

Acting President

Tuesday, November 04, 2008

SENATE

Tuesday, November 04, 2008

The Senate met at 1.30 p.m.

PRAYERS

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

ACTING PRESIDENT OF TRINIDAD AND TOBAGO

Mr. Vice-President: Hon. Senators, I wish to inform you that the President, Sen. The Hon. Danny Montano is currently acting as President of the Republic of Trinidad and Tobago.

LEAVE OF ABSENCE

Mr. Vice-President: Hon. Senators, I have granted leave of absence from today's sitting to Sen. The Hon. Martin Joseph, who is out of the country and to Sen. Dana Seetahal SC, who is ill.

REVOCAION OF APPOINTMENT

Mr. Vice-President: Hon. Senators, I have received the following correspondence from His Excellency the Acting President, Sen. The Hon. Danny Montano:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency DANNY MONTANO, LLB.,
BComm., CA., Acting President and
Commander-in-Chief of the Republic of
Trinidad and Tobago.

/s/ Danny Montano
Acting President.

TO: DR. DAPHNE PHILLIPS

In exercise of the power vested in me by section 40 and section 44 of the Constitution of the Republic of Trinidad and Tobago all other powers thereto me enabling, I, DANNY MONTANO, Acting President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, do hereby revoke with immediate effect your appointment to be temporarily a member of the Senate, made by Instrument dated 24th October, 2008.

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 3rd day of November, 2008.”

Senators' Appointment
[MR. VICE-PRESIDENT]

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SENATORS' APPOINTMENT

Mr. Vice-President: Hon. Senators, I have received the following correspondence from His Excellency the Acting President, Sen. The Hon. Danny Montano:

“TO: MR. FOSTER CUMMINGS

WHEREAS the President of the Senate has temporarily vacated his office of Senator to act as President of the Republic of Trinidad and Tobago:

AND WHEREAS the Vice-President of the Senate is acting President of the Senate:

NOW, THEREFORE, I, DANNY MONTANO, Acting President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you FOSTER CUMMINGS, to be temporarily a member of the Senate, with immediate effect and continuing during the period that Senator Danny Montano has temporarily vacated his office as Senator.

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 3rd day of November, 2008.”

“TO: MR. NOEL GAYLE

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

NOW, THEREFORE, I, DANNY MONTANO, Acting 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, NOEL GAYLE, to be temporarily a member of the Senate, with effect from 4th November, 2008 and continuing during the absence from Trinidad and Tobago of Senator Martin Joseph.

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 3rd day of November, 2008.”

“TO: MR. BRIAN NATHANIEL BAIG

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

NOW, THEREFORE, I, DANNY MONTANO, Acting President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, 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, BRIAN NATHANIEL BAIG, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of Senator Wade Mark.

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 3rd day of November, 2008.”

“TO: MR. UMESH RAMPERSAD

WHEREAS Senator Dana Seetahal is incapable of performing her duties as a Senator by reason of illness:

NOW, THEREFORE, I, DANNY MONTANO, Acting President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, UMESH RAMPERSAD, to be temporarily a member of the Senate, with immediate effect and continuing during the period of illness of the said Senator Dana Seetahal.

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 4th day of November, 2008.”

OATH OF ALLEGIANCE

The following Senators took and subscribed the Oath of Allegiance as required by law:

Foster Cummings, Noel Gayle, Brian Nathaniel Baig, Umesh Rampersad.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Venture Capital Incentive Programme for the year ended September 30, 2002. [*The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Legal Aid and Advisory Authority for the year ended December 31, 2001. [*Sen. The Hon. M. Browne*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Legal Aid and Advisory Authority for the year ended December 31, 2002. [*Sen. The Hon. M. Browne*]
4. Audited annual financial statements of the Community Improvement Services Limited for the year ended September 30, 2006. [*Sen. The Hon. M. Browne*]
5. Audited annual financial statements of the Business Development Company Limited (BDC) for the year ended September 30, 2007. [*Sen. The Hon. M. Browne*]
6. Audited annual financial statements of the Export/Import Bank of Trinidad and Tobago for the year ended December 31, 2007. [*Sen. The Hon. M. Browne*]
7. Audited annual financial statements of the Trinidad and Tobago Entertainment Company Limited for the year ended September 30, 2007. [*Sen. The Hon. M. Browne*]

ORAL ANSWERS TO QUESTIONS**Pensions****(Raising Eligibility Ceiling)**

92. Sen. Mohammed Faisal Rahman asked the hon. Minister of Social Development:

Would the Minister state whether Government plans to raise the eligibility ceiling for pensions to equal the personal tax allowance?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, the answer to question No. 92 is not now available and should be ready, I am advised, in two weeks time.

Question, by leave, deferred.

**Destruction of Land
(Unauthorized Quarrying Activities)**

103. Sen. Cindy Devika Sharma asked the hon. Minister of Energy and Energy Industries:

With respect to the destruction of land through unauthorized quarrying activities, could the Minister inform the Senate of:

- (i) the existing plans, if any, for reclaiming these lands;
- (ii) the acreage of land already reclaimed by the Ministry;
- (iii) the estimated acreage of lands affected by unauthorized quarrying activities as at July 2008; and
- (iv) the estimated acreage of lands approved by Government for authorized quarrying activities as at July, 2008?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, the Ministry of Energy and Energy Industries, in association with the Ministry of National Security, has set up a plan to monitor and terminate illegal quarrying activities on an ongoing basis, which includes routine monitoring of quarrying activities by the Ministry of Energy and Energy Industries and the preparation of maps, identifying the location of illegal quarry sites, using GPS coordinates on a quarterly basis.

Submission of a list of illegal quarry operators would be accompanying maps of the said quarry sites by the Ministry of Energy and Energy Industries, to the protective services and the defence force, on a quarterly basis for enforcement action.

The Minister of Energy and Energy Industries also proposes to amend the law to allow for the permanent seizure of equipment associated with illegal quarrying.

1.45 p.m.

The Government is also cognizant of the fact that the demand for construction aggregate continues to escalate to unprecedented proportions and has implemented a policy of releasing state lands for quarrying purposes on an ongoing basis to satisfy market demand and deter illegal quarrying activities. The programme of providing land for legal quarrying is done through a series of steps which include:

- Resource evaluation exercise whereby a geological survey is done to identify and quantify the deposits of quarry materials on state lands.

- Preparation of the invitation of bid packages in which the survey data is subdivided into bid packages and applications are invited for a quarry licence through the competitive bidding process.
- Evaluation of bids and award of blocks to the successful bidders who have attained the highest points in the invitation to bid exercise.
- State lands are also awarded for quarrying purposes outside of the competitive bidding process in the national interest.

The programme for the reclamation of lands illegally quarried and the rehabilitation of these lands entail the optimal recovery of the deposits of quarry materials and restoration of the sites by bona fide quarry operators, which is administered through a series of steps as follows:

- Identification of areas impacted by illegal quarrying.
- Geological resource evaluation of quarry materials on sites affected by illegal quarrying.
- Preparation of bid packages and the award of the said lands through the competitive bidding process or in the national interest.

To date, no area that had been illegally quarried has been reclaimed. However, the critical areas that were most impacted by illegal quarrying activities were surveyed and will be allocated for quarrying through the competitive bidding process in the near future which includes:

- The Plantation Road, blocks 1 and 2, in Valencia, comprising 199 acres.
- The Matura West Forest Reserve, blocks 1 and 2, in Valencia, comprising 264 acres.

With respect to the issues of environmental protection and the reclamation of these quarry sites, the Government will grant conditional licences to the awardees of state lands through the competitive bidding process, which include the posting of performance and rehabilitation bonds, and the submission of a mine design plan, environmental management plan, rehabilitation plan and a survey plan for the quarry site to the Ministry of Energy and Energy Industries.

The performance bond is used as security for best practice during quarrying operations in accordance with the approved mine design plan, whereas the rehabilitation bond will be forfeited to offset the expenses to undertake the restoration works by the State should the licensee fail to restore the site in accordance with the approved rehabilitation plan and environmental management plan respectively.

The policy of granting licences to bona fide quarry operators for areas affected by illegal quarrying activities is intended to satisfy the growing demand for construction aggregate and repair the damage caused to the environment. In this regard, the Government has recently allocated a 20-acre parcel of state lands on Oropouche Road, Valencia, to a bona fide quarry operator to deter the rampant levels of illegal quarrying activities in that area.

As at July 2008, there were 20 sites comprising 270 acres that were affected by illegal quarrying activities. Also, as at July 2008, the lands approved by the Government for authorized quarrying activities were estimated at 7,170 acres, for which 69 quarry licences were issued.

Additionally, the Government has authorized the award of five sand and gravel quarry blocks within the Tapania Phase 5, Valencia area, comprising approximately 170 acres for quarrying purposes.

Sen. Sharma: Mr. Vice-President, through you, with respect to authorized as well as unauthorized companies that have engaged in quarrying: Is there any plan to make it a requirement that they give financial assistance to the reclamation of the land and be involved in some way to reclaim land they have quarried?

Sen. The Hon. C. Enill: As it relates to those who are under licence that would be covered by the rehabilitation bond, because they need to restore the environment to a predetermined state which the ministry will define.

With regard to others, they are caught up in the activity where you actually allocate those areas to bona fides. So, it is really one that you are dealing with which are those that are under licence, and the process allows you to forfeit a bond should they not bring it back to the pre-environment stage that we would have approved.

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

46. Sen. Dr. Adesh Nanan on behalf of 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 Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, the answer to that question will be ready in two weeks.

Question, by leave, deferred.

**UDeCott
(Transaction of Loan)**

107. Sen. Dr. Adesh Nanan on behalf of Sen. Wade Mark asked the hon. Minister of Planning, Housing and the Environment:

With respect to the loan secured by UDeCott on the US market for the Port of Spain Waterfront project, could the Minister state:

- (i) who were the agent(s) of the loan for both the borrower and lender(s); and
- (ii) what was the commission and/or fees paid on the transaction to these agents?

The Minister of Planning, Housing and the Environment (Sen. The Hon. Dr. Emily Dick-Forde): Mr. Vice-President, the answer to this question is not yet ready. We had a draft answer and there were errors, so I cannot even say when it is going to be ready, because it had to be resubmitted for further research. I cannot say that it is going to be ready in two or three weeks.

Question, by leave, deferred.

PRISON SERVICE (AMDT.) BILL

Order for second reading read.

The Minister of State in the Ministry of National Security (Hon. Donna Cox): Mr. Vice-President, I beg to move,

That a Bill to amend the Prison Service Act, Chap. 13:02, be now read a second time.

