and Tobago dollar?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, question No. 44 suffers the same fate as question No. 43. It is going to Cabinet for approval.

Question, by leave, deferred.

**Ongoing United Nations Development Project
(Computerization of the Licensing Office)**

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

With respect to the ongoing United Nations Development Project for the computerization of the Licensing Office, could the Minister advise the Senate:

- (i) what is the status of this project;
- (ii) what was the sum of money allocated for this project;
- (iii) how much money, if any, has been spent on this project so far; and
- (iv) whether the project has been abandoned or is there a new completion date?

The Minister of Works and Transport (Hon. Colm Imbert): Mr. President, I am asking for a deferral of three weeks on this question. As you will appreciate, there are elements in this question that have already been answered in the response to question No. 4. I need to speak with you, Mr. President, with respect to the remaining parts of this question; whether we can delete some of them. I would like a deferral of three weeks for that purpose.

Sen. Mark: Mr. President, this question has been on the Order Paper for seven weeks and the Minister has indicated that he has already answered parts of it. I wonder why he would like three additional weeks. We can compromise on two.

Mr. President: Sen. Mark, this question is very similar to the one answered earlier this afternoon and much of the information you are asking for has already been given. I think the Minister is quite right in drawing to my attention that this question, for all practical purposes, is asked and answered except for perhaps the last part. I think that the Minister's explanation should stand.

Question, by leave, deferred.

**Public Transport Service Corporation
(Status of Local Agents for Volvo Buses)**

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

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

The Minister of Works and Transport (Hon. Colm Imbert): Mr. President, again, on this question and also on the written question No. 48, we are doing further investigations. I will be answering this question, but because of further investigations, I would like a deferral of a further three weeks on those questions.

Question, by leave, deferred.

**United Nations Development Programme
(Status Report of Funding)**

47. Sen. Wade Mark asked the hon. Minister of Foreign Affairs:

- (a) Could the Minister inform the Senate whether the Government of the Republic of Trinidad and Tobago has been able to access funding from the UNDP's programme for critical development and technical projects?
- (b) If the answer to (a) is in the affirmative, could the Minister provide the Senate with a status report on the funding accessed from the programme during the last three (3) years?
- (c) If the answer to (a) is in the negative, could the Minister inform the Senate:

- (i) whether Trinidad and Tobago has graduated out of the programme; and
- (ii) whether projects that could have been funded by the UNDP must now be financed by the Government?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, question No. 47 is not yet ready.

Question, by leave, deferred.

**Judges of the Industrial Court
(Disparity in Retirement Benefits)**

53. Sen. Mohammed Faisal Rahman asked the hon. Attorney General:

- A. Could the Minister inform the Senate whether the two interim vessels procured under an interim facility contract with V.T. Shipbuilding International were delivered in October, 2007 as promised by the hon. Prime Minister in his statement to the House of Representatives on April 20, 2007?
- B. If the answer to (A) is in the negative, could the Minister outline the reason or reasons for the delay?
- C. Could the Minister state what is the revised delivery date of these vessels?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, question No. 53 is not yet ready.

Question, by leave, deferred.

**Medical Treatment Abroad for Citizens
(Government Underwriting of Cost)**

54. Sen. Mohammed Faisal Rahman asked the hon. Minister of Health:

Could the Minister advise this Senate whether the Government has any plans in place to underwrite the cost of medical treatment abroad for citizens suffering from diseases or injuries which cannot be treated locally?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, question No. 54 has been recommended for Cabinet and will be answered on the next occasion.

Question, by leave, deferred.

**Air Pollution Rules and Hazardous Waste Rules
(Time Frame for)**

55. Sen. Dr. Adesh Nanan asked the hon. Minister of Planning, Housing and the Environment:

Would the Minister indicate a time frame for the Air Pollution Rules and the Hazardous Waste Rules to be laid in Parliament?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, question No. 55 is not yet ready. It is being worked on.

Question, by leave, deferred.

**Meteorological Services Division
(Daily Weather Forecasting)**

56. Sen. Dr. Adesh Nanan asked the hon. Minister of Minister of Planning, Housing and the Environment:

Would the Minister indicate the advances made in the Meteorological Services Division from 2002 to present with respect to daily weather forecasting including storm tracking?

The Minister of Public Utilities (Hon. Mustapha Abdul-Hamid): Mr. President, the main functions performed by the Meteorological Services Division of the Ministry of Public Utilities are:

- (a) monitoring the atmosphere so as to provide weather information that will result in safe air navigation and sea travel;
- (b) providing earlier warnings of severe weather which can occur from meteorological events;
- (c) providing different types of weather forecast to cater for all stakeholders;
- (d) investigating climatic trends from the store of weather data that is available in the division since 1946, thereby contributing to the world store of data and information on the global issue of climate change.

On a daily basis, the Meteorological Services Division provides five different types of forecasting services, namely, area forecast, which provides information on weather conditions for low-flying aircraft in the Caribbean region; terminal forecasts, which provide information on aerodrome weather, that is the prevailing

weather conditions at the country's two airports; public forecasts, which provide information on impending weather conditions to affect Trinidad and Tobago; aviation forecasts, which provides information on winds and significant weather conditions for high-flying aircraft; and severe weather forecasts, which provide information for specific areas in Trinidad and Tobago, which can experience torrential rains or strong gusts.

Prior to 2002, the Meteorological Office depended mainly on weather charts, satellite imagery and experience to do weather forecasting and tracking of storms. Those means, as they existed at the time, were not very effective in the delivery of early and accurate weather forecasts. Also, the Meteorological Office did not have satellite coverage to observe atmospheric conditions over the large expanse of the Atlantic Ocean east of the Caribbean extending all the way to East Africa, which spans some 5,000 kilometres. In fact, oceanic and atmospheric observations were sparse. In addition, the satellite images had poor resolution and they were received via the Internet, which was very slow and there were frequent breakdowns in the telecommunications system. All this is prior to 2002.

Given the rapid changes in technological advancement and the inevitable developments arising out of globalization, it became incumbent upon the Government of the Republic of Trinidad and Tobago to confront the human resource, technological and infrastructural challenges at the Meteorological Services Division, in order to facilitate the division's proper alignment within the context of Vision 2020.

One of Vision 2020's objective for the utilities sector is to expand the coverage and improve the quality of public utilities services. In keeping with this objective, the Government, through the Meteorological Services Division and the then Ministry of Public Utilities and the Environment, in 2002, undertook plans aimed at capacity building and institutional strengthening in the division. As a consequence, the division has been experiencing improved and effective delivery in the range of meteorological services, including weather forecasting and storm tracking.

The components of the Government's initiatives include:

- continuous training of weather forecasters and meteorologists;
- expanding of training for existing staff and new persons in the field of weather forecasting and meteorology;
- improvement in office accommodation;

Oral Answers to Questions
[HON. M. ABDUL-HAMID]

Tuesday, April 15, 2008

- use of state-of-the-art equipment and systems to enhance weather forecasting and storm tracking capabilities, namely, TeraScan satellite receiving equipment, the SmartMet system and the Doppler Radar and embracing modern day technology.

With respect to training, since 2002, weather forecasters and meteorologists at the Meteorological Office have been receiving continual training in meteorology at the National Weather Service in Maryland, USA, and the National Hurricane Centre in Miami. This training is provided under the auspices of the World Meteorological Organization. The training which is offered at Maryland specializes in tropical meteorology and the emphasis is on storm tracking and weather forecasting. It is a four-month training programme and involves preparing long-range forecast using numerical weather prediction models. As a result of this type of training, local meteorologists are now preparing three-day weather forecasts with improving accuracy.

The training, which is being offered at the Hurricane Centre in Miami is attended by local meteorologists every year and the focus is on hurricane forecasting and warning, which are essential for tropical meteorological services. As a result of this type of training, the Meteorological Office has significantly improved on its early warning capabilities and its hurricane forecasting and tracking techniques, which all redound to the improved delivery of meteorological services.

This was demonstrated by the accuracy of forecast and precision of storm tracking during the passage of Hurricane Ivan in 2004, Emily in 2005 and Felix in 2007. In addition, the Government of the Republic of Trinidad and Tobago, since 2006, has expended and committed funds totalling \$1.5 million, through scholarships, to train 15 nationals at different technical levels in the field of meteorology over the period 2006—2011, as follows:

- Two candidates pursuing the M.Sc. in Meteorology at the University of the West Indies, Cave Hill, Barbados, from 2008 to 2011 at a cost to the State of \$300,256;
- Three candidates pursuing the B.Sc degree in Meteorology at the University of the West Indies, Cave Hill, Barbados, from 2006 to 2010 at a cost to the State of \$675,000;
- Five candidates pursuing the Meteorological Technician Diploma, Level 1, at the Caribbean Institute for Meteorology and Hydrology in Barbados from February to October, 2008 at a cost to the State of \$147,000;

- One candidate pursuing the Meteorology Technician Diploma, Level II, at the Caribbean Institute for Meteorology and Hydrology in Barbados, from August 2007 to April 2008 at a cost to the State of \$43,000; and
- Four candidates pursuing the Meteorological Technician Diploma, Level III, at the Caribbean Institute for Meteorology and Hydrology in Barbados, from January to April 2008 at a cost to the State of \$365,000.

This training initiative is geared towards meeting and sustaining the Meteorological Services Division's human resource needs for persons skilled and competent in the areas of meteorology, weather forecasting and storm tracking.

With respect to the issue of office accommodation, in 2005, Government took a decision to acquire a 6-acre parcel of land north of the terminal building at Piarco for the construction of a building to house a meteorological services division. That decision became necessary because of, among other things, the modernization of the operations of the division, which resulted in an expansion of the range of meteorological services that are now being provided to the public. Negotiations are at present ongoing for the acquisition of the parcel of land.

Within recent times, the division has started utilizing state-of-the-art equipment designed automatically to assess and analyze the most up-to-date meteorological data. As a result of a decision taken by the Government in 2006, the TeraScan satellite receiving equipment was purchased and installed at the synoptic forecast office at Piarco replacing the antiquated one previously in use.

The TeraScan satellite receiving equipment is a remote sensing system which accesses high-definition satellite images to support environmental meteorological and oceanographic disaster monitoring. Every half an hour it can provide environmental data of large expanses of water where land-based observation is non-existence, as is the case of the Atlantic Ocean east of the Caribbean and 5,000 kilometres to West Africa.

Visible infrared and water vapour images are received on the system and these provide vital meteorological information that is necessary for weather forecasting and early warnings. From these images, it can be determined heights and sizes of clouds, distances of cloud systems from Trinidad and Tobago, the speed with which clouds are moving and the intensity of the clouds' meteorological parameters, for example, the intensity of the rainfall derived from the vertical extent of the cloud and the intensity of the downdraft or winds, which has implications for property damage.

Another state-of-the-art system that is now being used by the services division is the SmartMet. This system was installed in 2006. It is a numerical weather prediction modelling system developed by the Finnish Meteorological Institute.

2.15 p.m.

The large weather countries of the world use the prediction model to produce weather information, which is shared with the rest of the world. The information that is received from that system gives a general weather forecast for small areas like Trinidad and Tobago and the Caribbean. Smart Met, however, microanalyses that general forecast and produces micro-weather forecast. Hence, its suitability for small countries like Trinidad and Tobago.

Realtime data on weather parameters, for example wind speed, temperature, humidity, cloud cover, et cetera, are drawn from the eight automatic weather stations located across the country at Brasso Venado, Caroni, Centeno, Chatham, El Reposo, Penal, Crown Point and Piarco. The meteorologist can then model those weather parameters and by initiating actual weather conditions by means of a script and using SmartMet, a more accurate weather forecast is produced. SmartMet has proven to be a very effective system for weather forecasting in times of severe weather conditions.

The work of the meteorological office, with regard to daily weather forecasting including storm tracking—[*Interruption*]

Mr. President: Senator, we have reached the limit of question time. If you have many more pages to go, and I see that you do, perhaps, I would suggest that you circulate your answer to the Senators at this time.

Hon. M. Abdul-Hamid: I have 60 seconds more.

Mr. President: Sixty seconds? Very well.

Hon. M. Abdul-Hamid: The work of the meteorological office, with regard to daily weather forecasting, including storm tracking, has been facilitated greatly through the use of high speed Internet services, which is very vital data for transfer for the operation of SmartMet. The meteorological office has also established a website which is now being tested and should go live by the start of the 2008 hurricane season in June. The website would issue frequent weather bulletins, hurricane watch and warning and the status of storms and hurricanes.

Another initiative adopted by the meteorological office for weather forecasting and storm tracking was the implementation of the weather radar system in Trinidad, as part of a Cariforum project for a radar network warning system for

the Caribbean. This new system is to replace the obsolete and nonfunctioning one acquired more than 30 years ago under the United Nations Development Programme.

Consequently, in April 2004, Cariforum and the Government of Trinidad and Tobago signed a memorandum of understanding for the implementation of a weather radar network warning system in the Caribbean.

The Caribbean Radar System Project aims to provide an early warning system for Trinidad and Tobago and the Caribbean, through the creation of a virtual radar fence which would monitor tropical cyclones and other weather systems in the region; the doppler radar at Brasso Venado being part of this larger project.

Work on the doppler weather radar at Brasso Venado in Central Trinidad commenced in 2006. Infrastructural works and a building were completed in early March 2008 and a radar is expected to be functional by June 2008, which is the official start of the 2008 hurricane season.

The Government is satisfied that our efforts in the sphere of meteorology have been and would continue to be a story of success. Thank you very much, Sir.

Mr. President: Hon. Senators, there are two other questions on the Order Paper, No. 57 for which there is an answer and No. 58 for which there is no answer that is ready but will fall to be put on the next occasion.

EXPIRATION OF QUESTION TIME

The following questions stood on the Order Paper:

Doppler Radar in the Central Range (Status of)

57. Would the hon. Minister of Planning, Housing and the Environment give a status report on the Doppler Radar facility in the Central Range? [*Sen. Dr. A. Nanan*]

Employee Injury and Disability Compensation (Delay of)

58. Could the hon. Minister of Labour and Small and Micro Enterprise Development state what is the reason for the delay in bringing legislation for the Employee Injury and Disability Compensation before Parliament? [*Sen. M. Annette*]

Question time having expired, questions 57 and 58 were not dealt with.

**RETIRING ALLOWANCES
(LEGISLATIVE SERVICE) (AMDT.) BILL**

Order for second reading read.

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Mr. President I beg to move,

That a Bill to amend the Retiring Allowances (Legislative Service) Act, Chap. 2:03, be now read a second time.

Before I proceed to deal with this Bill, I would like to inform Members of this Senate that there appears to be several typographical errors in the Bill that has been circulated. This Bill is a money Bill, as provided under the Constitution of Trinidad and Tobago. In that regard, I refer to the definition of what a money Bill, is section 66 of the Constitution. Therefore, section 64 of the Constitution provides that a money Bill, when passed by the House of Representatives and sent to the Senate, should bear the certificate of the Speaker, signed by him that it is a money Bill. I have enquired from the Clerk of the House and I have been reliably informed that such Bill was certified by the Speaker and sent to this Senate as a money Bill. I would like to advise Members of that.

Secondly, again, I refer Senators and put them on notice that in clause 1(2), there has been an omission of section 4, in the Bill, as circulated. That would be in the second sentence of clause 1(2).

Sen. Mark: Do you want to read it for us.

Sen. The Hon. B. Annisette-George: The correction? Clause 1(2) would read:

“Sections 3, 5 and 6 are deemed to have come into effect from November 21, 1996...”

There is no reference number. That is where section 4 comes in.

“Section 4 is deemed to have come into effect from October 17, 2002.”

That, having been said, this amendment Bill seeks to give appropriate effect to the recommendations of the 82nd Report of the Salaries Review Commission, after its consideration of the recommendations of the Committee of the House of Representatives on the Retiring Allowances (Legislative Service) Act, Chap. 2:03.

I would like to remind Members of this honourable Senate that there is established, under the Constitution of Trinidad and Tobago, Chapter 11, the Salaries Review Commission and that is set out in sections 140 and 141 of the Constitution. Reading from section 140(1):

“There shall be a Salaries Review Commission which shall consist of a Chairman and four other members all of whom shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(2) The members of the Salaries Review Commission shall hold office in accordance with section 126.”

Section 141(1) of the Constitution reads as follows:

“The Salaries Review Commission shall from time to time with the approval of the President review the salaries and other conditions of service of the President, the holders of offices referred to in section 136(12) to (15), members of Parliament, including Ministers of Government and Parliamentary Secretaries, and the holders of such other offices as may be prescribed.

(2) The report of the Salaries Review Commission concerning any review of salaries or other conditions of service, or both, shall be submitted to the President who shall forward a copy thereof to the Prime Minister for presentation to the Cabinet and for laying, as soon as possible thereafter, on the table of each House.”

Mr. President, in 2007, the Cabinet agreed by Minute No. 897, dated April 19, 2007, to the recommendations contained in the 82nd Report of the Salaries Review Commission. The legislative measures to be taken were intended to be incorporated in section 3 of the Finance Act, 2007. However, there was an omission as to the effective date of the amendment and an attempt was made to fix this in the Finance (Amdt.) Act of 2007.

Now, as far as the 82nd Report of the Salaries Review Commission relates to this particular amendment Bill, the Commission recommended, and this would be in paragraph 27(2), that the gratuity payable to persons who ceased to be legislators, as defined in the Retiring Allowances (Legislative Service) Act, be increased from 10 per cent to 20 per cent of basic salary paid over the period of service.

In paragraph 27(5), the Salaries Review Commission also recommended that the appropriate legislative amendments be undertaken to give effect to the recommendations outlined in paragraphs 27(2) and (4), as well as recommendations which were contained in the 36th report of the Commission, which were as follows:

Retiring Allowances (Amdt.) Bill
[SEN. THE HON. B. ANNISSETTE-GEORGE]

Tuesday, April 15, 2008

- “(i) provision be made for the payment of a Retiring Allowance of 1/6 of one year’s basic salary for service of an aggregate of not less than 5 years;
- (ii) provision be made for the payment of allowances to dependants of a legislator who dies in the line of duty, that is, in the course of performing official parliamentary duties, regardless of the period of time that the member has served.
- (iii) in the case of death other than in the line of duty, the allowances for the dependants be provided after a minimum period of five (5) years by the legislator;
- (iv) provision be made for benefits to be payable to the “spouse” of a deceased legislator under the Act rather than the “widow” of such legislator as currently applies.”

Mr. President, as said before, these recommendations were thought to have been given legislative effect by both the Finance Act, 2007 and the Finance (Amdt.) Act, 2007. However, it was found that in the course of attempting to administer the Act, with respect to calculating the retiring allowance, an ambiguity emerged in the interpretation of the provisions. This ambiguity involved:

- (a) the relevant period to which the amendment applied; and
- (b) the persons to whom the amendment applied.

The Clerk of the House in the other place, in an attempt to resolve the matter, sought advice from several offices including that of the Attorney General. It was always, I reiterate, it was always the intention of Cabinet to adhere to the recommendations contained in the Salaries Review Commission Report.

2.30 p.m.

However, in the 2007 amendment, section 6 of the Retiring Allowances (Legislative Service) Act as amended, reads as follows:

- “(a) in the case of a person who has served as a legislator for periods amounting in aggregate to not less than:
 - (i) eight years, be at an annual rate equal to one-quarter of one year's salary of that person; or
 - (ii) five years, be at an annual rate equal to one-sixth of one year's basic salary of that person.”

The recommendation of the Salaries Review Commission, at page 7, paragraph 27(v)(a) states as follows:

“(a) provision be made for the payment of a Retiring Allowance of 1/6 of one year’s (basic) salary for service of an aggregate of not less than five years;”

Mr. President, it is quite apparent that the 2007 amendment ran contrary to the Salaries Review Commission Report, hence the amendment in clause 3 of the Bill which reads as follows:

“Section 6 of the Act is amended in subsection (1), by deleting paragraph (a) and substituting the following paragraph:

‘(a) in the case of a person who has served as a legislator for periods amounting in the aggregate to not less than five years, be at an annual rate equal to one-sixth of one year’s basic salary of that person.’”

Clause 4 of the Bill seeks to provide for a limitation that the gratuity payable to a person who ceased to be a legislator should not exceed a three-year salary ceiling, which was originally contained in section 8 of the Retiring Allowance (Legislative Service) Act.

Although in the report of the Salaries Review Commission, they dealt with increasing the quantum of the highest salary payable, it did not in any event attempt to deal with the ceiling which was not to exceed three years salary. So, the effect of clause 4 is to replace that ceiling not to exceed three years of the highest annual salary.

Further, the recommendations of the Salaries Review Commission Report at page 5, paragraph 27(v)(b) and (c) stated as follows:

“(b) provision be made for the payment of allowances to dependants of a legislator who dies in the line of duty, that is, in the course of performing official parliamentary duties, regardless of the period of time that the member has served;

(c) in the case of death, other than in the line of duty, the allowances for dependants be provided after a minimum period of five (5) years service by the legislator;”

Clause 5 seeks to affect section 9 of the Retiring Allowances (Legislative Service) Act, as this recommendation was never given effect to at all.

Retiring Allowances (Amdt.) Bill
[SEN. THE HON. B. ANNISETTE-GEORGE]

Tuesday, April 15, 2008

Further, these recommendations are addressed in clauses 5 and 6 of the Bill before this honourable Senate. Clauses 5 and 6 of the Retiring Allowances (Legislative Service) (Amdt.) Bill, 2008 amends sections 9 and 10 of the Retiring Allowances (Legislative Service) Act and read as follows:

“Section 9 of the Act is amended by deleting subsection (1A) and substituting the following subsection:

‘(1A) Notwithstanding section 5(1)(a) and (c), where a legislator dies during the course of duty and leaves a surviving spouse, there shall be paid to the surviving spouse during that person's lifetime and while unmarried, the allowance that the surviving spouse would have received had the deceased legislator satisfied the requirements of section 5(1)(a) and (c) for the award of a retiring allowance.’”

Clause 6 reads as follows:

“Section 10 of the Act is amended in subsection (1), by deleting the words ‘within section 9(1)(a) or (b)’ and substituting the words ‘within section 9(1)(a), (b) or (1A)’;”

Mr. President, permit me to remind Senators of this honourable Senate that sections 9 and 10 of the parent legislation deal with widows allowances and children allowances. It is in keeping with the recommendation of the Salaries Review Commission, as stated earlier, clauses 5 and 6 of the Bill seek to amend the Act in such manner as to adhere strictly to the recommendations contained in the 82nd Report of the Salaries Review Commission.

Mr. President, may I then go through the Bill clause by clause? Clauses 1 and 2 contain the short title, the commencement and recite the inconsistency with the Constitution and the interpretation provisions respectively.

Clause 3 amends section 6 of the Act and it deals with the rate of the retiring allowance. This clause is drafted to be in conformity with the recommendations of the Salaries Review Commission Report, and it changes the time period to five years, and also the annual rate to be equal to one-sixth of one year's salary of that person.

Clause 4 amends section 8 of the Act, and it is so drafted as to maintain the three-year cap that existed prior to the 2007 amendment. This clause maintains that the gratuity shall not exceed three years salary at the highest annual rate of basic salary payable at any time to a legislator.

Clauses 5 and 6, as I indicated before, amend the provisions relating to dependants and “widow” is changed to be inclusive of “spouse”. This recognizes that there are female legislators, so that in the event of their decease, “spouse” will capture their husbands. This is adhering strictly to the recommendations contained in the Salaries Review Commission Report.

Mr. President, this Bill is inconsistent with sections 4 and 5 of the Constitution and, therefore, requires a special majority of three-fifths of the Senators of this honourable Senate to be passed.

Sen. Seetahal SC: Mr. President, through you, may I ask what is the inconsistency? If it is a Bill that is giving a benefit, on the face of it, I do not see that there is an inconsistency.

Sen. The Hon. B. Annette-George: Mr. President, while it gives a benefit, particularly with respect to pensions, it is a compulsory contributory scheme.

Sen. Seetahal SC: Mr. President, through you, if it is in the original Act it was contributory, and the original Act would be saved, then why is it a breach? That is my question. I do not know that the contribution has increased. As far as I can see, it is the same contribution.

Sen. The Hon. B. Annette-George: While the contribution may not have increased, what has happened is—I think that out of an abundance of caution it has been, because a contribution is required to be made and, therefore, the payment to the Members will be affected. Out of an abundance of caution, the inconsistency has been recited to avoid any possible challenge. In any event, because the benefit is higher, the contribution also payable by the Members will increase.

Mr. President, having explained the effect of the amendment, I beg to move.
[*Desk thumping*]

Question proposed.

Sen. Wade Mark: Mr. President, I rise to make my contribution to a very important piece of legislation that is before us. I found in the Attorney General’s presentation that an attempt was made to treat with a very serious matter almost in a flippant way; a light way.

Mr. President, when you bring legislation to the Parliament, as we are debating today, that is going to violate sections 4 and 5 of the Constitution, it requires greater amplification, clarification and explanation.

Retiring Allowances (Amdt.) Bill
[SEN. MARK]

Tuesday, April 15, 2008

The Constitution of our Republic provides a specific process by which terms and conditions of service, including salaries of Members of Parliament and all those categories defined under the Retiring Allowances (Legislative Service) Act under the interpretation section—

Mr. President, you would realize that in the legislation before us, the term “legislator” was repeated in the hon. Attorney General’s contribution, as well as it is contained in the amendments before us. It therefore means that there is an attempt by this legislation to tamper with Members of Parliament property rights as was legislated in previous pieces of legislation that came before this Parliament and which were all assented to by the President of this republic.

If one looks at the Retiring Allowances (Legislative Service) Act, a “legislator” which apparently does not include us—it includes the President, but it does not include Members of the Opposition, Members of the Independent Benches and those persons on the Government Bench who hold non-governmental portfolio in the context of either Parliamentary Secretary or a Minister of State or a Minister fully, which is extremely backward, archaic and almost totally conservative.

2.45 p.m.

Mr. President, when this legislation was contemplated your goodly father chaired a joint select committee of the Parliament because at that time we did not have a Salaries Review Commission and therefore the Parliament at that time selected a team headed by your father, former member Gerard Montano to deal with pension rights of Members of Parliament and they reported to the Parliament, as a result of which this particular legislation came into existence. We are told under the interpretation section of this legislation that a legislator means: “A person who is an elected Member”. So to be a legislator you must be an elected Member in the House of Representatives, or, not being an elected Member the holder of a specified legislative office.

Nowhere have I seen the definition of specified legislative office in this particular Retiring Allowances (Legislative Service) Act nowhere. Therefore, this is spurious and it is fallacious in any modern sense of the word and in thinking. We do not know what it means, there is no definition of it, but what it does, it excludes Members of Parliament who are Senators and who for purposes of this legislation that we are debating—what is a legislator, Mr. President, not someone who makes laws? So are we not for instance engaging in the process of making laws here today? But we are told that we are not lawmakers in this particular Retiring Allowances (Legislative Service) Act.

I think that the hon. Attorney General of our country who has always provided this Parliament with a meaningful explanation and presentation whenever a Bill was piloted by her, I found her to be very short today. Very, very short; and I wonder why. [*Interruption*]

I began by indicating to you and this honourable Senate that the Constitution provides a specific process by which terms and conditions of service, including the salaries and the terms and conditions of Members of Parliament, the Speaker, the President, among others are determined. That process is executed, as the hon. Attorney General said, by an independent commission called the Salaries Review Commission, which reviews every so often, when so directed by the President in this instance; the Cabinet, headed by the Prime Minister, to review the terms and conditions of Members of Parliament, Speaker, President, et cetera.

Never before in the history of our country has a government varied, amended or fundamentally modified the recommendations of that particular commission, which is the Salaries Review Commission, in the context of awarding higher sums than were recommended by the SRC. That has never happened! Whenever the SRC recommends an increase in terms of salaries and terms and conditions of employment, it is either accepted, rejected, or if at all modified or amended it is always downward, never reduced. It is never amended upward!

So, Mr. President, the Bill before us today deals with an attempt by the Government—for the first time in the history of Trinidad and Tobago, according to my research, a government has sought and actually succeeded, before they were caught red-handed, in decidedly altering and amending the recommendations of the Salaries Review Commission in an upward fashion. As far as I know, it has never happened before. It is a bit disingenuous for anyone to come here today and indicate, because there was an ambiguity in the interpretation of the SRC recommendations, which I will share with this honourable Senate in a short while, that the Government has come here today to amend the Retiring Allowances (Legislative Service) Act in order to make it consistent with the requirements and recommendations of the SRC.