Mr. Vice-President this Government, through the office of the Chief Personnel Officer, signed a Memorandum of Agreement with the Prison Officers Association of Trinidad and Tobago Second Division for the period January 01, 2005—December 31, 2007. In order to give effect to the terms of the agreement for revised pension benefits, amendments are to be made to the Fifth Schedule of the Prison Service Act, Chap. 13:02, known as the Prison Service (Pension and Gratuity) Rules.

Under the current Prison Service (Pension and Gratuity) Rules, prison officers who hold an acting position in the prison service for at least three continuous years and who are due to retire would have their pension, gratuity or other allowances calculated in accordance with their substantive post, and not the post that they were acting in at the time of their retirement. Officers are, therefore, in the unfortunate position of not being eligible to receive the benefits of a higher pension, gratuity or other allowances unless they have been confirmed in that higher post.

The situation is that both parties involved in the negotiation process believe that it would have been unfair for a Second Division officer to be acting in a position for three years continuously and having reached the age of compulsory retirement, leave office without receiving the financial reward of having acted in a higher post for such a long period of time. Under this clause, an officer who has held short-term appointments at different periods cannot cite this amendment to claim the benefits.

Clause 2 of the Bill that is currently before this honourable Senate, seeks to address this issue by allowing for the officer to receive the benefits of this higher position as if he were substantively appointed to the position. There is a proviso, however, where the officer will have to act in the position for three continuous years before being entitled to receive that benefit. In other words, under this clause, an officer who has held short-term appointments at different periods cannot cite this amendment to claim the benefits. As such, clause 2(a) reads as follows:

“(d) where an officer—

- (i) prior to the date of his compulsory retirement; or
- (ii) prior to the date on which he proceeds on annual leave before the date of his compulsory retirement,

has acted in the higher office for a continuous period of at least three years, that officer shall be eligible to have his pension, gratuity or other allowance calculated as if he were substantively appointed to that higher office;”

Mr. Vice-President, clause 2(b) of the Bill states:

“(1A) Where an officer satisfies the requirements in rule 4(1)(d), he shall be required to pay in addition to the contribution payable under rule 3(1), arrears of contribution calculated on the basis of the salary which he would have received in that higher office had he been substantively appointed.

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- (1B) The arrears of contribution payable by an officer under subrule (1A) shall be—
- (a) determined on the basis of the salary which the officer would have received in that higher office for each year in respect of which he acted continuously; and
 - (b) deducted as a lump sum from the gratuity payable to the officer where practicable or from the officer's pension in equal monthly installments over a period to be determined by the Comptroller of Accounts.
- (1C) Subrules (1)(d), (1A) and (1B) are deemed to have come into effect from January 01, 2007.”

Mr. Vice-President, for clarification purposes, it should be noted that rule 3(1) states:

“As a contribution towards the superannuation allowances payable to an officer in accordance with these Rules, there shall be deducted from the pay of every officer, a sum at a rate of one and a quarter per cent per annum of such pay, and all sums so deducted shall be paid to the Comptroller of Accounts on or before the eighth day of the month immediately following the month in which the deduction is made.”

The proposed new rule would, therefore, require that the arrears of contribution for the superannuation fund be paid in addition to rule 3(1).

Mr. Vice-President, permit me to move on to clause 2(c) of the Bill which states:

“Where an officer in the Second Division has passed a qualifying examination for promotion in the Prison Service and is not promoted within three years of passing the qualifying examination, such officer shall be paid a Qualifying Examination Allowance from the third anniversary of the date of the qualifying examination.”

The aim of 4A.(1) is to allow for the payment of a Qualifying Examination Allowance to an officer where he has successfully passed the promotion examination and has not been promoted within three years of passing same. It further stipulates the eligibility requirements for payment of such an allowance in that the officer must, however, wait until three years have passed since he took the examination before he can become eligible for the payment of such an allowance.

Mr. Vice-President, I now continue with Rule 4A.(2) which reads:

“A Qualifying Examination Allowance under subrule (1) shall be equal to the value of the first increment payable in the officer’s salary grade.”

Essentially, what this clause means is that should an officer qualify for an examination allowance, he would be entitled to a sum that would be equal to the first increment in the officer’s salary grade. Therefore, the rule is clear that the quantum that an officer would be entitled to if he satisfies the criteria stated in 4A.(1)—for instance, if a Prison Officer I starts off earning a salary of \$4,699, and his next increment increases his salary to \$4,847, that means the officer would have received an increase of \$148 as his first increment. Therefore, if that same officer fits the criteria to be granted the qualifying allowance under clause 4A.(1), five years after he joined the service, his Qualifying Examination Allowance would be \$148.

2.00 p.m.

So, that would be \$148 added to what the officer would be receiving after serving five years in the prison service. Mr. Vice-President, and hon. Senators, that is what both the Prison Officers Association, Second Division and the Chief Personnel Officer agreed to.

I move on to rule 4A(3), which reads:

"An officer shall not be paid more than one Qualifying Examination Allowance at any time."

The whole purpose of this rule is to restrict the officer from receiving more than one allowance in circumstances where he may have passed exams for successive positions. This rule has been inserted for the sake of clarity and certainty when dealing with such instances. For instance, currently within the prison service, a Prison Officer I can sit and pass the promotion exam for Prison Officer II, and still be allowed to sit the promotion examinations for the higher post of Prison Welfare Officer I, without even being promoted to the position of Prison Officer II.

The rule will ensure that the Prison Officer I receives the allowance applicable to the first examination he would have successfully completed. Rule 4A(4) states:

"Payment of a Qualifying Examination Allowance to an officer in the Second Division shall cease from the date the officer is promoted."

Mr. Vice-President and hon. Senators, this clause is self-explanatory. The whole purpose of this rule is to limit the officer to receive one allowance even though he has passed exams for a successive position.

I continue with rule 4A(5), which reads:

"Where an officer in the Second Division is in receipt of a Qualifying Examination Allowance on the date of his retirement and has been receiving the Qualifying Examination Allowance for a continuous period of not less than three years, the Qualifying Examination Allowance shall become part of his salary for the purpose of computing his pension, gratuity or other allowance."

Again, this rule provides an element of fairness to a prison officer who retires without having enjoyed the rewards of a promotion. The rule therefore enables him to receive higher pension benefits and allowances by the inclusion of the Qualifying Examination Allowance into his salary for the purpose of calculating same.

Rule 4A(6) of the Bill states:

"This rule is deemed to have come into effect from October 1, 2006."

This rule is included to allow for retroactive payment benefits for the period stated.

Finally, Rule 4A(7) reads:

"Notwithstanding subrule (6), where an officer in the Second Division has passed a qualifying examination for promotion in the Second Division—

- (a) three years or more prior to October 1, 2006, and had not been promoted, that officer shall also qualify for the payment of a Qualifying Examination Allowance with effect from October 1, 2006; or
- (b) for any period less than three years, prior to October 1, 2006, that period shall be counted as part of the three-year period required to qualify for the payment of a Qualification Examination Allowance."

This provision would accommodate those officers who sat the qualifying exam prior to October 01, 2006, and had not yet been promoted, so that they too may be adequately compensated for passing the exams.

Mr. Vice-President, the advantage of having this provision is so that officers who have passed their qualifying exam would be included in the category of those officers who would have met the three-year limitation period to qualify for the allowance. Again, this was done in the spirit of equity and fairness, so that a larger group of officers would be able to enjoy this allowance. We believe it will also assist in the retention of officers in the service, especially those who have not yet been promoted.

Mr. Vice-President and hon. Senators, I would like to remind this honourable Senate, that this Bill evolved after some seven months of negotiation and in-depth discussions between the Prison Officers Association of Trinidad and Tobago, Second Division and the Chief Personnel Officer representing the Government, to arrive at an agreement that was favourable both to the Government and the prison officers.

Therefore, Mr. Vice-President, these amendments to the Fifth Schedule of the Prison Service Act, Chap. 13:02 are necessary in order to bring the agreed terms to realization.

I beg to move.

Question proposed.

Sen. Dr. Adesh Nanan: Thank you, Mr. Vice-President. As I enter this debate on a Bill to amend the Prison Service Act, Chap. 13:02, there is a dark ominous cloud over our beloved country of Trinidad and Tobago. Trinidad and Tobago ranked 9th in a global index of the most homicidal countries. Murders number over 450 for the year, and in the United Nations index of the best nations in which to live, Trinidad has fallen 16 points from 2000. In the Global Transparency International Corruption Index, we have fallen 48 places from 2001. Travel advisories are against us, because of the crime situation.

Under this PNM administration, there are reports of a hit list for prison officers. We are seeing weaknesses in the system. The same prison officers who we are here today to talk about pension changes, the weakness in the system allows—and there are reports in terms of the possibility of using cellular phones from the prison, and I will go into that in greater detail later—serious crimes escalating out of control.

We had a situation recently where CEPEP and URP workers were transported to Woodford Square in spanking new buses to support the Prime Minister, and I ask, who insured the spanking new buses. I have been informed that these spanking new buses have been insured by Trinre. If we extrapolate, we would see that the entire fleet of PTSC, the insurers are Trinre.

Sen. George: On a point of order, 35(1), irrelevance and he is not speaking on the Bill at all.

Mr. Vice-President: It is the norm that we give the Senator a little time to get in and warm up to the Bill before us, but I will just ask him to use his discretion and try to speak on the Bill as much as he could.

Sen. Dr. A. Nanan: Thank you, Mr. Vice-President. I do not know why the PNM Government is jittery this afternoon.

Sen. Browne: Would the Member give way? On a point of clarification?

Sen. Dr. A. Nanan: I am coming to the end of my point then you could raise your point. I do not know why they are jittery this afternoon. [*Interruption*] I will not make any accusations, unless I have evidence, you know that.

Sen. Browne: Could I answer you then?

Sen. Dr. A. Nanan: No, I will give way just now. I made reference to that particular issue, because I was also informed that all the vehicles of the Ministry of Agriculture, Land and Marine Resources are insured with Trinre. I want to lay on the table to support that particular statement—

Sen. Browne: On a point of clarification, once again.

Sen. Dr. A. Nanan:—a certificate of insurance; the bus number is HCK 3007; the insurers are Trinre. I will even go further to say that the certificate is PZ601-36048; I will lay that on the table for that particular matter.

The presenter of this particular Bill this afternoon gave us an indication in terms of the clauses, but we have not gotten any information in terms of the situation in our prisons. I think it was an opportunity for the Minister, in presenting the Bill, to give us an idea of what is happening or how is there going to be reform in our prison service.