That is why a special constitutional majority is needed, because it violates and breaches property rights of the elected Members of Parliament, who appear—and led by the Government of course—to have altered—and I will demonstrate to you how this was done. It was like a scam that the Government was engaged in. If that had succeeded I will demonstrate to you the demonstration effect it would have had. I want to let you know that the SRC is involved in determining conditions and

Retiring Allowances (Amdt.) Bill
[SEN. MARK]

Tuesday, April 15, 2008

terms for over 217 categories of offices, representing an establishment of over 811 persons which fall within its purview in accordance with the 80th Report of the SRC which was dated February 2006. In that report they mentioned that there were some 217 categories of officers representing an establishment of over 811 persons.

So you could well imagine if this recommendation which was altered by the Government—I do not understand how you can bring one Bill which is called the Finance Bill, which came and is now known as Act No. 17 of 2007. And when that Bill was brought, we were told in this Senate that it was designed to implement the recommendations of the Salaries Review Commission's 82nd Report. We want to refer you to the Bill that was brought here in this honourable Senate. It was introduced for First Reading on June 18, 2007; we began to debate that Bill on June 26 and ended on the morning of June 27 and it was assented to on July 10, 2007. This Bill became known as Act No. 17 of 2007.

It is significant to note, my hon. friend, Minister in the Ministry of Finance, Sen. The Hon. Conrad Enill, when he introduced this Bill back in the House of Representatives on Friday June 01, 2007, he simply said in his presentation—like the hon. Attorney General, very innocent today, who spoke very briefly—and I quote from the *Hansard* record:

“Clause 3 proposes amendments to the Retiring Allowances (Legislative Service) Act, Chap. 2:03, by implementing the recommendations made by the Salaries Review Commission, which improves the retirement allowances of all legislators and their surviving spouses.”

And he went on to indicate:

“Let me indicate that at the committee stage there is an error which we will need to correct.”

Mr. President, remember, we are talking about the implementation of the Salaries Review Commission report, and the hon. Minister is telling the House, because you know when it came up here—Finance Bill, as the hon. Attorney General said, it is a money matter and we can only speak, but we cannot amend, we cannot alter, we cannot change; it does not go to the committee of the whole House and there is a Standing Order that allows that.

So what essentially happened, when I looked at the Bill that was introduced in that particular place, on that particular day, it appeared to represent in essence what the SRC was attempting in its recommendations. What did the SRC

recommend? I refer to 82nd Report of the Salaries Review Commission of the Republic of Trinidad and Tobago, and in this report I turn to page 4. It says—Mr. President, the background to this report must be brought to your attention. The House Committee of the House of Representatives made certain recommendations to improve the pensions, as well, the gratuity of Members elected in the House of Representatives. They did in fact in that document—which I do not have a copy of, make representation on our behalf.

3.00 p.m.

They made a submission to the SRC that Senators should be defined as legislators. They did that. So the House Committee defended the Senators in terms of their submission, because up to this time, Senators are not defined as legislators, and therefore, we are excluded from pension rights and the House Committee was attempting to rectify that particular anomaly in the system. They did that; I must give them credit for it. That is why we ended up getting a little “cacada”. It is not a “cacada”, so let me withdraw that. We got something small, Mr. President. Let me withdraw the word “cacada”, but we got a small gratuity after five years. You know what we got.

Mr. President, if you were there, you would have been in trouble too. But they made representations and the representations are represented in paragraphs 18, 19, 20, 21 and 22 of this SRC report. I can read for you, Mr. President:

"18. The Committee has recommended an increase in the gratuity payable to legislators and holders of specified legislative offices from 10 % of total salary which an office holder received during his period of service to 20 % of the highest salary paid over the period of service."

That is what was recommended. I continue:

"19. We have found that Trinidad and Tobago is unique among the countries on which we have comparative data in that the gratuity currently payable to legislators and other eligible office holders is derived separately from the Retiring Allowance."

It is derived separately from the retiring allowance. I continue:

"In those other countries in which a gratuity is provided, such benefit is derived from one-quarter of the Retiring Allowance which is then reduced to three-quarter of the original sum. In Trinidad and Tobago, where a Retiring Allowance is payable, the whole value of that allowance is payable, in addition to the gratuity of 10% of total salary received. "

So, elected parliamentarians are placed in a unique and privileged position. On the one hand, when the elected members retire, they get 100 per cent pension, and in addition to the 100 per cent pension, they also enjoy at that time, a 10 per cent gratuity which is gratis, like a bonus. That was increased, when you come to the recommendations made by the SRC, from 10 per cent to 20 per cent. I go on:

"20. We note that the Committee's proposal was intended to embrace members of the Senate who are not currently eligible for superannuation benefits. While we have not recommended the provision of a Retiring allowance to the Vice-President of the Senate and Senators, we are of the view that, given the contribution those office holders make to Trinidad and Tobago, it would be appropriate to provide them with a terminal benefit in recognition of their contribution, especially since they are not eligible for pension benefits.

21. Office holders under the purview of the Commission who are eligible for a gratuity are paid 20 % of basic salary earned over the term of office. We have also been advised that persons employed on contract in the public service are eligible for such a benefit on satisfactory completion of their term of engagement. We consider it reasonable to recommend the provision of a gratuity of 20 % of basic salary earned over the term of office to members of the Senate who have served for at least one (1) year and who are not eligible for any benefit under the Act. We have been advised that such a payment would not entail the enactment of legislation."

That is why, I told you, Mr. President, as a result of representation, we were able to get a small sum after serving for more than one year—20 per cent of your salary. And I continue:

"22. As a consequence of our recommendation at paragraph 21, we further recommend that the existing gratuity payable to legislators and holders of specified legislative offices should be increased to 20 % of the total salary received during an office holder's period of service."

Mr. President, may I repeat. This is what the SRC recommended and I do not see where there could be confusion in this recommendation. It is clear; I would repeat it for you and for the hon. Members.

"As a consequence of our recommendation at paragraph 21, we further recommend that the existing gratuity payable to legislators and holders of specified legislative offices should be increased to 20 % of the total salary received during an office holder's period of service. This is necessary to avoid

anomalies between office holders who are not currently eligible for a terminal benefit and those who, though legislators and holders of specified legislative offices, are eligible only for a gratuity because of the length of their service. This would require appropriate legislative amendment."

Mr. President, it was clear in the proposal made by the SRC in paragraph 22—because there was no confusion when it came to us. In the Senate it was clear what we were entitled to. No confusion, although there was an initial—I think my colleague and I had some confusion in our minds, but we got that cleared up afterwards. But to give effect to this measure, I go to page 7 and I read under "Effective Date".

"28. We recommend (SRC) that except in the case of recommendations which were contained in the Commission's Thirty-sixth Report...those outlined at (y) (a) to (d) above"—which is what we have here—"the revised benefits should take effect from the start of the current parliamentary term, that is, October 17, 2002."

So, Mr. President, the SRC was extremely clear as to when this particular measure should take effect. It must take effect from October 17 and beyond. We found it strange. Maybe it was an oversight; maybe the Members in the other place genuinely made a mistake. If you make a mistake once, I can understand, but when I see it appeared twice, I became a bit worried, whether it was just more than an oversight; whether it was more than just an oversight.

Mr. President, I want to take you to Act 17 of 2007 and I want to deal with the gratuity first of all. It says in clause 3 of this Bill which was the first one that was brought to House of Representatives and to this honourable Senate, but when it was brought to the other place, amendments was made which were different from what were brought, and there is where the problem started. Amendments were made which contradicted what were proposed by the Salaries Review Commission and because of the changes that were brought at the time, eyebrows were raised. Because what we are dealing with today, is a Bill that is designed to correct a situation in which persons could have ended up enjoying millions of dollars in gratuity and other benefits. And as I said if you go to the Finance Bill that was tabled in the other place and you look at the amendments, you will see where the original clauses were amended.

If I can take you to clause 3(c) of the original Bill that was introduced and piloted by the Minister of Finance at that time, it spoke about amending clause 3(c). It says, "in section 8(1)",—you amend—"by deleting the words 'one-tenth'

Retiring Allowances (Amdt.) Bill
[SEN. MARK]

Tuesday, April 15, 2008

and substituting the words 'one-twentieth'. The amendment that was then proposed and agreed upon was the following:

"3(c) in section 8(1), by deleting the words 'one-tenth of the total salary received during his period of service as a legislator' and substituting the words 'one-fifth of an amount calculated over his period of service as a legislator at the highest annual rate of basic salary payable at any time to that person';"

Mr. President, what is the current legislation proposing? Let us go the current legislation. If you go to clause 4 of the Bill that is before us, what the Government is now proposing—which they did not propose at that time in the other place because we do not have any power to amend any money bill, Mr. President, as you aware are—is the following:

The Act is amended in section 8(1), "by deleting all the words occurring after the words 'equal to' and substituting the words 'one-fifth' of the"—basic—"salary received during his period of service as a legislator, except that in the case of a legislator to whom paragraph (a) or (c) refers, the gratuity shall not exceed three years' salary at the highest annual rate of"—basic—"salary payable at any time to such person as a legislator'."

3.15 p.m.

Mr. President, this was not contained in the initial Bill. Therefore the Government, I understand, was stopped in its tracks by public officers; that was what we were informed of. We were informed that when the public officers realized the scam being pulled on them, they told the Government, "We are not prepared to violate our oath of office." That was not the intention of the Salaries Review Commission (SRC). Its recommendations were very clear.

We had a situation where the Government, in spite of the recommendations of the SRC, proceeded to alter things. This Bill is really addressing an attempt, by the Government at the time, to alter the recommendations of the Salaries Review Commission. The Government is seeking by this amendment to correct that particular anomaly, that particular development, or maybe, at that time, that particular lacuna which was established. They are now trying to correct it. It did not stop there; this was Act No. 17 of 2007.

You would believe that if the Government was not guilty of making an error, then it ought to have quickly taken steps to correct this matter; but to compound the matter, we have Act No. 21 of 2007. So after they made these amendments, contrary to the SRC recommendations, it was further compounded when they

brought a new amendment called Act No. 21 of 2007, to further amend the Finance Act. We must thank the public officers or whoever was responsible for really uncovering this scam. [*Interruption*]

Sen. Browne: Cabinet!

Sen. W. Mark: I "cyar believe is Cabinet"; Cabinet, in fact, supported the measure. Cabinet assented to the Finance Bill, which became Act 17 of 2007 and the President assented to that.

We go back again. Mr. President, you remember that they were going to put a cap on this particular matter. The cap was that you would get 20 per cent gratuity at the end of your period of service, but the effective date for implementation would have been from October 17, 2002. The Cabinet of Trinidad and Tobago agreed to introduce another Bill to Parliament. Not satisfied with what it had done in Act No. 17 of 2007, the Cabinet compounded the matter by giving the Minister of Finance the all clear to bring another Bill to amend the Finance Act. This became known as Act No. 21 of 2007.

When this was brought, I was not here in the Parliament at the time. This was passed; this was carried through quickly, because we have no authority over matters dealing with money. But, you know, it is interesting to note that my good friend, Sen. the hon. Conrad Enill, who always fights for a better life for Senators, in his contribution to the second Bill that was introduced to amend the Finance Act of 2007, said:

"...this Bill simply seeks to correct some anomalies arising out of the amendments which were done at the time of the Finance Act earlier this year. It concerns amendments to the Retiring Allowances Legislative Service Act, Chap. 2:03".

He went on to talk about the Eighty-Second Report of the SRC, the 10 to 20 per cent and to deal with Senators and what we were able to get, and said that we were not legislators.

"Therefore, this Bill is simply correcting the anomalies related to the question of the 10 per cent to 20 per cent and changing the dates as recorded in 2(c) of the amendment to the May 15, 1995 Report of the SRC."

At no point in time from the records, were the anomalies that the hon. Minister referred to ever outlined.

Again, like the Attorney General, my good friend, the hon. Minister of Finance, spent less than half a minute in piloting this particular Motion. This thing came; I do not know if it was late or early, I cannot say; I think it was early, but it did not take him long to introduce this part. What were the anomalies that were being addressed in the latest train of events leading up to this particular Act No. 21 of 2007? Let me share with you. Clause 2—they renumbered sections 3 as 3(1); the Government deleted paragraph (c) of section 3(i) and renumbered and substituted the following paragraphs:

“in section 8(1)”—which was the real juicy clause—“by deleting all the words occurring after the word ‘equal to’ and substituting the words ‘one-fifth’”—which is the one-twentieth or the 20 per cent—“of an amount calculated over his period of service as a legislator at the highest annual rate of basic salary payable at any time to that person.”

The Salaries Review Commission is saying, "You are going to get a 20 per cent gratuity over a period of time", and the effective date that they are putting forward is October 17, 2002. An amendment is piloted by the Government to observe the one-fifth, one-twentieth or the 20 per cent, but calculated over a period of the person's service as a legislator, at the highest annual rate of basic salary payable at any time to that person. That was not the recommendation; but the Government brought this. So it was not one error; there were two errors committed in succession by the Government.

It appears that whilst we do not want to cast aspersions on the character of anybody, but would you believe if this was passed and never brought back to this Parliament what would happen? You know how the country would have looked at us, as elected Members of Parliament who swore to uphold the law? We would have been engaged in a scam of gigantic proportions; we would have been robbing the Treasury and the people of this country of millions of dollars. If it was not for vigilance on the part of public officers—[*Interruption*]

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

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

Question put and agreed to.

Sen. W. Mark: Mr. President, it goes on; it is compounded in 2(c). Whereas the SRC made it very clear that it was from October 17, 2002, in the legislation, in Act No. 21 of 2007, this provision says:

“Section 8(1) of the Retiring Allowances (Legislative Service) Act is effective in relation to a person serving as a legislator from October 17, 2002 or thereafter.”

That, again, brought some confusion to the process; public officers were confused, because this could have been interpreted going before 2002 or going after 2002. There was where you had a lot of confusion taking place in that whole matter.

I think that the Government, in a calculated attempt to hoodwink the Parliament and the population at large, was caught flat-footed. They were able to come back and apologize to the Parliament, because that is what they are doing today, in an indirect way. They are apologizing to Parliament for this indiscretion. They are apologizing to the Parliament for this kind of deficiency that escaped their attention, or so they would like us to believe. That is why this is here today.

Therefore, I thought that the hon. Attorney General ought to have been a little more forthright in letting us know the basis for this particular measure before us today. It was a clear attempt by the Government, and especially those persons who may have believed that they would not have been coming back to Parliament after the last election, to make sure that they were properly covered in terms of their own self-interest. Therefore, the impression was given that they were really genuinely implementing the recommendations of the Salaries Review Commission, but, in essence, they were not really doing that.