It is from this point of view I would like to go into the debate, because it is important when we are dealing with the prison service. In my opening contribution, I spoke about reports of a hit list with respect to prison officers. It has been reported that from 2006, the Prison Officers Association has made continuous complaints about the availability of cellphones to prisoners, and we continue to hear that. In fact, there was a particular issue where prisoners were calling live television and live radio programmes. It is also reported that prisoners are utilizing cellphones to orchestrate crimes within our prison system, executions, kidnappings.

So, we have heard nothing with respect to the situation in our prisons, and we only have to operate on the little information that comes out from time to time. It is a sacred cow when it comes to the PNM government and the state of our nation's prison. It is very important as we deal with this particular Bill that we look at the crime situation, and how the Government has been, because it is relevant in terms of the control of crime; we are dealing with prisons, and in fact, there is a reported shortage of prison officers. The Minister in her winding up will correct me if I am wrong.

This particular shortage of prison officers is having a major impact of the fear to prison officers and even prisoners. You know it takes me back to the UNC-A Manifesto of 2007, and the 100-day plan of the UNC-A, because the first thing in that 100-day plan, if I remember, is to put more police on the streets. That did not come from a particular situation with just calling numbers, it came from a police report in terms of more police required. I do not know if the Ministry of National Security has addressed that issue of putting more police, or with respect to the particular report.

In terms of prison officers, the numbers must increase because you cannot have a small number of prison officers operating in a particular environment, and you have so much more inmates, and a situation where you could have conflict taking place. Also, there was a call for psychology training for prison officers, because of the situation, where there was a breakout in the prison. It was very difficult for the prison officers to manage the situation.

So, there are various factors when we are dealing with prison reform. In the olden days, all we really had to consider were bolts, doors and keys. That was the olden approach to prison reform, but in today's society, we have to look at the situation with these prisoners coming back into the society in terms of rehabilitation of prisoners. I do not know how the Government is moving ahead in their approach in our prison service.

2.15 p.m.

We have had several reports in terms of Amnesty International and the state of our nation's prisons and they are all against the Government in terms of what is happening. We have to look at another situation with respect to—and I want to deal with another area which is the area of combating corruption in government agencies. I am sure that Members would recall our recommendation to set up an independent central vigilance commission and the role of this particular commission would be to advise and guide agencies and it is mainly in the field of vigilance to combat against corruption.

There was also a plan—and I do not know if the Government is pursuing that plan—to integrate the Special Reserve Police into the Trinidad and Tobago Police Service. You cannot have our police service operating with outdated technology and part of the crime plan was to introduce modern technology into the operations of both the police and the prison service and a major plan actually of the crime plan was retraining for police and prison service officers so that they could carry out their motto which is “To Protect and Serve with Pride”.

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Now we have seen a call for gang leaders to turn to God—

Hon. Member: Irrelevance.

Sen. Dr. A. Nanan: And it is relevant because we are dealing with officers who are eligible for pension, these same officers may be on a hit list, these same officers may be caught up in gang warfare—because these gangs may be putting out the hit list on these particular prison service officers. But the issue I want to deal with is the plan of the UNC-A because the Government may use it. It is a good recommendation and I put it out there which is—

Hon. Member: The plan to unite.

Sen. Dr. A. Nanan: It is a unity process actually and it is supposed to be utilized in high risk communities—a combination of the non-governmental organizations, the Community Policing Unit. I remember I asked a question in this Chamber, if there is a community policing division functioning and the Minister replied that yes there is a unit within the Ministry of National Security. That particular Community Policing Unit would play an integral part in terms of—so it is a unity process here with respect to the non-governmental organizations, the Community Policing Units and another part here is the influential members of the community, and of course trained social workers. All those playing a part in terms of reducing gang warfare.

You can see, Mr. Vice-President, if you can control this particular area then there will be a suppression in terms of crime. We will have less prisoners to deal with and then you would not have that situation where the numbers are far short in terms of the number of prison officers to prisoners. So you can deal with it from different perspectives, if you are dealing with young offenders. We have a problem now, in terms of dealing with young offenders—the plan also took into consideration legislation to have a young offender's court. So we put that again to the Government as a recommendation going out there to have a young offender's court.

Mr. Vice-President, as I am on this topic I want to remind the Minister of Planning, Housing and the Environment, because it is a crime to go and bulldoze people's crops. [*Interruption*] The relevance here is it is a crime to do that. Before I go further, I want to put forward something to the Minister because the Minister may not be aware and that is the State Land (Regularisation of Tenure) Act, No. 25 of 1998. The reason I put that forward is because we are not sure if prison service officers are at the mercy of these bulldozers—[*Laughter*]—the same ones who may be up for pension.

We are not sure. We are not sure because the Government does not—

Hon. Member: You think is a guitar you are playing? *[Laughter]*

Sen. Dr. A. Nanan: As I am on that point I want to make a plug for these prison service officers in terms of a proper compensation package—

Hon. Member: *[Inaudible]*

Sen. Dr. A. Nanan: I will come to that—and we also have to look at housing too probably. *[Interruption]* That is why I brought the Minister of Planning, Housing and the Environment in the debate because this dastardly act of bulldozing people's houses—there was a plan and I want to put a recommendation forward to the Government in terms of—going back to that, and it is the State Land (Regularization of Tenure) Act, No. 25 of 1998.

Hon. Member: *[Inaudible]*

Sen. Dr. A. Nanan: I know, Mr. Vice-President. As I am on that particular issue it leads me to another area—*[Interruption]* We are dealing with pensions and as we deal with pensions we are dealing with salaried officers and we have to consider the inflation rate of over 15 per cent *[Laughter]* and before I speak it might be 16 per cent.

Sen. Browne: That is touching on relevance.

Sen. Dr. A. Nanan: The reason I talk about the inflation rate is, while we are trying to give them an increase what will happen when they face the supermarkets and food prices are out of control? What will happen there? *[Interruption]*

Trinidad and Tobago is the wealthiest country in the region. We are the wealthiest country in the region but if you look at our infrastructure, homes in this country, not all homes have electricity, pipe-borne water, shortage of pipe-borne water, gridlock in terms of traffic jams and we are the wealthiest country. When we talk about inflation rate, I want to make a recommendation that you go back—Minister in the Ministry of Finance—to the technocrats and see if he can reverse this process because it was a projected figure of 5 per cent in terms of the inflation rate. *[Interruption]* I am dealing with the issue of the inflation rate and how it will impact on these particular officers

Hon. Member: What about the US rate? *[Laughter]*

Sen. Dr. A. Nanan: So if you can go back and reverse the trend it will help the citizens of our country. If the inflation rate starts to decrease—because every morning when we get up it is like we are counting how many people get killed

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every day. We are looking at the percentage increase in the inflation rate. I do not want to say this in terms of the Minister in the Ministry of Finance, but we have lost confidence in the Minister in the Ministry of Finance—

Sen. Browne: “Oh gosh.”

Sen. Dr. A. Nanan:—as we have lost confidence in the Minister of National Security, because we have seen the polls in terms of the reports of the one-year performance of the PNM. Now we did not need the *Guardian* to remind us of the situation in our own country. As the Minister made reference to three people, I cannot help but make reference to the meetings held on the post budget quickly in terms of the meetings organized throughout the country by the various Ministers and the attendance. It was reported that one person showed up in Point Fortin and that person reached late.

Sen. Browne: Five.

Sen. Dr. A. Nanan: No, I was told one. [*Interruption*] That is the situation; you must face reality in terms of your budgetary expectation. People are not happy. They are not happy! Utilize this time now to strategize and do not defend the indefensible. Minister in the Ministry of Finance—

Sen. Browne: Yes, Sir.

Sen. Dr. A. Nanan:—your technocrats must give you strategies now to come to the population and say, look, we have made a mistake.

Sen. Browne: I “ain’t” make no mistake.

Sen. Dr. A. Nanan: We have made a mistake by budgeting at US \$70 for a barrel of oil. But they are in a denial phase, everything is drying up. There is an economic meltdown. We have to face reality. [*Interruption*] Travel advisories are against Trinidad and Tobago, so you cannot look for anything in terms of tourism.

I want to remind Senators, I could speak from 1995 to 2000 even 2001 in terms of what has been done for the prison service, but when I look in terms of what the Government is doing in terms of prison reform, I can find very little. Even on your website you could hardly find anything with respect to prison reform. When I look at this particular prison service amendment—yes, you are bringing this legislation and I want you to know that we support the legislation [*Interruption*] but you have to go further. You have to go further! This piecemeal approach would not do. Do you know what this has done?

As I was writing my notes I put “low morale in the police service”. I also want to put “low morale in the prison service”. [*Interruption*] What is happening is because of the approach and the incompetence—I do not know of the selection process or in terms of the promotion aspect if it is biased. I would not say so, I do not know. But when we look at the resource in terms of the recourse we see that many of the officers have had to go to court to get a decision for promotion. That should not be.

I continue to speak about succession planning and they laughed on the other side about succession planning, but it is important. If you have prison officers who are coming into a service and they recognize that there would be no promotion, how can you have competent people coming into the service? So there is a lack of that particular initiative. We want to urge the Government in terms of the promotion aspect to get their house in order. This is only one aspect with respect to bringing the particular prison officers in terms of their pensions, but what about the promotion aspect? We want to hear more in terms of succession.

The Government has a history, in fact, under the present Prime Minister there is a history when I look back—I do not want to go there—but I saw in terms of the Prime Minister’s approach to dealing with crime from the '91 to '95 period and when I looked at that I saw a kind of reflection into this particular period and I compared. The Prime Minister could not handle the increase in crime from '91 to '95 because the records would show that the Prime Minister demoted the Minister of National Security then put himself as Prime Minister then put back the failed Minister of National Security and then fired him and put him in the Ministry of Social Development. That is the kind of flip-flopping by the Prime Minister, so we have no confidence in the Prime Minister in terms of handling the crime situation in this particular time. [*Interruption*]

I am hearing murmurings about Mr. Basdeo Panday and his approach to solving the crime problem. I have the statistics here if you want me to go back there, I will quote the statistics—[*Interruption*—]—but I would not go there, the statistics will show with respect to the UNC administration—

Mr. Vice-President, the 100-day-plan also included an upgrade of all police stations. That was part of the plan. We hear from time to time in this Chamber about all different excuses why police stations cannot be built in this country. We have situations where police stations are closed in this country. In some parts of the country you cannot even get any police attention. Do you know what is shocking and it is important about the prison service officers and the police? I do

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not want to blame the police officers but I do not know in terms of when I made the statement about the technology aspect in today's society and the police, if they are being provided with the most modern technology.

2.30 p.m.

I had a situation where I had to ask for assistance and the police officers had to walk to the station to find out if there was a vehicle.