I want to indicate that this was a very unfortunate development which took place in the House of Representatives involving the Government. [*Interruption*]

Hon. Senator: And the Opposition!

Sen. W. Mark: "Like you all roped in de Opposition." [*Laughter*] It was an unfortunate development.

3.30 p.m.

You all are responsible for this debacle that has taken place. The Government must take full responsibility for what has happened and, therefore, when measures like these are taken they do have a demonstration effect on other segments and sectors of the society.

When this measure came, we took it upon ourselves—the UNC-A—to have discussions with many entities because here, the Government was seeking to address pensions for its elected Members and legislators and they were also seeking to upgrade their gratuity in accordance with the recommendation made by

the Salaries Review Commission (SRC). So we took it upon ourselves to deal with a number of organizations in an effort to address their concerns, because there are many stakeholders in this society that are crying out for justice and fairness in the area of their pension rights. I would like to call on the Minister in the Ministry of Finance, the hon. Mariano Browne to try to make some efforts at rescuing the plight of police officers who have to retire at age 55 but have to wait until they are 60 years to obtain their retirement pension from the NIS. When we met with them they asked us to make representation on their behalf to the hon. Minister of Finance to see what he can do to address their issue.

Mr. President, we also met with the Public Services Association and they too have their grievances and problems and I have a Memorandum of Agreement between the Chief Personnel Officer and the Public Services Association dated in November 07, 2003. In terms of pension rights they got an agreement with the CPO where it agreed, and the Government by extension that:

The Pensions Act, Chap. 23:52 shall be amended to provide for the following arrangements:—

“(a) where an officer has acted continuously in a higher office for a period of at least three (3) years immediately prior to the date of his/her compulsory retirement, his/her superannuation benefits shall be calculated as if he/she had been substantively appointed to that office during the period...”

Mr. President, this was done since 2004, we are now in 2008 and the Pensions Act, Chap. 23:52 is still to be amended. So there are many public officers who are retiring from the public service acting in a higher office and when they go home they receive pension in their substantive range or office, and I call on the hon. Minister in the Ministry of Finance to address this issue affecting the public officers of our country.

Mr. President, whether you deal with TTUTA whom we also met with, the Prison Officers Association, or the Fire Officers Association, they have a similar grievance. In the case of the firemen when they reach age 55, they have the problem with the NIS, they cannot access their retirement pension, and police officers who must leave at the age of 55 have to wait until they are 60 to access their NIS retirement benefits, and they are appealing to you, the Government, to address that particular problem affecting them.

The final area I would like to deal with is the retirees. Mr. President, I was shocked in terms of pensions when there was a story in the *Daily Express* dated Wednesday, January 23, 2008 entitled “Too many retirees in financial hell. BROKEN AND OLD Central Bank survey reveals alarming figures”. That was the headline.

Mr. President, it is really sad that whilst we in the Parliament are fixing up ourselves or attempting to improve our terms and conditions through the SRC, there are hundreds and thousands of retirees who are having a rough time in our society.

May I share with you on page 3 of the *Trinidad Express* dated Wednesday, January 23, 2008 what was said by Driselle Ramjohn.

“Almost half of this country's retirees do not have enough money to give them the standard of living they hope to have in their retirement, according to a National Literacy Survey conducted by the Central Bank of Trinidad and Tobago between July and August, 2007.

Central Bank Governor Ewart Williams revealed some of the findings of the survey at the bank's offices in Port of Spain...”

This was based on a survey including 1,000 local households.

“Based on the survey, Williams said that one in three persons over the age of 60 continues to work because they need additional income and some 54 per cent of retirees do not have occupational or personal pensions. Many of them said the reason for this was primarily a lack of money.

‘A substantial percentage of respondents (69 per cent) are relying on government pensions (NIS/ Old Age) for their retirement income.’

He added that 70 per cent of the people surveyed were under stress to manage their finances and a significant per cent of people also had problems making ends meet.

Another alarming result, he said, was that 56 per cent of people in the 1,000 households surveyed did not have any protection against personal or property loss.

Only about 18 per cent of respondents also had life insurance and eight per cent had critical illness insurance.

Williams said that one of the most disturbing statistics was that only 18 per cent of those surveyed had car insurance.”

So here we have over 140,000 persons according to my statistics who are over 60 years in this country and are increasing at an alarming rate. So we have almost 69 or 70 per cent of those persons who are entirely dependent on the little pittance from the NIS and the Senior Citizens Grant. While we are seeking to improve our

Retiring Allowances (Amdt.) Bill
[SEN. MARK]

Tuesday, April 15, 2008

lot and enhance our benefits, we must also take account of the plight of the retirees in our country, the plight of the elderly who cannot make two ends meet and particularly at a time when the prices of rice, flour and chicken are going up and there is a threat to remove the subsidy on fuel.

All over the country the poor are under pressure and stress. *[Interruption]* Do not tell me about all over the world, we are in Trinidad and Tobago and we must take care of our business. I am not concerned about what is taking place around the world; I am concerned about taking measures to take care of our problems and our people. We did not have to be in the crisis we are in today insofar as agriculture is concerned. You closed down Caroni (1975) Limited and got rid of 10,000 workers. So on this particular matter of pensions, I make this contribution and a plea to the Government to address the plight of other workers and segments.

While the Government is tempted to see about itself and in a most unfortunate way it almost amounted to an illegality, it almost amounted to an act of real serious proportions as it relates to what could have resulted. Unfortunately or fortunately, the Government, the public officers and all of us in this Parliament have come to grips with this particular limitation. While we cannot oppose this measure, because it is one which deals with elected Members of Parliament, with you, the Speaker and other legislative office holders, we cannot oppose this measure, it is in the interest of the elected Members of Parliament to make sure that they get improved terms and conditions in accordance with the SRC's report. What we are doing today, is correcting an anomaly that took place and we intend to support the measure in the interest of all the parliamentarians in this country.

Thank you very much.

Sen. Dana Seetahal SC: Thank you, Mr. President. The Bill as we have heard from Sen. Mark, is intended to amend the Retiring Allowances (Legislative Service) Act and also the 2007 amendments thereto. In 2007, there were two amendments; No. 17 and No. 21. No. 17 was the crucial amendment that purported to give a retirement allowance to persons who had served for not less than five years when previously it was eight years and also to amend the law so that the gratuity would be counted differently.

As Sen. Mark indicated in 2007, and the law was amended to permit that gratuity would no longer be one-tenth of basic salary but one-fifth of the amount calculated over a period at the highest annual rate of basic salary with no limitations, whereas in the original law, it was once you were paid no more than three years' salary. So that is really what happened in 2007 and it would mean

Members of Parliament who had been serving for 20 years or so, would be paid a gratuity of their highest basic salary for up to 20 years. So now we are amending it to the previous limit of three years; that is more or less what this Bill is about.

Mr. President, as we move to pass this Bill I, like Sen. Mark, am interested in this whole definition of legislator. According to the *Concise Oxford Dictionary* which is a good place to start, “legislator” is defined as a person who makes laws and a member of a legislative body; and “legislative” means of, or having the power to make laws. Now that is important because I would think in this Senate, as exemplified by the Members of the Opposition Bench and in particular, Sen. Mark and Members of the Independent Bench, the persons who contribute most to the legislation in terms of debate would be these Members. For reasons of strategy I imagine the Government, apart from the mover of the Bill, would not really have that much to say because they maintain one position. So it seems indeed ironic that these Members are not deemed legislators.

What is a legislator? According to the Retiring Allowances (Legislative Service) Act, “legislator” means a person who is an elected Member. So all Members of the House of Representatives are legislators. Other than that, if you are not an elected Member, a person who is the holder of a specified legislative office. And what is a specified legislative office? This means any of the offices specified in the Schedule or any office prescribed as such by the Minister of Finance by notification.

What are the offices specified in the Schedule? The Schedule to the Act which has not been amended says the Act was passed in 1969 and it is interesting that it was passed in 1969 post-Independence and it includes Ministers. So all persons or a Minister, everyone on the Front Bench I think, whether he/she is a Minister of State or a Minister would be a legislator.

“Members of the Executive Council”. What is that? “Member of the Legislative Council”. What is that?

3.45 p.m.

“President of the Senate

Parliamentary Secretary”

That is one, I believe:

“Speaker of the House of Representatives...”

Retiring Allowances (Amdt.) Bill
[SEN. SEETAHAL SC]

Tuesday, April 15, 2008

Who may not be an elected Member. The current Speaker is not an elected Member of the House, but he is covered.

“Deputy Speaker

Leader of the Opposition”

Who would be, in any event, covered, because he must, by the Constitution, be a Member of the House of Representatives. So I do not know why he is included.

What I would like to know is if “specified legislative offices” include Member of the Executive Council and Member of the Legislative Council. It would seem to me that since post-independence we have had no such offices, because that was pre-independence, then the intention was that persons who were in the Legislative Council and persons who were in the Executive Council—meaning Members of Cabinet, I take it—would be included and the Legislative Council would mean all of us who are making laws.

So if one were to take this to court and ask whether or not Senators should be considered not to be included, or put another way: are Senators not included in that intentioned Legislative Council? I would say, yes. But it seems to me that the simple answer to all of this is for the Minister of Finance to—just by notification, which is an order—include Senators in the Schedule. It is a simple matter. I do not know why there should be any hesitation about it. I am sure no Member of the Government here can say that Members of the Senate on this side—that is all Members of the Opposition Bench, of the Independent Bench and those Members, as well, of their Bench, who are not Ministers, that they are not making laws when we sit here; when we stay until some odd hours and when we submit amendments and we make our contributions.

Sen. Prof. Deosaran: We vote.

Sen. D. Seetahal SC: Of course, we vote as well, as my colleague reminds me. So if we are not making laws, then what are we doing here? We might as well check in to get our gratuity and leave every day. Then we would have just one set of persons; Ministers who comprise 12, if they do, because you need a quorum of 12, voting.

So it would seem to me that the answer to this is for the Minister of Finance to immediately, by notification, tell us that the Schedule to this Act includes all Senators and, therefore, when that is done, Senators would be entitled to the retiring allowance—the gratuity—and the survivors and dependants benefits that legislators are entitled to under this Act. At present, Senators who are not

legislators under the meaning of this antiquated piece of legislation—although it is 1969, it regurgitates, in my view, some old piece of legislation because it talks about “Executive Council” which did not exist in 1969.

So whoever passed that law with that Schedule just took some old thing—sorry to put it like this—and just regurgitated it and did not bother to check to see what “Executive Council” means, and it is repeated in the content of the Act, you know. At page 4 of Chap. 2:03 it states:

“‘Executive Council’ and ‘Legislative Council’.”

So the thing here is, those who are not legislators, do not get this retiring allowance. We are not asked, of course, to make contributions, but the retiring allowance which is what Sen. Mark referred to when he talked about pension, is something that legislators are entitled to. Legislators are also entitled to the gratuity, which Senators get; they are entitled to, as specified in section 9—now to be amended—to have a spouse allowance and in section 10, a children's allowance. Then there are other sections dealing with posthumous allowances. None of these benefits come to persons who are not legislators under this Act. So that is the thrust of my main point.

In relation to the amendments, I have one real question. The 1969 Act dealt with the rate of the retiring allowance, which is really the pension at section 6. So we look at the original Act and it talks about at section 6(1)(a):

“The retiring allowance...

(a) in the case of a person who has served as a legislator for periods amounting to...not less than eight years, be at the annual rate...one-quarter...year's salary...”

So that was the law. The pension or retiring allowance to which legislators alone, and not Senators, were entitled, was, if you serve for eight years you get one-quarter. I heard Sen. Mark say 100 per cent, but it says one-quarter, so I am not sure where that came from.

But in any event, this law was amended in 2007, so you only had to serve five years. But now we are amending it in this year to give persons only one-sixth. Section 6(1)(a) says if you have served not less than five years, you only get one-sixth of one year's salary. We are talking about for the pension. Why is there a reduction from No. 17 of 2007—not that it affects me, but it may affect me when the Minister decides to include, by notification, Senators in this. So currently, if you have between eight to five years, aggregate—and some of us have six; some of us have more—then you get one-quarter. If you have five years, you get one-sixth.

In the new amendment, I do not see anything about eight years. It just says if it is not less than five years you get one-sixth. So those persons who have eight years, who would have gotten one-quarter, now they will be deprived of their one-quarter, because (b) talks about if you have not less than 10 years then you get one-third. So there was a middle position. So if you had eight to 10 years, you got one-quarter; now, if you have five to 10 years, you get one-sixth. When you have 10 years, then you get one-third. That is one-third of your annual salary as a pension. So I just thought there must be some reason. Maybe it is just neatness, but I do not really see the benefits to anyone.

Insofar as the gratuity is concerned, I agree with the position of the Government—and I think the Opposition does too—which is to amend the law to prevent what would be a serious drain on the Treasury if it is that Members who had served for any unlimited time, could claim to be paid one-fifth of the highest annual rate. So it would mean that in 2007, someone who was earning, let us say, \$180,000, would get one-fifth of that, which would be \$36,000 and then he would get that by 20 years; a really very high amount compared to what it is that you ought not to get; more than three years salary. I understand that the calculations could have led to payments of millions of dollars to some people; one person, I believe, who was qualified, having served over 25 years. So it seems only reasonable that for purposes of a gratuity where regular people are paid a limited amount, I think that legislators should as well.

In terms of the survivors' benefit and their dependants, there is one thing which is not dealt with. There is a provision for the payment to children to cease. And at (5)—and my colleague, Sen. Drayton, will go into that—the question of a female child reaching the age of 21 and ceasing to be entitled to a children's allowance, my point is different from hers. It is that I would have thought that once you reach the age of 18, that you would not have been entitled to it anyway. So I do not know that this is addressed there, because the suggestion of that is that you are still a child forever, unless you got married. So if it is a female child who never gets married, like me, I would be entitled to a children's allowance all now. Is that what is meant? Then people will not get married. *[Interruption]* Thank you very much, but some of us believe in enjoying the single life and I do not think that there should be any legislation that should deprive us of the benefit of that. But this is a different way. This is punishing you for getting married, so that is probably why some people do not; for income tax reasons and the like.

Those are really the matters that I would like to mention and I hope that the Minister of State in the Ministry of Finance could indicate to us at some point today, of hopefully, his intention. If the House Committee recommended it, I

cannot see any reason why the Government would not want that, because the majority of Members, I understand, are Government Members. So he can probably make a call and tell us today, “Yes, I am going to, by notification, include Senators any time this week.”