Sen. Dr. Saith: Jack Warner— [*Inaudible*]

Sen. Dr. A. Nanan: That happened to me, I am not making up the— [*Inaudible*]

Sen. Dr. Saith: [*Inaudible*]

Sen. Dr. A. Nanan: It happened, Mr. Vice-President. Do you know what, Mr. Vice-President, to add insult to injury, the Ministry of Health—in terms of the ambulance situation in this country, if you are waiting for an ambulance you will die. An ambulance was requested—and these same prison officers in various parts of the country may require an ambulance at some point in time because, as I said, they are on a hit list and if they are injured they may need an ambulance. Look at the situation with respect to the ambulance service. An ambulance is requested, the information is taken, the patient has been transported to the facility already, dealt with and sent home and when you call to cancel the ambulance, they have not even left yet. How can we survive? How can we survive in this country? No wonder the Minister of Health has to apologize almost every day with respect to the performance in the health sector. This is important because prison officers who are getting this gratuity may end up in hospitals in Trinidad and Tobago.

There is a report that the percentage of hospital beds per population is the lowest in the region—33 beds for 10,000 persons. In Barbados, it is 73; in St. Kitts, 55; in Grenada 48; in St. Vincent, 45. I make reference to this because in the particular plan we were going to increase the number of beds by 2000. So prison officers who may be injured in the line of duty—and make no mistake about it, in terms of the role of a prison service officer, it is a life and death situation and if they end up in a situation where they need a bed and we only have so many, they would be subject to the same treatment as the citizens who have to suffer in this country. That is the reason I made reference to that, whether you are giving them—[*Interruption*]

Sen. Dr. Saith: [*Inaudible*]

Sen. Dr. A. Nanan: And I will go to that as you asked me to go there because it is important. [*Laughter*] It was the pillar under the Basdeo Panday administration, the former Prime Minister, that the revolution in education was to reduce crime. It was there; it is in the UNC-A manifesto also and when I saw that report in today's newspaper on that situation at that school in Princes Town, it is shocking what we have reached to.

We hear all these grandiose plans in the budget and when we read the documents about handling the indiscipline and violence in our schools and all these various projects that are in place under the Ministry of Education, we still have a situation where teachers are terrorized in a school, locked in the administration building and the students are running rampant around them. Then what will happen? The principal will try and cover up the whole issue because the Ministry probably made a phone call and said, "Do not expose the situation, it will look bad." But we need to have that information because these same prison officers may have children who are going to those same schools. And the same prison service officers, with this increase in gratuity dwindling with respect to the situation in our country, are not able to afford to buy food in this country.

These same prison service officers would not even be able to send their children to school. In fact, they would be afraid to send their children to school because of the situation of indiscipline and violence in our nation's schools, tolerated under the PNM administration. Totally unsatisfactory! You should be called to book for that because we hear from time to time that there are so many guidance counsellors—and we gave school supervisors an increase under a similar provision. We gave them that particular pension increase. The Teachers' Pensions (Amdt.) Bill also came here, but we are going nowhere in this country.

I looked at a report from the Ministry of Trade and Industry and I was shocked in terms of foreign investments in this country. It is unsatisfactory! Totally unsatisfactory! There are several reports coming in—these prison service officers may be in Point Fortin, La Brea, Cedros, Tabaquite, they are spread all over the country and when we have a situation, I am sure many prison service officers have to use public transport and have to face the same gridlocks on the roads. But these prison service officers are at the mercy of the PNM administration.

They would negotiate yes, but you know, they have been negotiating in bad faith. There was a report and I want to deal with that because that is another issue that is of importance, we are dealing with unions. There was a report that when the matter with BWIA came up, that the Government knew way in advance that they were going to close down BWIA.

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The reason I bring that up is because of the union situation. They know they were going to close down BWIA way in advance but then they came and said it is the board that took the decision to close down BWIA, knowing well in advance that they were going to close down the airline and the unions were not told when that decision was even thought of by the Government. It is only later down the road the unions were told. That is the surreptitious approach by the Government, hiding everything. I am sure if there was a tripartite agreement, Sen. Dr. Saith, we would have had BWIA today, but I will leave that for another day.

Sen. Browne: Thank you.

Sen. Dr. A. Nanan: And by the way, prison service officers also use our aircraft to fly. [*Laughter*] So I am dealing with that situation with respect to that particular matter of prison service officers and their mode of transport and of course, with respect to the increase in serious crimes.

Mr. Vice-President, I just want to bring into the debate, it is important, the murder of Prison Officer Joseph because I do not want to leave that out. I know many of my colleagues will speak after me and would give more information on that issue, but let us never forget that particular situation with that prison officer.

I want to deal with the filling of vacancies in the prison service and to remind hon. Members that under Sen. Brigadier Joseph Theodore, who was the Minister of National Security at the time, the hon. Basdeo Panday was Prime Minister and we had the maximum security prison. I have to ask the question—the Minister of National Security, I am sure, will give us an answer. Is the Maximum Security Prison functioning 100 per cent?

There were some problems initially with the doors opening and closing in various parts and there was supposed to be an extension to build some dormitories. Have those buildings been constructed as administration offices for prison service staff? Have you provided any incentive to the prison service officers? You must have some kind of good environment to encourage an increase in morale, especially in a dangerous environment where these officers are working.

I see prison service officers very often and I have reports coming to me in terms of the various blocks in the prison where they are afraid to go. They are afraid for their lives in this other block with people throwing knives over the prison walls, contraband goods in the prison and you could get anything you want in our prisons. Those are the reports that are coming and you have a Commissioner of Prison who comes and says that every time he comes—I have

real respect for the Commissioner of Prison; I find that he is a sound gentleman, but I think in terms of smokescreens and mirrors, the Government is affecting the mind of the Commissioner of Prison. He is a sound individual, but he does not have the resources, there are bureaucratic hurdles to overcome and that is why our prisons are in this state.

I made reference to the conflict with prisoners and they went as far as to negotiate with prisoners. Where in the world have we seen anybody negotiating with prisoners? That is the approach by the Government. As I am on that issue, I want the Minister in the Ministry of Finance to listen—*[Interruption]*

Sen. Browne: Yes, Sir.

Sen. Dr. A. Nanan:—because it is important when we are dealing with this particular Pension Bill that we go back to Caroni.

Sen. Browne: Caroni, Caroni.

Sen. Dr. A. Nanan: The UNC-A was going to give \$1,000 pension to the Caroni workers.

Sen. Browne: What happened?

Sen. Dr. A. Nanan: The PNM administration came in. I want to beg the Minister in the Ministry of Finance, in terms of recommendations and strategies, it has been said from time to time, but I want you to pay some attention because as the inflation rate rises, these people become more and more vulnerable and that particular ceiling that has been placed on these Caroni pensioners must be elevated to give them a fair chance. If you want to consider linking it to the inflation rate, you could do so. As the inflation rate comes down, you want to cut back that particular facility, you could do so, but you need to give them what you call “bridging finance” in this particular situation. You should consider giving them that facility because they are suffering. They are suffering because of the inflation rate and the Minister of Agriculture, Land and Marine Resources is not helping by blaming farmers, totally oblivious of the fact that people are suffering and farmers are the ones that you should turn to in time of need, like now. Farming is important because some of these same prison officers with their pension and gratuity will go into farming and backyard farming. But the reason I went there is for those Caroni pensioners because across the board there is no longer going to be a middle class. It is being suppressed by the PNM administration and they would be falling into the lower bracket, if the PNM administration continues with their Vision 2020. You have to reconsider. The population is begging; they are at your doorstep day after day.

I have to go back a little in terms of—and I feel so sorry for that particular individual, that baby that died. We had so much money in this country to save a life and we could not do it. We have an opportunity to do it there. I made reference to that particular issue because a prison service officer may have a situation like that. A prison service officer's child might be in a position like that, so the Government needs to review that policy if there is such a policy. I do not think there is a policy. I do not think the Minister of Health is aware of the policies in the Ministry.

The Minister of Health, as somebody said, could have taken a Note to Cabinet and got that money allocated. They are talking about deep pockets and we also told them very clearly of the cost overruns. So much more could have been saved in this country if we had gotten rid of that particular issue of cost overruns, but they continue to have that bugbear of cost overruns. So I make that particular plea to the Minister of Health to go again and look in that Ministry and work at those policies, because there may be a prison service officer's child who may be involved.

I spoke about the passing of examinations. It is a sad day when prison officers would pass examinations with the hope that they would get a promotion and they are stymied. Mr. Vice-President, that sends a signal throughout the rest of the country, whether you are in the prison service or not, and we have seen it already. We have seen it already: leaking of the examination papers in the police service and in the prison service.

2.45 p.m.

How can we expect morale to be high in the prison service? I feel sorry for the prison officers, but there is hope; there is hope. [*Crosstalk*] There is a ray of hope on the horizon; we can see it. This very dangerous situation cannot go on; too many persons' lives are in danger, not only prison service officers, but police officers' lives are in danger too.

Let us examine the Fifth Schedule. The Minister made reference to the various clauses, but in terms of a new rule, 4A is the part about the Second Division officers being paid a qualifying examination allowance:

“4A(1) Where an officer in the Second Division has passed a qualifying examination for promotion in the Prison Service...”

The Minister in her winding up should give a time frame of when officers who have passed qualifying examinations would be promoted. There must be that plan

in that Ministry; you cannot just go on, there must be a cut-off period. That is why in 1998 in that same Act I was speaking about earlier, the Regularization of Tenure Act, they took an aerial photograph of the entire country; that was done so that from 1998 onwards, anybody who was building homes for squatting would have been doing it illegally. We need to have that action plan with respect to the prison service.

It was the UNC government that requested a committee be put together to deal with prison service reform. The recommendations were brought forward to the Government. If I recall, that was in 2002; we are in 2008 and, in fact, we have seen a deterioration with respect to the management of the prison service. Probably you could give us if you have the information of how many of these prison service officers would benefit with the getting of this particular provision.

I want to deal with another area of the prison service and the police service, because the two are related. You would recall the situation with the Police Commissioner. I am sure Minister Dr. Saith is well aware of that particular period and the fight between the Government and the police commissioner, and how they brutalized the police commissioner. They wanted to get him out of office and they wanted to give him a sweetener to become an advisor under the Patrick Manning administration of 1991—1995.

In the situation from 1995—2001, we had that kind of calm in the police service, just tranquility; there was an atmosphere of peacefulness. [*Crosstalk*] [*Laughter*] Once that particular issue, that particular era was gone, we moved from turmoil from 1991—1995, peacefulness and tranquility from 1995—2001, and we ended up in a storm, hurricane conditions from 2002 to the present.