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

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, I join this debate simply because when this matter was dealt with on the last occasion, I was, in fact, the Minister with responsibility for the matter. First of all, you would recall that the Cabinet approved the recommendations of the 82nd Report of the Salaries Review Commission and recommended that it be brought to the Parliament for implementation. This was contained as one of the measures in the Finance Bill and, therefore, the amendments that were required were, in fact, part of the Finance Bill.

The first error that occurred was an interpretation of one-twentieth, or the first issue had to do with how the draftspersons interpreted for us, 20 per cent. I think what happened was that in the amendment, what was intended to be 20 per cent was, in fact, put into the law as one-twentieth. So the first issue that we had to deal with was to correct an interpretation error. Therefore, we sought to do that by amending that.

In looking at the amendment, however, and in researching the matter, there were other issues that arose, one of which was the three-year limit. So that in attempting to put into law the specific recommendations, simply based on looking at all the laws and all the matters what were affected, we got it wrong, and we got it wrong because when this matter was debated in the other place, there were Members on our side and Members on the other side, who basically sat down and developed the specific amendment to go into the law. It was our side, the UNC-A, and those who sat on the Back Benches at the time, who sat down and during the course of the discussion, the whole issue of terms and conditions of parliamentarians came up.

4.00 p.m.

On one hand, when you seek to provide to parliamentarians a benefit based on the demands of the functions that we perform, there are those who demonize us and talk about the fact that we are fixing ourselves to the exclusion of everyone else. That is not so. We have no discretion in the terms and conditions under which we are paid. That is dealt with at the level of the Salaries Review Commission.

Retiring Allowances (Amdt.) Bill
[SEN. THE HON. C. ENILL]

Tuesday, April 15, 2008

If we are to understand what happened with this report, you would see that the President of the Republic by letter must convey his approval—and he does that—to the Salaries Review Commission to consider the recommendations that Sen. Mark talked about, with the House Committee of the House of Representatives for the amendment of the Retiring Allowances Act. This is what started that particular process. Once that occurred, the Salaries Review Commission was required to treat with superannuation benefits to parliamentarians. The matter was delayed because the commission looked at other office holders including parliamentarians.

In this matter of salaries, wages, terms and conditions, there is a particular way in which it is determined. There is a structure within the system and these jobs are evaluated and put within the system. Everything goes as a consequent on that or it moves in a particular way. The committee gave consideration to that and provided us with the recommendation. Sen. Mark is correct because the whole question of how a legislator is defined and the differences between the elected House and the Senate; the Ministers and other legislators is something that we need to take on board. I believe that it is something that we will talk about because when the Salaries Review Commission looked at it, they considered that it was something that needed some rectification. They sought to provide the benefit to be payable administratively, rather than legislatively. At this point in time, the payment of gratuity to legislators is done administratively. That is the same 20 per cent.

The legislators are Members of the Lower House plus Ministers. The persons who were left out of the group were Opposition Senators, Independent Senators and Senators without portfolios. The Salaries Review Commission has dealt with that as step one, by making those persons recipients of gratuity up to 20 per cent. It is not done legislatively; it is done administratively. That is the recommendation.

In seeking to amend the law based on what is contained in the report of the Salaries Review Commission, we made errors. Whether it was deliberate or otherwise or whether Sen. Mark is correct, I am in no position to say. I am in a position to say that when it came to the attention of the Government, the Cabinet decided that it was inappropriate for legislation that was not approved by the Cabinet to move forward. That is why we are here today. Because we are taking away a benefit from people, we are seeking your support to get the required three-fifths majority. Right now, the payment to be made in the law is not what the Salaries Review Commission approved, but it is the law. For us to take away a benefit we must have a special majority. It is for that purpose alone we are seeking your support in so far as the special majority is concerned.

Whatever you may say about the Government, there are some areas that it needs to look at. It is never the intention of the Government—

Sen. Prof. Deosaran: I am sorry to interrupt. It seems to me that the Salaries Review Commission makes recommendations. Does Cabinet not have the power to increase or decrease according to its judgment before it comes to Parliament?

Sen. The Hon. C. Enill: Yes, it does. Cabinet in its judgment can increase or decrease. In this case the Cabinet did not. During the debate certain amendments were made which did not have the approval of the Cabinet. It was not a Cabinet decision that was being implemented. It was a situation that we found ourselves in sometime ago in another debate. Because we felt we that we should do this and that we changed it. The problem with that occurred with another piece of legislation which I do not want to mention for fear that it would open a Pandora's box.

We did the same thing by trying to create on the spot, a change that we considered, both of us, to be appropriate, only to find out afterwards that we had put directors and companies at risk. Sometimes when the Opposition says to us that they want to change this or that and we say that we are cautious, it is because of the basis of our experience. Sometimes, there are things that we do not see or understand because some things are interrelated and they have an effect.

Sen. Dr. Nanan: I do not know if the Minister is aware that in presenting that Bill—the person who presented it was Hon. Ken Valley—he gave the indication that the Bill will be in such a way that it would be the higher salary. If you go back to *Hansard* you would see that. To say that it was in discussion with the Opposition that that took place, is totally untrue.

Sen. The Hon. C. Enill: Let me make the point that the drafting of the clauses as is recorded in *Hansard* was on the basis of collaborative effort between the Opposition and us.

I do not think that the issue is that of higher salary. Here is the challenge that this Bill presented. There is a view that if you are determining gratuity for a particular period, you do it at the highest salary. There is also a view that if the period extends beyond five years—let us say it is 10, 15, 20 or 30—the calculation should be based on the highest salary in that particular period. The interpretation found in the law suggested that if there were continuous service, the calculation would have had to be at the highest current salary applied retroactively. This was not the intention. That was drafted and was being corrected.

Retiring Allowances (Amdt.) Bill
[SEN. THE HON. C. ENILL]

Tuesday, April 15, 2008

Now, we are seeking to implement the correct interpretation as we understand it, of the report of the Salaries Review Commission as approved by Cabinet. In this particular matter we are guided always by what takes place in the other place because it is a money Bill issue. Under the Constitution, they are authorized to do so. In some instances, we would have repeated much of what took place in the other place. If on the last occasion we reported what took place and it was incorrect, we apologize for that. It was simply taking into account the manner in which these matters are dealt with.

On the matter of pension, let us talk briefly and say that this administration has signed an arrangement and an agreement with the National Union of Government and Federated Workers for pension to be paid to the daily paid workers. There is the issue of back service and actuarial cost. The Ministry of Finance was engaged in the process of getting the relevant actuarial advice to determine that liability. There is no question in the Government's mind about providing pension for that class of employee.

We are working on the question of pension for everybody. We have a situation where pension is based on pay as you go. We need to be aware that when we look at the demographics of the work force, we see that over the next 15 years, the claim that needs to be paid is escalating at a rate that we have to be concerned about, because we do not have sufficient new entrants in the work force to be able to bear the cost of pension benefits. At this point in time, the relationship may be one to six; that is to say that six persons are paying for one. On the basis of some recent information, over the next 15 years unless we do something dramatically to increase the contribution or increase those into the work force, we can get to a one-and-one relationship. What does that suggest? If we get to a one-and-one relationship, it means that those coming in would have to pay six times more to support the benefits of the others.

The other issue that we need to put on the agenda—Sen. Mark raised it so I would respond to it—is a current challenge that we need to be aware of. It has to do with the current high oil price. For the first time in our history the economic theory of priced elasticity is not holding. We know that as the price increases demand drops. In this particular case, at this particular point in time, we are seeing that as the price increases, demand is also increasing. The reason for that is because in the countries of China and India because of their current resources, more of the population is opting for a better standard of living. Because they are doing that we are having significant challenges in two areas.

4.15 p.m.

The first area in which we are having a challenge is, of course, petroleum because in China, at this time, the car ratio to an individual is somewhere in the vicinity of 1000:1, but it is intended over the next 15 years to move to about 20:1. This means that there is a propensity to move from where they are now to significantly upgrade their transportation. That is going to drive more requirement for petroleum at a time, when you look at what is happening globally, there is not sufficient capacity. That is one issue we have to deal with because the demand that will be created will require a significant amount of those resources and that price will keep going up.

The second issue we have to deal with is that of environmental change. As the price keeps going up and more countries deal with renewable sources of energy, they are looking at more of the products that should go into the food chain and, therefore, we have a situation where, as the price goes up, you look for alternative energy sources and you use more of what should be going into food stock, also driving up the cost of food. That is the challenge we face as a country.

The other challenge we face is the environmental challenge because on the basis of the targets set by the European Commission, in terms of reduction of carbon emissions, we know from research that the targets that they have set for a 15-year period in reduction will be wiped out by China in one year. So, Mr. President, those are some of the issues that we as a society have to grapple with.

Sen. Seetahal SC: Mr. President, I am not sure that it is not a breach of Standing Order 35 that the Minister is engaged in, but since we are in a debate and he is responding, maybe I can ask a question emanating from that, which has nothing to do with the Bill. Since we are talking about all the world reasons given out for the price of food, I would like to know the status of these megafarms that were supposed to have been brought on line so that we can have lower food prices.

Sen. The Hon. C. Enill: Mr. President, I was only responding to Sen. Mark's issue. If I am being irrelevant, I will get back to the issue. Insofar as the megafarms are concerned, at the last count, we had sent out requests for proposals and are in the process of evaluating them. We had identified the areas. The CDA is working on their portion of it. There is a committee headed by Sen. Dr. Saith that has all the various elements and they are in a position to answer that. I am sure that Sen. Dr. Saith will take the opportunity to so do as soon as I am finished.

Retiring Allowances (Amdt.) Bill
[SEN. THE HON. C. ENILL]

Tuesday, April 15, 2008

So the exercise we are engaged in at this time is to do one thing, and that is to correct an error made by us, for which we take full responsibility, and to ensure that the decision made by the Cabinet, which was supported by the Salaries Review Commission, under the law, is carried out. We recommend your support in this matter since it requires a special majority. We are taking away rights currently available to legislators, something we did not anticipate.

Sen. Helen Drayton: Thank you, Mr. President. The Bill seeks to amend errors that were created in previous Bills and, certainly, in going through the document, I concur with the proposed amendments.

There is, however, a matter in the Act of 1969 which requires attention, but as this is a money Bill, I propose that the hon. Attorney General gives it her due attention. I refer to section 10(1), which reads as follows:

“Subject to this Act, where a person dies leaving one or more children, a children's allowance shall be payable in respect of such child or children under the age of twenty-one years.”

Subsection (5) goes on to state:

“Notwithstanding subsection (1), a female child who marries under the age of twenty-one years shall cease to be entitled to a children's allowance.”

So apart from other archaic rules in the Act of 1969, this certainly belongs to another century and requires urgent attention that we remove the word "female " and deal with it from the point of view of children who are entitled to the benefits when their parents die.

Sen. Mohammed Faisal Rahman: Thank you, Mr. President, I rise to make my contribution on the proposed Act to amend the Retiring Allowances (Legislative Service) Act, Chap. 2:03. Having heard Sen. Mark, I realize that there was some adventurism in 2007, which we are seeking to rectify and I find it commendable on the part of the Government because we cannot have these aberrations being sustained.

My concern today is with some of the proposed amendments in the Bill before us. It is my understanding that the Salaries Review Commission intended, with the committee, to create a new category of retiree covering a five-year service period; not to amend the current eight-year category by reducing the gratuity which eight-hourthey were supposed to get, as Sen. Seetahal SC has pointed out.

The intent of the SRC was to increase benefits and decrease service eligibility and this, I feel, means that rather than replacing—if you read clause 3 of the Bill, section 6 of the Act is amended in subsection (1) by deleting paragraph (a) and substituting the following paragraph.

I suggest that clause 3 should not have a substitution, but that a separate and complete clause be inserted into the Act because the SRC also made the point that new legislation would be required to bring this matter into law. At no point did they contemplate reducing anybody's benefits. It is specifically mentioned, in both the prior reports which we have available here, that it intended to increase and enhance. I respectfully submit to the Attorney General—this would mean not pursuing this matter today if this makes sense and including a new clause to cover those legislators who have arrived at the five-year service period mark and let that be one category and then let there be an enhancement to the eight-year category, which the SRC fully intended.

According to how the recommendations of the SRC work, it seems that the five-year period was meant to enjoy one-sixth of one year's salary of that person and that the eight-year category was to enjoy one-quarter. If it were to be increased commensurate with the other provisions, the eight-year category should be up from one-quarter to one-half, much as the one-tenth has gone up to one-fifth. In my view, we have to rephrase and restructure the Act so that we now have a new category of up to five years being eligible for the original intended recommendation of one-sixth and the eight-year category going, if not up to one-half, at least remaining the one-quarter it originally was.

If we are to proceed with the substitution of the paragraph recommended here, we are taking away from people who are already nearing the eight-year service period or have not completed it, a benefit which is clearly already theirs. *[Interruption]* I see I have the support of Sen. Seetahal SC and I hope that what I am saying is coming across clearly enough because I am not too familiar with legislation even though we are not classified as legislators. This amendment needs to be rephrased to bring in an entirely new category.

Just to underscore it, we already have where, at clause 4, section 8 of the Act is amended in subsection (1) by deleting all the words after the words "equal to" and substituting one-fifth of the total salary, which rectifies whatever error there was and conforms with the Salaries Review Commission's recommendation to enhance the benefit of the legislators.

With regard to what has been commented on with regard to removing the sex of a child for the entitlement to the benefit mentioned in the Act, I would agree with Sen. Seetahal SC that the age of majority should automatically move to 18 because people vote at 18 now. If a 16-year-old girl should marry, why should that remove the benefit which the Government is burdened to pay to her simply because she is getting married. This perpetuates the idea that the wife is

Retiring Allowances (Amdt.) Bill
[SEN. RAHMAN]

Tuesday, April 15, 2008

dependent upon the husband. We have reached this century and women have equal rights and power. I do not see why a wife's entitlement should hinge on whether she has a husband's support. She has an entitlement in her own right. Whether it is a matter of discriminating—

Mr. President: Hon. Senators, it is now 4.30 p.m. We will take the tea break and come back at 5.00 p.m. This Senate is now suspended until 5.00 o'clock.

4.30 p.m.: *Senate suspended.*

5.00 p.m.: *Sitting resumed.*

[MR. VICE-PRESIDENT *in the Chair*]

Sen. M. F. Rahman: Mr. Vice-President, before we broke for tea, I was on the question of discrimination against children who may wish to become married. One of the invidious things about this—it pertains particularly to the spousal benefit as well—is that we are establishing the idea that if a girl marries, she automatically must be dependent on her husband and, therefore, with him now being in the picture, she is no longer entitled to the benefit to which she had originally been entitled. I think at this point, I would like to reiterate and draw this to the attention of the Minister.