The country is crying out for help, whether in the prison service or the police service, because people are at the mercy of criminals. Our detection rates are so low. [*Interruption*]

Mr. Vice-President: Hon. Senators, the speaking time of the hon. Senator has expired. [*Laughter*]

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. M. F. Rahman*]

Question put and agreed to.

Sen. Enill: Just make it relevant! [*Desk thumping*]

Mr. Vice-President: Senator, you may continue, but let me just say that for the past 45 minutes we have been flying around the entire country. For the last 15 minutes, could you please keep your aircraft over the Prison Service (Amdt.) Bill. For Senators to follow, let us keep the debate as tight as possible and let us stick with the Bill before us. [*Laughter*]

Sen. Dr. A. Nanan: I thank all Senators for extending my time.

This is important, Mr. Vice-President. As I deviated very slightly from the Bill, [*Laughter*] I showed the link between the prison service, the police service, crime and the various satellite areas. [*Laughter*] It is important; we are dealing with prison service officers, we are dealing with pensions and we are dealing with gratuity and allowances, but if we can get this particular situation right with respect to promotions, we would not have the situation of low morale.

My role, as I debate this Bill, is to raise the morale of the prison service officers and, by extension, the police service officers. That was why I made a plea with my contribution. I am not here to score any political points. I am here to support the Bill, as well as to give the Government recommendations to improve in the various areas and to show that when the population gave you the mandate to govern, you would be able to govern. So far, for one year, you have shown very little in terms of governance capability.

Hon. Senator: True; true!

Sen. Dr. A. Nanan: I want to go to rule 4A before I wind up, because it is important. The Minister made reference to it. If you look at this particular provision, you would see that the officers have to contribute. There is a certain amount that is going to be taken from the officer's salary. I object to that; the Minister in the Ministry of Finance should consider bridging finance for these officers, because of the escalation in the inflation rate and the suffering. The Minister of Finance should not at this time go to grab any money. They are actually giving with one hand and want to take back with the other hand. So let that be a little bridging finance for these officers, so they could go home and still be able to face the supermarket.

We are passing this particular piece of legislation to give them that particular allocation and an increase in their salary, but it will become meaningless when they compare. It is going to be Christmas time soon; I think the Government should consider giving them an early Christmas gift and do not take that particular allocation out of their salary, until the Government has shown that they are able to control the inflation rate, so people in this country could once again survive.

I have a few points that I want to quickly deal with and I will wind up; they deal with the weaknesses in the system. Why should we allow weapons, drugs and cellular phones to enter the prison? What mechanisms have been put in place?

Mr. Vice-President, as I deal with that particular issue and the orchestration of executions and kidnapping from within prison cells, I also have in my little notes something about television camera. Are there any television cameras in our prisons or is it a violation of rights? Is that part of the plan? We do not know; the only reason we are asking these questions is because we have not been told. It is upon the Government to come to the Parliament and lay some kind of plan before us with respect to an action plan for prison reform.

As we deal with prison reform, we also have to deal with the Magistrates' Courts and all those various aspects, but that, again, is the subject of another debate. As I talk about the crime plan, the last part I want to talk about is important, because of the Tobago situation. I want to go to that particular area, because I am sure there are prison service officers who live in Tobago.

How can you be a resident of Tobago and have to face the situation where your island is tarnished, because there is not enough policing on the island? There are other reports coming in from the various islands that attract tourists. Do you know what is surprising? The Prime Minister was leading a particular committee dealing with crime in the region and we are suffering the most. Trinidad and Tobago is suffering the most and the Prime Minister is the head of this committee. How can we go forward? Set an example; at least start at home; help us here first so that we could help the region.

But no, we have to face a situation where as soon as a murder is committed or some serious crime in Tobago, we are blacklisted, and it is not the Opposition doing it. The Opposition has nothing to do with the advisories against Trinidad and Tobago. I have heard, from time to time, that the Opposition went to the UK and Canada and concocted these advisories to put out on the Internet, because we were against the Government; that is not true. As a former Minister of Tourism, I was very sad to see that situation and to hear the present Minister of Tourism say that everything was okay. That will not satisfy the international community.

Let me tell you something, Mr. Vice-President, and the Government: It takes a long time to build a tourism industry, but it takes a very short time to destroy it, because we are competing, not only regionally, but we are competing internationally. We are competing with destinations like the Seychelles. I recall a particular situation in Seychelles, where they had branded the entire island. They

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did over everything in the Seychelles to attract tourists. But no, here, "We are going to upgrade Maracas." Everything is piecemeal; there must be a comprehensive plan and part of that plan must include a crime plan, because not only our citizens are subject to crime, our visitors are also subject to crime. So the Government needs to put a crime plan in place for Tobago.

The Minister of National Security is responsible; not the head of the Tobago House of Assembly; it is the Minister of National Security under the schedule responsible for national security matters in Tobago. To see these reports coming about stations in total disarray, Sen. Melville should be appalled at that particular situation in Tobago with respect to the police stations. You should be knocking on the door of the Minister of National Security to help you with the police stations in Tobago.

I close with that particular situation in Tobago; everything was in place there. There was an entire crime plan to deal with the situation in Tobago. There were helicopter patrols on that island once a week or even sometimes daily. A marine patrol was supposed to be placed there, a canine division and police on horse back; everything was in place. When the PNM administration came in, everything fell apart. I am sorry to bring that up in this particular debate, but it really affected me when I saw the advisories against Tobago, because I know the input. Yes we have oil and gas, but our oil and gas prices are going down and the product that we would have to market is tourism.

Mr. Vice-President, I thank you.

3.00 p.m.

Sen. Gail Merhair: Mr. Vice-President, I thank you. I am sorry for the little mistake. I thought that one of my other colleagues was going before me. Thanks, Sen. Rahman for giving way.

I rise in support of the Bill before us to amend the Prison Service Act, Chapter 13:02. I do so in acknowledging the fact that the prison officers engage in a very high risk job and they must be duly compensated for the demanding job that they have to do on a day-to-day basis. I also wish to acknowledge the hard-working officers who put forward honest and decent work for the citizens of Trinidad and Tobago. I also acknowledge that like other sectors the prison officers have their shortcomings. There are some prison officers who have been reputed to be in illegal activities but we must give credit to the officers who perform their duties selflessly and without bias.

On a day-to-day basis, the prison officers are responsible for the supervision, safety, and security of prisoners in our nation's prisons. We acknowledge that they take control of the care and custody of individuals who have been arrested and those who have been convicted to serve time. Their duties include the following:

- maintaining order and discipline;
- enforcing rules, regulations and applicable legislation;
- searching inmates and environs for contraband;
- transporting inmates to court; and
- providing first response in the event of a riot, fire and medical emergency.

The prisoner officers are expected to control their emotions, remain impersonal and engage in activities when dealing with conflict. For example, they should respect not only each other, but also the prisoners and nurture them in terms of their mental state.

Mr. Vice-President, I will deal specifically with the Bill before us. Although I am supporting the legislation before us, I have concerns. I refer to clause 2(c)4A(l) of the Bill which attempts to insert after rule 4, the following rule which states:

"Where an officer in the Second Division has passed a qualifying examination for promotion in the Prison Service and is not promoted within three years of passing the qualifying examination such officer shall be paid a Qualifying Examination Allowance from the third anniversary of the date of the qualifying examination."

It is unreasonable to suggest that—this clause implies that after an officer writes an exam and qualifies for the position, he has to wait three years for compensation; this is odd. In terms of the principle of legitimate expectation, one would believe that once you qualify for a position, you should be compensated straight away.

I thought that the two parties involved in drafting this—I realize from the hon. Minister in the Ministry of National Security that some consultation was done with the union and themselves. In terms of the shortage of staff problems, the conditions under which the prison officers are asked to work, the vast discrepancy in prison officers to prisoner ratio and the lack of adequate facilities, this seems a little odd that you ask them to wait for three years after they qualify to be compensated for the position when they should have been compensated in the first place.

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I make this recommendation in the context of an address made by the former minister in the Ministry of National Security, Mr. Fitzgerald Hinds. In an address to the Sixth Annual Conference of the United States and Caribbean Alliance of Criminal and Social Justice Professionals Commission, the then minister said:

"In the area of National Security, the draft national strategic framework recognizes the critical role that the prison service has to play in our efforts at crime reduction, specifically through a reduction in the rate of re-offending.

The framework therefore sets out the overall goal of ensuring the efficient operations of the corrections administration, with the main objective being to improve our capacity for the rehabilitation and reintegration of offenders. Taken together, this framework and the 2002 Cabinet Appointed Task Force Report on Prison Reform provide the direction or a virtual road map as to the way forward in the area of corrections."

I have part of the Report of the Cabinet Appointed Task Force on Prison Reform and Transformation 2002. Although I know that we are in 2008, I am unsure as to what parts of this report were adopted, if any. I ask the hon. Minister if any part of this report was adopted and what is the status of this report. As I go through the report I see the following:

Youth Centre Training	
Administration building and officers' dormitory	Refurbished
Remand Yard	
Administrative facilities	Upgrade
Carrera Convict Prison	Upgrade
Staff Accommodation	Expansion
Administration Building	Upgrade Expanded
Woman's Prison	Upgrade
Infirmary	Equipped
Tobago Prison	Construction
(new facility medium security)	Equipped
Existing Depot	Closure
Port of Spain Prison	
Officers' Dormitory	Maintenance

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Golden Grove Prison	Refurbished
Officers' Dormitory	Expanded
Administration Building	Reconstruct
Old Training Centre Complex (Site)	Construct Equipped
Establishment of the Department of Corrections	Construct Equipped
Probation Headquarters	Construct Equipped
Parole	Construct Equipped
Juvenile Centres for Male and Female	Construct Equipped
Prison Department	Construct Equipped

If we care about those persons and want to ensure that we do not have a set of repeat offenders on our hands, I believe that this report should be acknowledged. We should know what transpired from this report of 2002 in terms of our way of moving forward.

Given the challenges faced by prison officers, both at work and the current trends of attacks upon their person and family members, the time has come when we should look at firearms for prison officers while on duty. That is a separate issue and debate, but I realize that we should take cognizance of it. It is a debate that should be held in the long run. Prison officers need to feel safe while on duty. We need to prevent corruption while they are on duty and we need them to demonstrate the highest level of service while they are servicing the prisons and the people of Trinidad and Tobago.

Thank you.

Sen. Mohammed Faisal Rahman: Mr. Vice-President, when I looked at the Bill I thought that it was another one of the similar clause pension Bills which we have had to deal with in the last two sittings. I did not think that there was anything fundamentally important which I would have to address. But I took the time to look at the Bill and there are certain things which I find necessary to correct and on which to comment.