With regard to the spousal benefit that is being introduced, clause 5,

“Section 9 of the Act is amended by deleting subsection (1A) and substituting the following subsection:

(1A) Notwithstanding section 5(1)(a) and (c), where a legislator dies during the course of duty and leaves a surviving spouse, there shall be paid to the surviving spouse during that person's lifetime and while unmarried, the allowance of the surviving spouse would have received had the deceased legislator satisfied the requirements of section 5 (1)(a) and (c) for the award of a retiring allowance,”

While that removes the question of—I think by the insertion of “spouse” rather than “wife”, I believe that is a good thing. I believe that it is discriminatory to insist that the surviving spouse should remain unmarried for the rest of his or her life, simply to get an award such as this, which is the original entitlement in the first place.

If we are concerned about morality in this country, as I believe we should be, and we are, I hope, then to insist that for the reasons of benefit, a person should “live in sin” simply because he would qualify and bypass the risks of losing his or her benefit. I believe this is very unjust and unreasonable.

I think that the benefit which would have accrued to the surviving spouse should be paid to the surviving spouse whether that surviving spouse marries or not. It is also invidious if you were to make this spouse—this would also apply to a surviving husband or widower, with a female legislator—remain unmarried. It also suggests very strongly that he is going to be dependant upon his new wife who is going to support him so that he no longer receives an entitlement from the state. I believe, however you cut it, that the question of remaining unmarried, whether it is for a male surviving spouse or female surviving spouse, that aspect to this clause is objectionable. I strongly recommend that the part dealing with remaining unmarried is unjust, oppressive and unkind.

If I may go on, there is a part of the Act which has been attracting the attention of my fellow Senators, Mark as well as Seetahal SC, the question of us in the Senate who are non-office holders not being legislators. I was relieved to hear Sen. Seetahal SC say that this is a matter that could be rectified by a stroke of a ministerial pen. I strongly suggest that this be done. Even if we were to say that we wanted to go by the strict rules, regulations and recommendation of the Salaries Review Commission, I would beg to submit that the reasons that have been advanced by the SRC do not hold water. They are not tenable, because the SRC seeks to exclude non-office holders, because of the nature of their employment.

Senators are drafted into this service, sometimes very suddenly. You do not plan for this sort of offer; I certainly did not. You have to make certain adjustments in your life and business. When you give up certain emoluments and provisions elsewhere, you would expect that there would be some compensation at the end of the day.

One of the points made by the Salaries Review Commission is that this is a temporary job which can be terminated at any time and, therefore, there should be no entitlement. What we are looking at is Senators who have in fact served for five and eight years—not people who are now entering—who may be dismissed at a moment's notice, for whatever reason. We are looking at giving a benefit to people who are, in all intents and purposes, genuine legislators who would have served for five, eight, 10 or 15 years and at that time they would have become entitled. At that time, they are no longer subject to being dismissed upon appointment. In my view, the thinking of the SRC is not rational for excluding Senators as legislators.

The other point is that Senators, by the very nature of their appointment, instantly enter into a very particular arena. We have been called in by the Integrity Commission and made to understand that we have to give account for so many

Retiring Allowances (Amdt.) Bill
[SEN. RAHMAN]

Tuesday, April 15, 2008

things and we have become the focus of a lot of scrutiny. I believe that it is therefore suggesting that the position of a Senator is one of extreme trust. I do not believe that you will be engendering very much desire to honour this if you are appointing a Senator who would have served for 10 or 15 years without having had any provision being made for his retirement.

On the same basis that we pay judges and such people very high salaries, they should not be tempted by any unseemly behaviour. I believe that in the interest of integrity, the future of the Senator—we have Senators here who served for a long time. Sen. Mark would not fight his own case. I am new in the Senate and I do not expect to be here for a very long time, given my age. One has to consider that those who have already served—*[Interruption]*

Sen. Dr. Saith: Because of the party that you belong to.

Sen. M. F. Rahman: I did not get that. When we consider that we have had people giving many years of their lives in this honourable Senate, I do not think that we should begrudge them the entitlement, particularly as we say—swims like a duck, quacks like a duck, walks like a duck; it is a duck—we are all legislators. I do not believe that we should continue to exclude Senators from the benefit that should accrue to them.

There is one other matter to wrap up. There was the question of a full month's salary. Good Lord, to quibble over a month's salary at the dissolution of Parliament is petty, in my mind. The Salaries Review Commission has refused to consider giving a full month's salary when the date for election is called at short notice, early or late. I am not too sure how it works. In effect, you do not get a month's salary if you have just served for a few days.

We have a Prime Minister who likes to keep the date for election in his back pocket. We are always in a state of tension maybe for one month, two months, three months or five months. You do not know whether to look for another job, if you would be reappointed as a Senator, or what is going to happen. You would quibble for one month's salary? For goodness sake, is the Government so hard up? Are we so destitute? We are spending money on all sorts of crazy things. I do not want to start to talk about jet and these things, because that will take me into trouble. We can afford to pay one month's salary. We should not begrudge that.

In closing, there is one matter which is totally irrelevant to this but, completely relevant to all sittings here. I had occasion while Sen. Seetahal SC was speaking, to visit the washroom—since I intended to contribute, I wanted to

know what she was saying because she may have covered a point that I wanted to make and I did not want to come out and start to talk on something that she had already mentioned—and I found myself very severely disadvantaged by the cut off audio in the corridor and the washroom. I want to humbly suggest, in a very formal way, and request that the authorities put speakers in the corridor and the male and female washrooms, so that we can continue to hear what is going on inside here because we are coming back to contribute. This, I believe, is very important. I suggest that this be done very quickly because we are placed at a disadvantage.

Some of us may have to visit that room a little more frequently than others. We do not want to find ourselves so completely disadvantaged that we come and start to talk about things that have already been covered. Thank you very much, Sir.

Sen. Dr. Adesh Nanan: Thank you, Mr. Vice-President. We need to put this into context, with respect to this particular situation and this debate today. We have a situation, as I have mentioned earlier in my little discourse with the Minister, with respect to the positioning of the Government. I would do so, in terms of their position and what was put forward, in terms of the proposal coming from the Lower House, for the benefit of Members of Parliament. We heard in the debate that legislators at this time do not include Senators who are not Ministers with portfolios.

The proposal to the Salaries Review Commission was as follows: This is in the context of pension and reform. The existing benefit as it stands and the specified legislative offices include: The President of the Senate, the Speaker of the House of Representatives, the Leader of the Opposition, Parliamentary Secretary, Deputy Speaker, Minister, Member of the Executive Council and Member of the Legislative Council. The proposed reform states: The President of the Senate, Speaker of the House of Representatives, Leader of the Opposition, Parliamentary Secretary, Deputy Speaker, Minister, Vice-President of the Senate, Senator, Member of the House of Representatives.

We have heard in the debate, in terms of the rate of payment of retirement allowances—This is also included because, at it stands, there is the Retiring Allowances (Legislative Service) Act that gives the breakdown, with respect to the years served. I will go through it because I want to show you the comparison. Section 6(1) of the Retiring Allowances (Legislative Service) Act is as follows:

“The retiring allowance payable to any person shall—

- (a) in the case of a person who has served as a legislator for periods amounting in the aggregate to not less than eight years, be at an annual rate equal to one-quarter of one year’s salary of that person;”

The proposed reform states:

“The retiring allowances payable to any person shall—

- (a) in the case of a person who has served as a legislator for periods amounting in the aggregate to not less than—
 - (i) eight years, be at an annual rate equal to one-quarter of one year’s salary of that person...’
- (b) in the case of a person who has served as a legislator for two consecutive full parliamentary terms extending over a period of not less than nine years or for periods amounting in the aggregate to not less than ten years, be at an annual rate equal to one-third of one year’s salary of that person;”

That is how it is now. The proposed reform states:

“in the case of a person who has served as a legislator for periods amounting in the aggregate to more than eight years, but not less than ten years be at an annual rate equal to 60 per cent of one year’s salary of that person.”

5.15 p.m.

“in the case of a person who has served as a legislator for three full parliamentary terms extending over a period of not less than thirteen and a half years or for periods amounting in the aggregate to not less than fifteen years, be at an annual rate equal to one-half of one year’s salary of that person;”

The proposed reform says that in the case of a person who has served as a legislator for periods amounting in the aggregate to more than 10 years, but not less than 15 years, be at an annual rate equal to 75 per cent of one year's salary of that person.

The Act says:

“in the case of a person who has served as a legislator for four full parliamentary terms extending over a period of not less than eighteen years or for periods amounting in the aggregate to not less than twenty years, be at an annual rate equal to two-thirds of one year's salary of that person.”

The proposed reform says that in the case of a person who has served as legislator for periods amounting in the aggregate to more than 15 years, be at an annual rate equal to 100 per cent of one year's salary of that person. That was the proposal that was approved by the Cabinet, and put forward to the Salaries Review Commission. *[Interruption]* Yes, it was approved by the Cabinet.

An introduction of new benefits—these are proposals coming from the House Committee, and it says that all legislators are to be entitled to a gratuity of 20 per cent of the highest salary drawn in the course of his service, and legislators who are not Ministers or Parliamentary Secretaries are to be paid a full month's salary if dissolution occurs before the end of the month. Sen. Rahman made reference to this.

A severance payment was proposed to Senators without ministerial portfolios; Members of Parliament who are not re-nominated—that is after nomination day—and who although re-nominated were unsuccessful at the poll would take the form of a terminal grant equivalent to one quarter of the annual salary fixed for Members of Parliament and Senators, and should be immediately payable as the case may be for a maximum period of six months.

This particular situation is similar to the Barbados legislation. The Barbados legislation points out that all persons entitled to emoluments pursuant to this Act are entitled up to and including nomination day—only those persons who are nominated for election to Parliament are entitled to emoluments for the period from nomination day up to and including polling day.

Currently, the Speaker of the House and the President of the Senate receive their salaries up to the first sitting after a general election. Ministers and Parliamentary Secretaries continue to receive their salaries up to the date of which a Prime Minister is appointed or reappointed. The salaries of all other Members of Parliament cease upon the date of dissolution. These are some of the recommendations that were put forward to the Salaries Review Commission.

I want to go now to the *Hansard* dated Friday, July 28, 2007, under the Finance (Amdt.) Bill, order for second reading. This is the Minister of Trade and Industry and Minister in the Ministry of Finance, hon. Kenneth Valley and I quote:

“Mr. Deputy Speaker, earlier today I sought your permission in accordance with section 48(2) of the Standing Orders that the Finance (Amdt.) Bill, 2007, be taken through all its stages at this time.”

I am going to skip and go down to the last paragraph of his contribution and it says:

“With respect to the other amendment, the Retiring Allowances Act, 2003, at section 8 limits the level of gratuity to three years of income.”

Mr. Vice-President, under the parent Act, section 8 makes reference to this particular period of service and it says that the gratuity shall not exceed three years' salary at the highest annual rate of basic salary payable at anytime to such person as a legislator. That is how it is now. I continue to quote:

“That was put in there when the level was 10 per cent of salary. Given that the limit is now changed to 20 per cent, at the very worst, if there is to be a limit, it should be six years. The amendment before the House seeks to get rid of the limit.”

That was introduced there. That was not an error. It continues:

“The feeling is that if gratuity is to be at a particular rate, then one ought not to be disadvantaged simply because he served a long time in the Parliament, if he has given public service.”

Mr. Vice-President, this is the point. Senators have been here for such a long period of time doing public service, and this was the recognition given to Senators who have given up his or her profession. In my contribution later on, you are going to see Senators' responsibilities and parliamentary duties. It continues:

“I agree with that; there should be an increasing scale as you serve a longer time in the Parliament.

Those are the two significant amendments. There is another one included here, but by agreement with the Opposition we suggest that it be deleted; that is, the Salaries Review Commission recommended that the amendment with respect to the increase in gratuity be effective as from October 17, 2002. There were varying interpretations of what that meant and since all of us have been here since October 2002, the feeling is that it serves no useful purpose, and it should, therefore, be simply deleted. We recommend that it be deleted from the Bill.

We are simply attempting to correct some anomalies arising out of the Finance Bill which was legislated earlier this year, for the benefit of all Members here and in the other place.”

So, what is the Government saying? Is the Government saying, at the time, Minister Ken Valley was acting on his own? He was the Minister of Trade and Industry and Minister in the Ministry of Finance, and under section 48(2), as the Leader of Government Business in the House, he presented this Bill. So, the Attorney General cannot come in this Senate and try to hoodwink the population. This is a clear case.

When these proposals were put forward to the Cabinet from the House Committee, it was taking into context in terms of the role of a Member of Parliament and the role of a Senator. It was taken away from the public servant role, and that is why it was an isolated case.

When I made reference earlier in my contribution to the proposed reform, it was before the Salaries Review Commission, but at that time there was a Pension Task Force in place, and that task force was dealing with pensions across the board. At the time, it was felt by the Salaries Review Commission that the Pension Task Force would be the best place for this particular proposed reform to be discussed. That is the situation that we are faced with.

For the Government to come and say that the Opposition supported the proposal—yes, we supported it—but it was a proposal for Members of Parliament that it included Senators, as well as elected Members of Parliament. It was for the benefit of all. The highest salary was a proposal put forward.

It went on even further. As I said, it says that all legislators would be entitled to a gratuity of 20 per cent at the end their period of service, and we did not propose 2002. This was at the end of their period of service.

This part should have been considered and, that is, legislators would be given the option to take a reduction in benefits if he or she retires before the age of 55 years. That was a proposal put forward and supported by the Cabinet.

The definition of “salary” should be redefined in the Act to include all allowances.

The calculation of gratuity should be based on the highest annual salary earned by a legislator during his period of service. These were recommendations put forward coming from the approval of the Cabinet. *[Interruption]* These are proposals that were agreed by Cabinet.

It is my view that when the situation was brought to Parliament—I do not know if it is a vendetta against Mr. Ken Valley. I feel that is what it is all about. It has to be that. *[Desk thumping]* This is double speaking by the Government.

Sen. Browne: Mr. Vice-President, on a point of order, the Member is imputing improper motives. *[Interruption]*

Sen. Dr. A. Nanan: Mr. Vice-President, I do not want to deal with Barbados right now. It points to that, because that Member—I am not against Mr. Ken Valley getting his large emoluments. I am not against that. Mr. Valley served with

Retiring Allowances (Amdt.) Bill
[SEN. DR. NANAN]

Tuesday, April 15, 2008

respect, and as the Leader of Government Business, he served with distinction. I am not against Mr. Ken Valley getting his emoluments. [*Desk thumping*] That situation that has developed is strange, and we have to question it.

We are in a time now where food prices are rising. As Sen. Mark mentioned, in terms of retirees, we have to look at indexation of pension. We have to do in that direction at some point in time. That is what the Pension Task Force will be looking at in that respect.

I am sure that if the hon. Ken Valley had been returned to this Parliament there would be no amendment.

Sen. Mark: I agree with you. [*Desk thumping*]

Sen. Dr. A. Nanan: There will be no amendment. [*Desk thumping*] The facts will display that, because the Cabinet agreed to those recommendations before the Salaries Review Commission. The Salaries Review Commission was not in favour, because they were not aware. We went even further and made the case for Senators.

Mr. Vice-President, you would recall that when the matter came up with respect to Senators having to serve on joint select committees, again, we went to the Salaries Review Commission to get a stipend and to make it more acceptable for Senators to serve on these committees. So, this is all spilling from the importance of Parliament and the role of parliamentarians. That is why this debate is so important in terms of where we are today. That is why I went to the *Hansard* to see if what they are saying is true.

5.30 p.m.

I recall that is what happened, so to blame the Opposition and say the Opposition was hoodwinked, it is not true.

Hon. Senator: Who said they were hoodwinked?

Sen. Mark: No, he said you all tried to hoodwink the Opposition. [*Laughter*]

So you tried to hoodwink the population. [*Laughter*]

Sen. Dr. Nanan: I am explaining to the Members here and the national community in terms of the position taken [*Interruption*] and I propose, I am sure talk has been around town that there is a vendetta against Mr. Ken Valley, but I will leave that alone as I move on.

I will move on to another area in this particular debate and it deals with the Retiring Allowances (Legislative Service) Act. Now, we cannot make any amendment to this particular Act today. We are aware of that or we may make

amendment and the Senate might consider or reject as the case might be, but we know it is a money Bill; the Attorney General told us that it is a money Bill.

Mr. Vice-President, in terms of this particular piece of legislation and the recommendations made, the recommendations were made and representation made for Senators because it could not come from this Senate. A Bill could not emanate from this Senate for the Senators, it had to come via the House Committee and go to the Salaries Review Commission. All right, that is the situation with respect to the money Bill. Even in terms of the discussion that was taking place at the time with the amendment, you would understand, Mr. Vice-President, if you were at that particular time that if you are putting a proposal before the Salaries Review Commission with respect to being paid at the highest salary, there are certain questions that we have to ask with this particular amendment and how the law is going to operate. Take for example, Sen. Mark, who has served as a legislator from 1995 to 2001, so he was a legislator and—

Sen. Enill: From 1995 to 2000.

Hon. Senator: I agree.

Sen. Dr. A. Nanan: Okay, 2000. So, he was a Minister at that time so he was a legislator—

Sen. Browne: [*Inaudible*]

Sen. Mark: You have no cover for your mouth.

Sen. Dr. A. Nanan:—and now according to the Act he is no longer a legislator.

Sen. Mark: You “lick down” your boss. [*Laughter*]

Sen. Dr. A. Nanan: So, how would he be treated [*Interruption*] with respect to this particular Act? From 1995 to 2000 would he get his pension? Would he be falling under the Act for that particular period? We need to know, and there are many others in that particular position who were legislators before and then they have now entered a new category as Senators without portfolio and they become non-legislators. That is an interpretation that needs to come forward with respect to—is Sen. Mark going to get that particular provision for retirement allowance for these particular years and all the others who fall in that area? So, we need to have that kind of clarification.

Mr. Vice-President, what happens when you have a situation where a government was there before and now a new government takes over? There should be a transition period. What has happened with respect to public servants as well as parliamentarians, is that we face a situation where you have—once you

are in a position for gratuity you need records; you need pension and leave records; you need to have those records. Many times public officers have to go to the departments, day after day, week after week, month after month hunting, trying to get their gratuity and because of the tardiness in various ministries many public servants as well as parliamentarians suffer because they cannot get their pension and leave records organized properly.

I am calling on the Government to look at that particular area in your pension task force because if the ministries do not send the pension and leave records for that particular period then you are in trouble and that is why the particular position was taken in this particular recommendation, that you should have the severance payment. I was in that particular situation, moving from an elected Member of Parliament to a Senator.

Hon. Senator: Which part? [*Laughter*]

Sen. Dr. A. Nanan: I am talking in terms of the severance payment because you are in a situation now where you have a mortgage to deal with, a car loan to deal with because once you leave the Government you have to pay off that car loan if you are owing the Comptroller. That is why when we consider the particular situation, the period of six months, the severance payment, that was necessary and it is not a new addition because many officers get that kind of severance payment.

That is the point, Mr. Vice-President, with respect to public officers because they really rely on this gratuity and if you are being trapped in the administration and you cannot go forward in terms of getting those requirements then you would not get your gratuity and a year would pass and you would be suffering. Of course, as Minister Enill pointed out in terms of the global scenario and what is happening with prices and what is going to happen, people definitely need that little assistance that they can get.

I just want to go into a little area of the pension reform as I was dealing with the pension and plead again with Minister Mariano Browne—

Sen. Mark: No, he is not the Minister of Finance you know; he is the Minister in the Ministry of Finance. He is a junior Minister but he does behave like he is the senior Minister.

Sen. Dr. A. Nanan: Well, probably I should—[*Interruption*] Sorry, I should step up. I will appeal to the Acting Prime Minister. [*Laughter*]

Sen. Mark: He is accustomed to the senior Minister.

Sen. Dr. A. Nanan: Yes, I will make my plea to the senior Minister.

Sen. Mark: “Yeah”, but through the junior Minister. [*Laughter*]

Sen. Dr. A. Nanan: Which is the situation faced by the 10,000 Caroni workers, who, because of the ceiling placed, they will not be able to get the old age pension.

Sen. Mark: The Senior Citizens Grant, it is \$650 right now.

Sen. Dr. A. Nanan: The Senior Citizens Grant, and I want the senior Minister, through the junior Minister of Finance to look again at this particular situation because they are very vulnerable at this time. And we heard the question asked about the super farms and we did not get a proper response, so they are very vulnerable at this time and they require that extra additional support, especially with the inflationary trends in the country.

Mr. Vice-President, I thank you.

Sen. Subhas Ramkhelawan: Thank you, Mr. Vice-President. As I join the debate, if indeed it is one, I am aware of the statement by the hon. Attorney General that this is a money Bill and if I were conspiratorial in nature I would have felt that it was an admonition that we should not say much in this particular debate, [*Laughter*] because nothing will change. I know that the hon. Attorney General is not of that ilk; I know that, and so I would make my contribution for what it is.

Enlightened societies take very seriously certain guiding principles from the top of the society to the bottom of the society. Certainly, one of those areas that enlightened societies choose to deal with is discrimination at whatever level. I want to feel that the way the definition of legislator is couched is one that is steeped in discrimination, because it deals with and recognizes one group of people and does not recognize another group of people, all sitting within the same Chamber and within the same Senate. I want to feel that the Act as it was passed in 1969 was not intended to do so because of its involvement and its recognition of the then Legislative and Executive Council.

Now what we have done, is we have chosen to interpret legislator to mean somebody in possibly just the Executive and certain other select positions, and that should not be in an enlightened House and in an enlightened society. It causes me to recall, way back in the 1960s, the story of a lady by the name of Rosa Parks. She paid her bus ticket, the same as everybody else going into the bus and she was required to go to the back of the bus. I feel that I am at the back of the bus

Retiring Allowances (Amdt.) Bill
[SEN. RAMKHELAWAN]

Tuesday, April 15, 2008

and my colleagues here are at the back of the bus. Why should that be? That should not be in an enlightened society and it must not be, especially since my learned colleague, Sen. Seetahal SC has suggested that there are prescriptions which are at our behest that we can choose to effect and cause a resolution of this matter in this honourable Senate. Then my mind goes back to that era when the Mahatma had a first class ticket, but in South Africa, because of the system of entrenched discrimination was kicked out of the first class cabin.

Mr. Vice-President, I think we are more enlightened than that and we are also in a different century, because both of those issues were actually resolved. In the case of Ms. Rosa Parks, she was allowed to sit anywhere she wanted with enlightened action; and in the case of the Mahatma, if he were alive today, he could sit in any class in the train in South Africa because of enlightened action across the world that removed apartheid. So why is it so difficult for us, in a rather simple matter, to take enlightened action? If it is, according to my learned colleague, Sen. Seetahal SC, all that is needed is that these persons on this side are prescribed in the Schedule as legislators, one would want to think that it cannot be anything than a wicked administration that would not move to validate that position. But this is not a wicked administration, not by any means; it is an administration that needs to take some action to correct a minor oversight in the scheme of things.

So, I appeal to the Minister and I am guided by Sen. Mark, I appeal to the junior Minister to take it to the senior Minister—[*Laughter*] [*Desk thumping*—to resolve what is a rather ordinary matter. [*Interruption*] Yes, I appeal to him and I know that he is good at carrying messages. I have worked with him before.

Sen. Seetahal SC: “Wha”.

Sen. S. Ramkhelawan: And he knows how to take messages correctly.

Hon. Senator: “Oooh”.

Sen. S. Ramkhelawan: I have great confidence in that Minister, that he can take that message to where it ought to be taken, so that the decision can be made, and I look forward to when he brings back that message to us and say, all is resolved.

Mr. Vice-President, I think that if we have true enlightened action to deal with discrimination it should start at one of the highest institutions in the land, and when our citizens see that we can resolve minor matters of discrimination from the highest level their confidence in us will improve by the day. I assure you of that. So, it is only an appeal that I make and we have the answer, I believe.

5.45 p.m.

I wanted to just touch on another matter which is the whole question of what this particular benefit means to different groups within this honourable Senate. Those who are Ministers are already accorded much higher benefits in terms of basic salaries than those who are parliamentary secretaries, than those who are considered within the meaning, non-legislator, and so the benefits that would accrue, whether it be through retirement allowances, and gratuity and so on, would be reflected in accordance with that base salary, and in accordance with that base compensation.

There is already indeed a cascading effect, when the hon. Minister Conrad Enill spoke about that and spoke about the more intense functions, as he considers it, and the responsibilities of Ministers that is already reflected in the salaries and the basic benefits. So I want to appeal to the Government to make this change without making it a major issue. I do not want to feel that I have to come to the Senate as a second class citizen in one of the highest institutions of the land, and it is within their ballpark to resolve that matter very, very quickly.

Mr. Vice-President, as I wind up, I want to be very short, let us start with this minor step of resolving this minor issue of discrimination at this level in the Senate, so that we can get on with the business of working to resolve any other issues of discrimination in the wider society, because that is where our work must be focused.

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

Sen. Dr. Carson Charles: Thank you, Mr. Vice-President. I will not detain the Senate very long in this matter, but I thought that I should rise and add a little something, an additional dimension to the point because I was motivated to do so by listening to the last Senator. It will be interesting to see whether the Government does in fact act on this one. If in fact, the Government has the capability to act.

Sen. Dr. Saith: [*Inaudible*]

Sen. Dr. C. Charles: You do have it, to act on matters like these?

Hon. Senator: We will; we will; we will.

Sen. Dr. C. Charles: All right.

Sen. Dr. Saith: You had the capability too.

Sen. Dr. C. Charles: You have the capability to act on this?

Sen. Dr. Saith: You had it too.

Sen. Dr. C. Charles: Had and have are two different things altogether.

Hon. Senator: True.

Sen. Dr. C. Charles: You have it today; you have the ball; you have to do what you have to do with it. It is your ball right now.

Mr. Vice-President, my point is this. I think that we must always keep our eyes on our main goals. We are building a society, a country and institutions and the time when this definition entered into our laws, maybe, it made sense to the people then. Maybe, they intended at that time not to pay attention to the people who were not office holders. This confusion between—you see we have a situation—I have to back up a little bit—where this is a developing country, is a new country and so on, especially way back in that time. You could imagine that there is this thing about the job, the office and the salary and so on that tend to always get in the middle of everything and in many countries that are more advanced into that history than we are, parliamentarians are less concerned with Parliament as a job in terms of income. I think that there was a belief at one point in time that in the Senate, the people who served in the Senate—*[Interruption]* Sorry?

Hon. Senator: Public service.

Sen. Dr. C. Charles: Giving public service; and they would in fact have whether jobs, businesses, whatever they would have; they were giving public service on a part-time basis, so there was no need to pay attention to things like this. Perhaps, that is why they specified the persons who were holding executive office as the ones to attend to. That is really what I want to point to.

This tendency over the years to—and I am sure it is not the only place you will find this—focus on the holders of executive office, it is very important that we change the way in which our Parliament relates to the Executive and we do not have any situation in which someone who is part of the Executive or who holds an office which is somehow interpreted as part of the Executive, is seen as having a higher rank or some greater importance in the Parliament, than one who is not part of the Executive apparatus. This is the dimension that I want to bring and it is important to change.

We are a small Parliament, so it is hard to change the fact that the majority of Members are almost automatically part of the Executive. That almost always happens. The majority of Members in the Lower House tend to be somehow

connected to the Executive, especially in this era of large Cabinets. In the Upper House even a substantial number of Members would be in the Executive. You cannot do much about that, but you could still change these kinds of situations here which give the impression that the persons in the Executive are somehow of a different rank or status from the persons who are not part of the Executive. But in the Parliament, all Members of Parliament must be considered of the same status or level, and the Executive must be seen—this is how it was intended to be—as accountable to the Parliament at every turn and reporting to the Parliament, as indeed, a committee of the Parliament.

So I wanted to put that little spin on it there, through that dimension. I join with my colleagues in the Senate to urge the Government to pay attention to this matter. It may be a small matter, but it is something that will send the right signal and it will also help us think of ourselves in spite of the temptations to think otherwise, to think of ourselves as a Parliament, as a Senate that operates on a level plane and even assist the Government in recognizing its own role within the overall context of Parliament. That is the spin I rose to put on it, not to detain the Senate unnecessarily.

I want to add one small point as well. It is important that we find a way—and I am not suggesting that we do it through this legislation, but I must take the opportunity to mention it—to send a signal or a message to the country that somewhere along the way, that will assist in deflating the inflationary pressures in this country today.