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I am extremely grateful that you have seen it fit to exercise a great deal of tolerance today because I have always maintained that when we are here, we always address matters in the context of the national social fabric. Sometimes matters may not appear to be relevant to the issue at hand in a direct sense. We live in a very small society and everything is within a certain context and one thing affects another.

There is a general situation where the cost of living and inflation are causing stress to families, bringing about murders and having people go to jail where the police can convict successfully. In one situation when the person comes into the picture, it starts with what seems to be a simple matter of inflation which emanates in the first place from misgovernance. One has to understand that when you are dealing with a small table cloth, as our country is small, and you pull a little corner, the table cloth would shift at the other end. Things are interconnected. It is like a small company that is a microcosm which has all the features of a huge state. I assure you that I will not fly too far from the prison issue, but I feel a sense of satisfaction that your tolerance level appears to have increased, if I may put it that way.

The first thing I will mention about the proposed Bill—I do not know if my legal reading is correct. I have not been in the habit of looking up law books until I entered the Senate. I have only had to buy the occasional Act here and there when it impacted upon my business.

Clause 2 says that:

“The Prison Service Act is amended in the Fifth Schedule—in rule 4(1) by deleting paragraph (d)...”

I went dutifully to the parent Act to see what paragraph (d) said. If my reading is correct there is no paragraph (d) in this parent Act. It goes up to (c). Instead of saying you are substituting in the following paragraph, we may have to say, “by adding the following paragraph”. I do not see the Minister or the Attorney General. I do not know if anybody heard what I said. When we come to the committee stage I will repeat it. There does not seem to be a paragraph (d) to delete. It should read “adding the following paragraph”. All of it seems to be quite in order. I will not tamper with the provisions that are being proposed, except to say that the actual substitution is an insertion.

This brings me to an interesting comment which I must make in the circumstances. One of the major allegations and charges concerning prior legislation which has been brought into existence by the UNC government earlier

on and which has been suppressed by the current administration is that it has always been maintained that the legislation was sloppy, lacking and needed to be overhauled. In recent times and today, we have had absolute sloppiness in presenting a Bill of which clearly, the framers did not read the parent Act. I preface this by saying that I hope that I am correct in having referred to the correct section of the Act.

3.15 p.m.

The Government has not been able to bring very satisfactory legislation for almost the year I have been in this honourable Senate. We have had a lot of make-good legislation, conformist legislation and legislation of the UNC suppressed, and replacements brought with the excuse of it having been bad legislation.

The last day we had the Trinidad and Tobago National Steel Symphony Orchestra Corporation Bill having to go back to a committee because of glaring mistakes pointed out by Sen. Baptiste-Mc Knight. We have a pattern where the Government likes to criticize existing legislation, suppress legislation, not proclaim it and continuously bring bills that are entirely flawed.

This does not reflect well on the efficiency of the Government which aspires to lead a certain southern Caribbean federation of islands. I do not know how our vaulting ambition can be maintained by the performance the Government presents to the Senate on repeated occasions and in the various areas in which they fall short with regard to the escalating crime and inflation that the country faces.

From the Bill, I have been able to conclude that the pension plan of the prison officers is a contributory one, which brings me to a very interesting question. How does this plan end up being contributory when, from all accounts the other plans that pertain to other areas of the public service are non-contributory and when it is a programme of the Government to move towards contributory pension plans?

I will say this before going further. What the Bill proposes to do is to give a legitimate benefit to retiring prison officers who will be retiring when they have attained the age of retirement, if not actually, but close to becoming senior citizens. The Bill is seeking to give them benefits based upon passing examinations. At the same time, because of the current laws dealing with the Senior Citizens Grant, it will be taking away from them, on the other hand, benefits that should normally accrue to the then senior citizens. You are giving benefits on the one hand and taking it from the Senior Citizens Grant on the other.

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I recommend that if the Government wants to continue with the ceiling it has with regard to the Senior Citizens Grant, it renames the Senior Citizens Grant to “Indigent Citizens Grant” so that only those people that are actually indigent become eligible for it and not have it masquerade as a Senior Citizens Grant circumscribed by rules and regulations which the Government has imposed upon it so that when a retiring officer becomes a senior citizen, he is not entitled to a grant that masquerades as a Senior Citizens Grant. I have been asking repeatedly that the ceiling for this grant be raised from \$2,800 to \$5,000 because the Government has recognized that that is what you have to earn tax free to be able to maintain your household.

We are looking at the Government seeking to bring this Bill which, while giving, takes away from what is really an entitlement. The Senior Citizens Grant, which the retiring officers will lose the benefit of, is an entitlement for a number of reasons. It is being said by the Government that they want to go towards a contributory pension plan because that is the only way one can sustain a pension plan. All pensions in Trinidad and Tobago that are paid to retirees are paid in Trinidad and Tobago dollars. These are not pensions paid in US funds or British pound sterling, foreign exchange which the country has to earn by production and export and by international trade. These are all pensions payable in Trinidad and Tobago dollars and if we understand what that really means, it is fiat money issued by and printed by the Government on their say-so. It comes like food, housing or clothing stamps. The reality is that the Government does not have to earn TT dollars to pay TT dollar pensions.

You are talking about a contributory pension plan because we have to get the funds from somewhere and nobody contributes to where the salary of the working civil servant comes from. In other words, the Government issues fiat money, uses money in TT dollars to pay civil servants out of its own capability for producing in the conventional way that the economic paradigm was designed for creating money.

You do not have to have a contribution into any funds, yet I say further that when it is claimed that the citizen is not contributing even in this bogus way to his pension, the civil servant pays taxes: income tax, VAT, purchase tax where it used to be applicable, stamp duty where it was applicable in Trinidad and Tobago; all the taxes so that every citizen in this country, whoever purchases a single item, contributes to the wealth of the country even in the system employed today.

So it cannot be said that any citizen is not contributing to his own welfare. Every citizen contributes to the wealth of the country and to the national product. It is fallacious to present that you have to follow international instructions to find pension plans where you invest TT dollars to make more TT dollars out of the TT

dollars that the Government decrees come into existence. Again, I stress that we are not talking about foreign exchange that we have to labour, extract, monetize resources, ship away and earn. Foreign exchange is one of those things that you require for foreign trade; it is not required for internal trade. *[Interruption]*

I know we have a different position on economics. I am saying that you have chosen to follow a paradigm that suits the purpose of the people who want to rule and keep the masses in poverty, separate and apart from the elite who organize the systems so that they can stay in power.

I am talking about an economic paradigm that can really be looked at. There are countries in the world that do not charge their citizens income tax, yet provide services for them. Income tax came about when a country had no sovereign currency and in order to be able to pay staff, it had to take money from citizens who owned different forms of wealth. Once a country is a sovereign country and issues its own currency, the entire paradigm changes.

Right now the solitary benefit of paying income tax is to make people feel that they contribute to their country as citizens and that they have a role to play—to give national pride to the individual—otherwise, the entire system can be reviewed in such a way that foreign exchange serve foreign purposes and internal currency serves internal purposes. In this context, pensions do not require contribution and if the prison service is the only set of government employees who contribute, they are being disadvantaged. They are being further disadvantaged because what you are seeking to give them now as a result of the amendments, you are taking away from the Senior Citizens Grant, which every citizens of this country is entitled to by birth.

Mr. Vice-President, the duty of the Government, in the circumstances where it is seeking to provide for its citizens—we are providing for prison officers today who may not live to attain the age of pension. We have a situation where the Government needs to get a grip on governance. It has to stop looking to crime to assist it to keep the nation in subservience to it. It has to look for a way to improve crime detection and prosecution. It has to find a way to reform the nation. It cannot set a reformatory example by bad example.

Mr. Vice-President, I thank you and the Chamber for its good practice of hearing.

Sen. Brian Baig: Mr. Vice-President, thank you. I am extremely honoured to have been afforded the privilege to sit in this honourable Senate and to participate in the decision-making process of my country, Trinidad and Tobago. I do so,

however, in what may be described as record times. The Trinidad and Tobago Cricket team has made us proud. The Soca Warriors are set once more to ascend to the world football stage. Even the West Indies Cricket team has been excelling although they have to give up their name.

Mr. Vice-President, these achievements are grossly overshadowed by other records: record levels of murders, rapes, robberies and assaults; inflation sending increasingly larger numbers of our citizens into poverty; record levels of government expenditure matched by record levels of corruption allegations, sheltered by the absence of accountability; a collapsed health system; record numbers of hours spent in traffic gridlock—I can tell you, Sir, I almost reached here late; crisis in our education system; inequitable distribution of our nation's resources; increased polarization of the economy and the list goes on.

These are the circumstances in which I am here and as a citizen and a youth, I am not happy—we are not happy—with the way this Government has been proceeding. Even the Bill before us represents another example of how little the Government cares for the people of Trinidad and Tobago. Why has it taken so long to bring the Bill to Parliament? Why can a Government Minister sit in this honourable Senate and proudly proclaim that, in 2008, this Government has just completed an agreement with the Second Division, Prison Service Association of Trinidad and Tobago, for the period ending last year.

Prison officers and so many other public servants are working without knowing what their terms and conditions are because the organizations are still negotiating with the Government. Why is it, when it comes to things that benefit the people, the Government can never get its priorities right, but when it comes to the benefit of PNM friends and families, everything is instant?

Mr. Vice-President, this Government brought the Children Bill eight years late. Some parts of the required legislation are still outstanding, but the PM's house was designed, financed and built in record time. The Opposition UNC had to force the Government, via the Privy Council, to implement the Equal Opportunity Bill to offer our citizens protection from discrimination and we all recall the unpleasant history of the related persecution of Marlene Coudray, Devand Maharaj, Feroze Khan and so many others in which the Prime Minister was accused of improper involvement.

3.30 p.m.

The same is true for the occupational safety and health legislation and the laws relating to the compensation of victims of crime. Like the legislation before the House, these laws, beneficial to the citizens of this country, had to be pulled

like teeth from the unwilling Government. This Government has been deliberately slow to respond to the needs and the pleas of the people.

The latest victim is little Marissa Ramlal who lost her life because the Government could not find \$1million. I want you to look at this. I want everyone to look at this picture. Look at this! They could not find \$1 million to do an operation, which is not available in Trinidad and Tobago, but the Prime Minister could find hundreds of millions of taxpayers' dollars overnight to buy a jet. He could spend thousands more to jet his wife and other high profile PNM friends to Jamaica for dinner to hobnob with UWI hierarchy. This Government could spend more than \$47 million to refurbish the Beach Camp facility in Palo Seco for a two-week lime with Ministers and their wives, to be disregarded thereafter.