The inflationary pressures that we have now did not only arise from the construction boom and all these other things, but they did have something to do with signals sent early in the life of the current administration. I am not questioning or in any way seeking to suggest that compensation to members of the Executive and Parliamentarians ought to have been lower, or should not have been increased and should not be at the right level. I am not suggesting that at all. I am pointing out to the Government that early in its last term, and again recently, there were signals that triggered the inflationary pressures in the country and one of them had to do with this matter of bringing compensation to what might be considered an acceptable level.

So you may have been doing something that you had to do; it was correct to do it, but how you do things and what the effect is, are some things to which you must also pay attention. We are now in a situation where inflation is racing ahead of us. It is very difficult to solve our big crime problem. Now we have a big inflation problem to solve and you have to deal not only with the actual day-to-day

Retiring Allowances (Amdt.) Bill
[SEN. DR. CHARLES]

Tuesday, April 15, 2008

economics of it, but also the signals sent. I do not want to be on my legs and not remind the Government of this little challenge. It must find a way to send the correct signal in dealing with the matter of emoluments. People always appreciate signals sent at the highest level, however small those signals are.

Thank you very much. [*Desk thumping*]

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Thank you, Mr. Vice-President. I commend Sen. Ramkhelawan for indicating in his contribution that he rise to the high aspirations and expectations that are expected of Members of this honourable Senate. I pay him that compliment in regard to his contribution with respect to what is expected of Members of the Senate and also what he considers to be discriminatory practices, which should be frowned upon by enlightened societies. Mr. Vice-President, in listening to the contributions in this debate and having read some of the reports of *Hansard* from 1969 onwards, it is almost as if this is déjà vu.

Now, as Sen. Seetahal SC had pointed out in her contribution, the question about emoluments and pension benefits for parliamentarians, was first dealt with in our Parliament in 1968/969. In fact, the first legislation was made in 1969 and the history comes from the Throne Speech of the Governor General at the first sitting of the Parliament on November 15, 1968. The then Governor General had this to say and I quote:

“The long overdue adjustment of salaries of Ministers and other Members of Parliament, in the context of the new classification and compensation arrangements for the public service, will immediately be referred to a Select Committee of the House of Representatives which will also consider the question of pensions for Members of Parliament.”

The hon. Governor General then referred to Members of Parliament. However, when the issue was brought before the House of Representatives—and this was on December 06, 1968—what was resolved then by the Minister of Home Affairs and Personnel, the deceased Gerard Montano, was that the House approve the report of the Special Select Committee of the House of Representatives, appointed to consider the emoluments and other benefits of Members of both Houses of Parliament, as well as to consider proposals for pensions and gratuities for the Speaker of the House, President of the Senate, Ministers and elected Members of Parliament and to make recommendations.

[MR. PRESIDENT *in the Chair*]

Even though, then, there was the question of the Members of the Executive Council and Members of the Legislative Council, notice here that the resolution that was put and moved, referred to emoluments and other benefits of Members of Parliament of both Houses of Parliament, as well as to consider proposals for pensions and gratuities for the Speaker of the House, President of the Senate, Ministers and elected Members of Parliament.

6.00 p.m.

I think when we see how the debate went and the whole history of the matter, the issue of whether the definitions, the terms of Executive Council and Legislative Council, could now be expanded to mean Senators: Independent Senators, Opposition Senators. I do not think the history supports that.

The issue is made even clearer when we hear the contribution of the then Attorney General on the Retiring Allowances (Legislative Services) Bill on Tuesday, July 01, 1969, in the Senate. This was what the hon. Attorney General said then:

"Of course, the bill is confined to Members of the other place and people who served in certain Parliamentary offices which are defined in the bill. I know that many Members of the Senate may feel that possibly some Senators might have been included. However that may be, I have no doubt that these considerations were in the minds of the committee; these considerations were in the minds of Members of the Cabinet when they considered these proposals, and they were in the minds of Members of the other place when they accepted that report, and one may accept the fact that there are quite a number of reasons on which the exclusion of Senators can be justified. In fact, I believe that it is correct to say that very few of the countries which provide pensions for Parliamentarians make provision for Members of the Upper House. If we are to look at the venerable mother of Parliaments for example, one knows that whereas provision is made for members of the House of Commons, the Lords do not even get, as our Senators do get, a fixed remuneration each month; they get an allowance according to their attendance, and a comparatively small allowance for membership and travelling."

You see now the whole historical context of why Senators who were not ministers were left out of any consideration for any sort of remuneration.

Retiring Allowances (Amdt.) Bill
[SEN. THE HON. B. ANNISSETTE-GEORGE]

Tuesday, April 15, 2008

In fact, the Attorney General goes on to say:

"A time may come when it may be felt that it would perhaps be right and proper to make some provision for Members of the Senate. I would suggest that we ought to leave a matter like that to the normal course of political evolution of our country."

It is also instructive for hon. Members to appreciate that between 1969 and 2007 there was only one amendment made to the Retiring Allowances (Legislative Service) Act. So that successive governments, successive administrations after 1969, did not touch the issue of whether increasing the category of persons or even touching the formulae by which any sort of emoluments, any sort of pension, was given to Members within the group, that category, the definition of "legislator".

Maybe we have reached the stage of our political evolution, where we need to look otherwise; but to make it seem as if there has been some deliberate attempt by this administration, or a former PNM administration, to exclude others on whatever basis of discrimination, whether it is that the Executive is superior or whatever, is really without any foundations. [*Desk thumping*]

Mr. President, looking at the Eighty-Second Report of the Salaries Review Commission, Sen. Dr. Nanan made the point with respect to the recommendations made to the SRC by the committee of the House. I cannot say whether that was agreed to by the Cabinet or not. I was not there; I cannot say. I can say what the decision of the Cabinet was when the eighty-second report was tendered by the SRC.

Sen. Mark was correct; never before has a Cabinet interfered with the recommendations of the SRC. The Cabinet in April 2007 certainly acted in accordance with history and experience, in that Minute 897 records the decision that the Cabinet would accept, without any amendment, the recommendation of the SRC. That is what it sought to do when the amendment to the legislation came in the Finance Bill.

The Minister of Energy and Energy Industries, who was then a Minister in the Ministry of Finance, gave the history of that; he was part of it. It is clear from the recommendations and the report of the SRC that there was no intention to create a new category for persons serving five years. That issue was dealt with in the Thirty-Sixth Report of the SRC in the year 1995.

When we look at the SRC report, it made the point—and this deals now with the eligibility, the eight years—that you had to serve eight years to qualify for the retiring allowance. I quote from the Thirty-Sixth Report of the SRC, May 18, 1995:

"The Commission observed that the qualifying period was fixed in 1968 and evolved from the provision contained in corresponding legislation in Barbados and Jamaica which specifies a period of eight years and nine years, respectively. It would appear that in all cases, consideration was given to the fact that a parliamentary term might not run a full five-year course.

In the contemporary setting we see as significant the fact that members of the House of Representatives contribute 6% of salary under the parliamentary pension scheme. By comparison, where similar levels of contribution are made in private sector pension plans, pensions vest after a period of five years service. We note also that under the current Board of Inland Revenue guidelines, it is a requirement that a pension scheme should provide for vesting after five years service in order to qualify as an approved scheme.

We are satisfied, therefore, that there is no justification for maintaining such a long qualifying period of eight years. Accordingly, we recommend that members of the House of Representatives should be eligible for the retiring allowance now provided under the said Act, after a minimum period of five years service."

So there was no intention to create another category, but to remove the eligibility from eight to five years. That was done since the 36th report; however, it never got legislative effect.

When in 2007 the committee of the House made its recommendations to the SRC, the committee did not deal with anything about five years; it dealt with the existing categories and the existing period of eligibility, which was eight years, and recommended to the SRC an increase of half of one year's basic salary for an aggregate service of not less than eight years. The Salaries Review Commission rejected that recommendation and said in the context:

"We have concluded that the changes proposed are significant as they relate to increased benefits and as such would require appropriate actuarial advice as occurred when we undertook our deliberations leading to the Thirty-sixth Report. At that time, we had the benefit of the advice of the Government's Chief Actuary. On this occasion, we were advised that it would be necessary to procure such services to assist us in our deliberations. We were also advised that at present the State is undertaking a pension reform exercise which includes the reform of parliamentary pensions and that in that exercise, actuarial services would be available. In the circumstances, we hold the view that the changes in the existing benefits proposed by the Committee should be considered in the context of the reform exercise."

In that context, they recommended that:

“...a Retiring Allowance for service of an aggregate of not less than five years at a rate of 1/6 of one year's (basic) salary.”

As made in the Thirty-Sixth Report. So that there was never any intention to create a group of, say, five years and a group more than five and less than eight. It was just to move the eligibility from instead of you having to serve eight years to you serving five years as a group.

With respect to the provision at section 10(5), again, a lot of things have to be looked at in history. Maybe we have found ourselves in this scenario because we have never really undertaken a holistic review of the legislation. We would recall, that the provision relates to dependants. It really does not stand alone, because it ties back to provisions for dependants which would come under the law of succession. We would have seen similar legislation in our widows and orphans or our wills and probate ordinances. When you look at the group of dependants, they are all similarly defined; one, because particularly there was always a distinction between dealing with a dependant as a male child and a dependant as a female child. Looking under the laws of succession we would see that once a female was unmarried, even though she had passed the age of 21 years, she would still have been considered a dependant of her father.

However, once a female got married and passed the age of majority, she was no longer considered a dependant. It had to do with the whole history of coverture and all of that. The way section 10(5) is worded is that once a female got married under the age of 21 years, she was no longer considered a dependant.

I do not know of any law where a married child is considered a dependant. I use "child" now to mean “male” or “female”, that a married child is considered a dependant of its parent. You do not see it in matrimonial law or succession law. While we may want to look at it in terms of removing the gender bias; I hope that Sen. Rahman understands it in that context, and that it is not really saying a child should always be dependent on his parent, married or not.

I take the point, and I think all Members on this side take the point, that having regard to the evolution of our politics and the passage of time, there may be need for a holistic review of the legislation. I think we all understand that our role on a money bill is very limited. I no way intended to put a gag on the contributions when I set out by saying that this was a money bill; it was really just to ensure that we comply with the requirements of the Constitution of Trinidad and Tobago.

6.15 p.m.

Sen. Seetahal SC: The hon. Attorney General has not said, but I would appreciate if she would indicate whether 40 years after the debate—it was in 1968 when the hon. Attorney General said that perhaps in the future we may want to amend the definition of “legislator” or words to the effect. The Act came into effect on January 01, 1969, so it is now 40 years. Seeing that the Act gives the Minister of Finance the authority to amend that section without coming back to Parliament, I want to know whether the Attorney General can give us an indication whether her Government might be so minded and inclined in the light of everything that has been said today.

Sen. The Hon. B. Annette-George: Mr. President, I would like to say that this Bill and this Act really would fall under the portfolio of Finance and, therefore, I am not in a position to speak for the Minister of Finance. As far as the position of the Government of Trinidad and Tobago is concerned, until this decision is taken by the Cabinet, I am unable to commit the Government as I stand here.

I would say this much, that we have heard the contributions, there has been a common feel in all of them. As I said, this clearly had not been considered before. Between 1969, we have seen from the contributions that it was discussed then, and successive administrations have come and have not dealt with it, they dealt with just what has been there. Maybe we have evolved sufficiently to look at it and this is something that has not fallen on deaf ears, and I guess in time Cabinet would look at it and take whatever action that is agreed by the Cabinet and is consistent with the decision it has taken.

So, Mr. President, this being a money bill and I think that all contributions have really spoken in support of the Government having brought this Bill to ensure that it reflects the decision of the—

Sen. Mark: Mr. President, through you, I would like to ask the hon. Attorney General whether it is the intention of the Government to amend the Pensions Act that governs the terms and conditions—well pension rather—of public officers.

I raised in my contribution that since 2004 there was an agreement between the Chief Personnel Officer (CPO) and the Public Services Association (PSA) to amend the Pensions Act so that officers who act in higher offices or positions as they near retirement, rather than pay them pensions in their substantive position, there is an agreement that they be paid or granted pension rights in the particular range in which they last acted before retirement.

Retiring Allowances (Amdt.) Bill
[SEN. MARK]

Tuesday, April 15, 2008

I just want to find out from you when will that Pensions Act be amended in order to benefit these thousands of public officers who are acting and retiring without the benefits of the legislation that they agreed to and the arrangement that was made with the CPO.

Sen. The Hon. B. Annisette-George: Mr. President, to Sen. Mark, through you. Sen. Mark, as you recorded, it is an agreement and this Government honours all its agreements. In fact, the legislation is being considered and I guess as soon as it is ready to be tabled in the Parliament it would be, I cannot give you a time frame.

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. the Hon. Conrad Enill): Mr. President, I beg to move that the Senate continues to sit until the conclusion of this matter.

Question put and agreed to.

RETIRING ALLOWANCES (LEGISLATIVE SERVICE) (AMDT.) BILL

Sen. The Hon. B. Annisette-George: Mr. President, I beg to move.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Sen. The Hon. B. Annisette-George: Mr. President, in accordance with Standing Order No. 63, I beg to move that the Bill be not committed to a committee of the whole Senate.

Question put and agreed to.

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

The Senate divided: Ayes 28 Noes 1

AYES

Enill, Hon. C.

Saith, Hon. Dr. L.

Annisette-George, Hon. B.

Browne, Hon. M.

Joseph, Hon. M.

Manning, Hon. H.
Narace, Hon. J.
Dick-Forde, Hon. Dr. E.
Gronlund-Nunez, Hon. T.
George, W.
Hadeed, G.
Rogers, L.
Lezama, Miss L.
Melville, Miss J.
Cummings, F.
Mark, W.
Nanan, Dr. A.
Charles, Dr. C.
Kernahan, Dr. J.
Sharma, Miss C. D.
Rahman, M. F.
Deosaran, Prof. R.
Seetahal SC, Miss D.
Annisette, M.
Baptiste-Mc Knight, Mrs. C.
Nicholson-Alfred, Mrs. A.
Drayton, Mrs. H.
Merhair, Miss G.

NOES

Ramkhelawan, S.

Question agreed to.

Bill accordingly read the third time and passed.

Adjournment

Tuesday, April 15, 2008

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. the Hon. Conrad Enill): Mr. President, I beg to move that the Senate do now adjourn to Tuesday, April 22, 2008 at 1.30 p.m. and that day would be Private Members' Day.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.24 p.m.