When it comes to prison officers, police officers, teachers, public servants and the general citizens of this country, this Government does not care. Do you want to know who cares? The Opposition UNC cares about the people. At a time when this country has its highest ever incomes, why should a child die through Government's neglect? This is shameful! The Hon. Minister of Health—he is not here, I guess he knew I was coming—should do the honourable thing and resign.

The Prison Service (Amdt.) Bill, 2008—I have come to the Bill—represents one of several pieces of legislation relating to pensions that this Government has brought to the Parliament over the last three years or so. I am advised that there are a couple pieces more to come, but that is a far cry from what actually needs to be done and they know it. In 2003, the Government created a pension reform working group and declared their intention to undertake a national pension reform programme. What has become of that? Why does the Government continue to deal with pensions in a piecemeal fashion? This is neither effective nor efficient. Does the Government understand the urgency of pension reform?

In January this year, the Central Bank presented the results of its Financial Literacy Survey and the results were disturbing, to say the least. The report revealed that pensions were in crisis. The front page of the *Daily Express* of January 23 screamed: "broken and old". Too many retirees are in financial hell. Almost half of this country's retirees do not have enough money to give them the standards of living they hope to have in their retirement. Pensioners are struggling to make ends meet. Those are the facts. To make matters worse, those figures were for the period ending August 2007. We all know that spiralling inflation would have made them even worse. I predict that it would go over the 15

per cent. That would hold true of the vast majority of pensioners. This is not the way to treat our elderly. One day they would all become elderly pensioners and they would not like what is happening to these people to happen to them. This Government needs to get its act together. Let us look at realistic pension reform with a realistic pension for the people. We all know that the current pension levels are unacceptable. I want to commend my colleague for saying that it should go to \$5,000. I believe it should go to more. We have lots of money in this country.

I want to pay special attention to rule 4(A)(1) of the approved amendment, which provides that:

“Where an officer...has passed a qualifying examination for promotion in the Prison Service and is not promoted within three years of passing the qualifying examination, such officer shall be paid a Qualifying Examination Allowance from the third anniversary of the date of the qualifying examination.”

This is not a solution. This is a patch. We all know what a patch is. I used to ride bicycle. Have you all ridden bicycles before? It is a plaster for a septic sore that permeates many arms of the public service, which has been revealed in the courts on multiple occasions in the very recent past.

I want to refer this honourable Senate to the relatively recent case of *Bissessar v. the Attorney General*. In this case, a prison officer, Mr. Khemraj Bissessar, had been consistently bypassed for promotion despite having all the relevant qualifications and having passed the relevant examinations. Finally, fed-up of being abused by the system and his superiors, Mr. Bissessar sued the Attorney General, claiming discrimination. He also used the Freedom of Information Act of 1999. Who passed that Bill? It was the UNC, led by Mr. Basdeo Panday.

It is now history that the court ruled in his favour, pointing to the fact that promotion in the prison service was based on bias and discrimination. It is ironic that once more taxpayers have to foot the bill for more than \$0.5 million for the misconduct of a few in high office, who were guilty of discriminating against a fellow officer. Those officers have never been made to pay for their offence. What has the Government done to improve that process? Are the same persons making decisions to promote officers? Is the same process being used? Are more officers being discriminated against?

The judgment reads like a horror story, but alas it is one all too often common to other prison officers. The court ruled that the conduct of the prison administration violated the rules of natural justice and the spirit of the

Constitution, in which public officials are protected from arbitrary interference. It went further to state that the court found that the commission's approach smacks of arbitrariness without justification. I ask again: What has this Government done to ensure that such blatant breaches never happen again? I have not heard it. What has been done to ensure that these perpetrators account for their misconduct in public office? I ask this because the Government is seeking to pass legislation, which tells us that they are going to pay an allowance to persons who pass a qualification examination for promotion, but who have not been promoted after three years. This tells me, clearly, I am subject to be corrected though, that there still remains inefficiencies in the promotion process, which can result in someone qualifying for promotion, having met the relevant requirements, but who could still not be promoted. This is an institution, the prison service, which is substantially understaffed.

I am again not surprised that this Government has put in place the selection process for a commissioner of police and when the process selected the new commissioner, they refused to accept him, choosing instead to promote another applicant who had failed the application process. When a Government handpicks a commissioner of police in contradiction to the independent selection process, we know we are in serious trouble. The entire promotion process needs to be properly re-examined. Truly, it is unfortunate that the Government chooses to ignore the findings of the courts and allow discrimination to continue. Instead, this Government continues to throw money behind problems, instead of sitting down and working on a solution. They prefer the public relations approach to public sector management, disguised dictatorship and government interference in the public service, coupled with glossy advertisements and commercials.

As we deal with the prison service, it would be remiss of me not to mention a serious concern which I have and which is related to the issue. As a youth, I am deeply concerned with the growing numbers of young people engaged in criminal activities in Trinidad and Tobago. Youths today are becoming not only victims of crime, but also perpetrators of crime. These youths are sent to the Youth Training Camp for rehabilitation or to the general prison population. It is no secret that conditions in these institutions are not of the standard required.

I quote Madam Justice Carol Gobin when she referred to the conditions of the prison as a hellhole. More than that, it is a fact that the entire administration of justice in this country has failed Trinidad and Tobago. The massive backlog of cases allows for the repeat offenders and for the failure of justice to victims and

the criminals themselves. For those few that are actually incarcerated, imprisonment graduates them to hardened criminals, but there are still those who emerge from imprisonment, seeking to improve their lives and contribute meaningfully to society.

When these youths are returned to society, what happens to them? What has this Government done for these youths? These youths cannot get a job because of their past. I recommend that this Government establish a body to ensure that these youths get meaningful employment and I do not mean CEPEP and URP, which have become the manifested PNM vision for the youths in this country.

I want to congratulate Vision on a Mission for the pioneering work they have been doing in the field. More needs to be done and the Government needs to take the lead in this.

I note with great concern as well, the increasing prevalence of violence against police officers and prison officers which has now become the norm. This must be viewed as an assault on the very institutions of justice. I predict, unfortunately, that judges and magistrates may soon be the next targets. Much needs to be done. Amendments like this one before the Senate today can do nothing for the officers who have been executed. There is no benefit for them to enjoy.

One such officer is Arnim Joseph. I want you to look at this picture, a former prison officer and barber from St. Joseph. I want to ask the hon. Minister of National Security, or I am sorry, he is not here. I guess he knew I was coming too. I ask the "hon. Madam" to carry these questions to him.

Hon. Senator: The hon. Senator!

Sen. B. Baig: Hon. Minister, my humble apologies to you. Has he visited the family of Arnim Joseph since his death? Has he and the Minister of Social Development helped this family in any way, through counselling, financial support or anything at all? I can tell you, my colleague Sen. Dr. Carson Charles, knew about this problem because he is my MP for St. Joseph. The reason I asked this is because I am also his neighbour. I do not think you heard me. Let me say it over. The reason I asked this question is because I am also his neighbour and he was personally known to me.

Too often, officers put their lives on the line and work in understaffed and under-equipped circumstances and are forgotten. Once they have died, their families are abandoned by the various commissions. This is a disincentive to join

the protective service and may account for the fact that every arm of the protective service is significantly understaffed, although this was recognized by the PNM. When they got into office, they did nothing to solve this problem. I can suggest that there be legislation to ensure the welfare of these prison officers are made paramount. I recommend that the Government examine the potential of a private insurance scheme for members of the protective services.

I want to reiterate the call made by many others that the hon. Minister of National Security should resign forthwith or be fired for absolute incompetence. The state of crime in this country has become ridiculous.

Finally, I believe that we are long past the need of talking. There must be enough promises by this Government. What we need is deliberate action. We need pension reform. We need public service reform. We need constitutional reform. We need accountability by the Government and the commissions involved in the protective services. We need performance. We have had enough “ol’ talk”. We all know performance beats “ol’ talk” anytime.

In closing, I would like to thank the man who made this possible for me, the Leader of the Opposition, Mr. Basdeo Panday and for allowing me the opportunity to participate in this debate today for he knows that the youths have a say in this country.

I thank you.

Mr. Vice-President: Hon. Senators, may I take the opportunity to congratulate the energetic maiden speech by Sen. Baig. Congratulations. Anybody else?

3.45 p.m.

The Minister of State in the Ministry of National Security (Hon. Donna Cox): Mr. Vice-President, I would like to thank hon. Senators for their contributions and I would try to address some of the issues raised. With respect to cameras, they have been installed at the Maximum Security Prison, the Women's Prison and, at present, we are completing the installation process in the other prisons.

Sen. Dr. Adesh Nanan mentioned the issue of cellphones in prisons, and systems have been put in place, including scanners, to stem the flow of cellphones in the prisons.

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With respect to the filling of vacancies, 156 persons were recruited in 2006; 282 persons in 2007 and, presently, there is a list of 264 applicants who have been successful in the civil service examination and the final interviews. We are awaiting the order of merit list from the Service Commission Department and further background checks will be done on these applicants. So, we have been addressing this problem. We know that there is a shortage of prison officers and this matter is being addressed.

With respect to the matter that Sen. Rahman spoke about, I believe the Senator was looking at the original Prison Service Rules, Chap. 13:02 of the Fifth Schedule of the Prison Service Act. This has been amended by the Finance Act, No. 30 of 2007 and I have a copy here. There is a clause (d) in it.

There have been some improvements in the prison service concerning the lighting system, tiling of the corridor, replacement of cell doors, painting, electrical systems and toilet facilities, and these improvements have been ongoing. Submissions have been made within the prison service estimates for 2009 to allow for the continuous upgrade of all the prison facilities, including the Remand Prison. Plans are under way for further upgrade of works similar to those described above, and there will be retrofitting of some of the cells with proper toilet facilities and face basin options.

With regard to health care for inmates, the service has spared no expense in ensuring that adequate health care is provided to all inmates, both in terms of expertise and equipment. On a more holistic perspective, the service has started building a team to ensure OSHA compliance throughout all the facilities. As the first port of call, the service has trained certified paramedics to deliver first-line intervention in the form of infirmary officers. These officers do conduct medical parades and this is in addition to a few qualified registered nurses who populate our ranks.

Sen. Merhair spoke about the reform team, and there is a team in place to ensure that all the recommendations are being implemented which include: the administration of the Golden Grove Prison which has been refurbished; the prison service in Tobago that is being upgraded. There will be the handing over of land in Tobago for a new prison. At this time, the women's prison is also serving as a centre for female juveniles.

Sen. Dr. Charles: Is remand included?

Hon. D. Cox: Of course, remand is included. Mr. Vice-President, prison officers are an essential part of the security network necessary for the preservation

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of peace and democracy in Trinidad and Tobago. The fact that this Government has sought to revise the terms and conditions of these officers indicates our recognition and continued commitment and dedication to this profession.

The recent thrust of the prison service from the retributive system to the restorative model of administering justice is both admirable and commendable and, by extension, requires a more dedicated and committed officer.

This Government recognizes this and, as such, has sought to revise the terms and conditions of their employment. We believe this will assist in the retention of officers in the prison service, especially those who have not yet been promoted after having sat the qualifying examination.

Mr. Vice-President, this Bill will also give effect to the terms of the Memorandum of Agreement signed by the Chief Personnel Officer and the Prison Officers Association Second Division, and it will allow for officers to be further compensated, thus bringing greater acknowledgement to the importance of the critical role that prison officers play in caring for and rehabilitating incarcerated persons.

Mr. Vice-President, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

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

Senate resumed.

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

INCOME TAX (AMDT.) BILL

Order for second reading read.

The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne)

Mr. Vice-President, I beg to move,

That a Bill to amend the Income Tax Act, Chap. 75:01, be now read a second time.

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Mr. Vice-President, Chap. 75:01 is, perhaps, one of our older and larger Acts and it covers a myriad of areas. Today, we seek to amend a small section of this Act. Accordingly, this Bill is cited as the Income Tax (Amdt.) Bill and it seeks to amend section 50 of the Income Tax Act by inserting after subsection (2B) two additional subsections: (2C) and (2D). These amendments, as proposed, would grant exemption from withholding tax on lease payments made by Caribbean Airlines Limited for a period of two years commencing January 01, 2007, in an amount not exceeding US \$2 million per annum.

I wish to advise this honourable Senate that section 50 of the Income Tax Act, Chap. 75:01 provides for income tax referred to as withholding tax under this Act, to be levied and paid on any payment made to a non-resident company. Section 50 of the Income Tax Act also provides that withholding tax be not chargeable where the company is not carrying on a trade or business in Trinidad and Tobago and where the payment arises outside of Trinidad and Tobago.

In 1995, section 50 of the Income Tax Act was amended by the addition of section 50(2B). Under this section, British West Indian International Airways Limited was relieved from withholding tax associated with the letting of aircraft and related equipment. This amendment treats payments made to lessors of aircraft and related equipment as having arisen outside of Trinidad and Tobago.

This relief was introduced by the Finance Act, No. 5 of 1995, which amended section 50 of the Income Tax Act, Chap. 75:01, by inserting section 50(2B) which reads as follows:

“For the purposes of subsection (1), a payment made to a non-resident company pursuant to a lease agreement made by the non-resident company to let aircraft and related equipment to BWIA International Airways Limited, shall be treated as a payment arising outside of Trinidad and Tobago to such non-resident company.”

The decision to relieve BWIA Limited from the payment of withholding tax arose out of negotiations for the divestment of BWIA International Airways Corporation, subsequent to which Cabinet authorized the Minister of Finance to sign, subject to vetting by the Attorney General and Minister of Legal Affairs, a letter of undertaking in respect of tax concessions granted to BWIA Limited; that is, relief from corporation tax for a period of seven years and relief from withholding tax in respect of lease payments on aircraft and related equipment.

Subsequently, the Government considered that Caribbean Airlines Limited, the new airline company which replaced BWIA for all intents and purposes, should

be afforded a benefit similar to that enjoyed by BWIA in respect of relief from the liability for withholding tax for so long as the airline is owned by the Government of Trinidad and Tobago.

In the case of BWIA Airways International Limited, withholding taxes were generated in respect of lease payments on aircraft and related equipment. These payments represented substantial tax liabilities that impacted the company's cash flow.

In pursuing the restructuring of BWIA Airways International Limited, and the establishment of Caribbean Airlines Limited, Government agreed to the exemption of withholding tax based on the need to establish Caribbean Airlines Limited as a viable entity in a highly competitive industry. The exemption from withholding tax was granted for a limited period of two years to allow that airline to find its feet.

4.00 p.m.

This honourable Senate is advised that withholding tax liability of Caribbean Airlines Limited is estimated between US \$1.5 million and US \$2 million per annum, and represents a substantial expense to the airline in view of the fact that lessors of aircraft insist that lease payments be made to them net of taxes. Accordingly, Caribbean Airlines Limited must indemnify the lessor from withholding tax liability, a situation that could place undue pressure on the company's cash flow, especially in light of the highly competitive environment in which airlines now operate.

In order for Caribbean Airlines Limited to benefit from the provisions in the legislation and the provisions as required or as set out by Cabinet, section 50(2B) of the Income Tax Act, Chap. 75:01 must be further amended to make this intention explicit. Accordingly, this Bill provides for an amendment to the Income Tax Act at section 50, by inserting after subsection (2B), two additional subsections as follows: Subsection (2C), which reads:

"Notwithstanding subsection (1), payments made over a period of two years from January 1, 2007 to a non-resident company pursuant to the lease agreement to let aircraft and related equipment to Caribbean Airlines Limited, shall be exempt from withholding tax in each of such years in an amount not exceeding two million dollars in the currency of the United States of America."

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Subsection (2D) reads as follows:

"Subsection (2C) shall be deemed to have come into effect on January 01, 2007."

Having regard to the foregoing, I beg to move.

Question proposed.

Sen. Mohammed Faisal Rahman: Thank you, Sir. Mr. Vice-President, I am a bit at a loss. The hon. Minister has explained something in a way that does not quite gel in my mind; maybe it is my lack of knowledge, my lack of expertise, or maybe—I do not want to impute anything else—I have not understood him.

What I understand withholding taxes to be, is where our country has a bilateral agreement with another country, whenever we have to make a payment to an organization that belongs to that other country, we withhold a portion of that payment, which is deemed to be withholding tax, and this is paid into the Treasury of the Trinidad and Tobago Government.

Similarly, where the reciprocal party, one of its citizens or corporations has to make payments to us, we in turn receive a reduced amount of remittances from them, which they pay into their treasury. We for our part can make income tax returns, aggregate our income and remove the part that was paid as withholding tax, which comes out of our tax liability to the Trinidad and Tobago Government.

What I understand this Bill to be doing and what the parent Act did with respect to the operations of BWIA at that time, is that when we exempt the non-resident company from the requirements of withholding tax—I cannot see how it benefits Caribbean Airlines or at that time BWIA—it benefits the overseas corporation or the leasing company, which is expecting a remittance from our company here, to whom they have leased the aircraft.

What we are in effect doing is giving a benefit to a foreign entity and giving that benefit in foreign exchange, not in TT dollars, which we have issued by fiat and printed, but it is in foreign exchange which we have earned from monetizing our resources. You will like to correct me in this matter? Please do.

Sen. Browne: Mr. Vice-President, just allow me. I think the hon. Senator is mixing up double taxation relief with withholding tax. Withholding tax in most jurisdictions are penalties. For example, if we were to invest in North America, as some of us do, we are subject to withholding tax depending on which schedule we

claim, but we would be subject to withholding tax, and it is possible for you to claim. In certain instances the payment of withholding tax is some sort of contribution against your tax return.

There are several different tax rates and there are higher tax rates, but it does not happen in every case in the first instance; just to get that clear. So, withholding tax in most instances is a tax, which is suffered by the person who is paying it. When you are dealing with external companies or external banks, they require you to make all payments to them, gross not net. In other words, not subject to any taxation.

So, it is not a benefit which is being paid to the corporation, it is a fundamental requirement or a legal agreement that when you pay me, pay me my money, because withholding tax invariably is going to be taken off the payment which is going to him. In other words, he will be losing a portion of it, and he wishes to be indemnified for any loss, because it is not clear that he would be refunded at source. It is not a benefit, or he is not being paid twice by us. In other words, paying the instalment to him not net or withholding taxes.

I think I want to get that clear; I do not know if you got that clear, but the payment is not giving a benefit to the foreign company. The company is ensuring that it does not lose any of its capital by way of a withholding tax. That is what it is doing; it is making certain it gets paid its capital and interest payments without any deductions in the country of origin.

Sen. M. F. Rahman: I am being led to understand by the Minister, that where withholding taxes are applicable and where remittances are to be made overseas, that the paying entity locally has to pay a tax on that sum out of his own pocket, if it has to pay the total sum to the foreign entity. Now, that seems to me like a "VAT" charge, some sort of a peculiar arrangement there, because I cannot understand if that is what is the net effect of withholding tax, it means to say that our Government is penalizing our local companies.

I remember many years ago, I took a matter to the Privy Council and I had to pay my lawyers in London. They had given me a bill, and when I went to purchase the foreign exchange to send to them, I was told by the bank that they will sell me only 85 per cent of the value, the EC form, and I have to pay the other 15 per cent to the local government here; then I had to go and find more funds to send to the lawyers on the other side. In effect, I had to pay 115 per cent.

What you are saying to me is that the Government is foregoing the 15 per cent from Caribbean Airlines. What is very interesting is this, when the Government of

Trinidad and Tobago sends out tenders for work to be done, VAT comes to the Government, but the Government still wants to get the tenders inclusive of VAT. So, the Government pays the contractor the VAT charge and the contractor returns it to the Government as VAT, which to me, is a rather convoluted sort of arrangement.

Why does Caribbean Airlines not ask the foreign company to bill it inclusive of withholding tax, as in the VAT situation, so that then it has a right to withhold the 15 per cent—if that is the figure—and then remit the net amount. Well, maybe this is the way Government runs its business in a convoluted fashion. If I am being assured that we are not in fact subsidizing the company over there, because it seems to me that if we were we would be subsidizing Uncle Sam, because he has to pay tax over there, and we are giving Uncle Sam money. Of course, this is not applicable now—Go ahead, please; this is an interesting lesson.

Sen. Browne: In respect of the example that you are using, VAT is treated as a local tax; a tax on items, which originate in Trinidad and Tobago. For that matter, all exports are done free of VAT; it is deemed to be zero-rated, so VAT is a domestic tax. In other words, it is an input tax, which you would get the benefit of against the VAT paid, as against VAT you have received, so you net off. Really and truly speaking, only one person is supposed to pay.

Withholding tax does not operate in the same fashion, and I take the point with regard to grossing up. Even if I were to gross up the payments and I were to charge you 115 per cent—assuming withholding tax is 15 per cent—effectively, I am paying the withholding tax. I will be suffering the withholding tax. What this does is attempt to keep the payment at 100 per cent, so it does not have to gross up at 115 per cent to achieve that objective you are talking about. In a sense, the Government is foregoing the withholding tax. This is what this Bill seeks to do. The Government is saying that it will not collect 15 per cent from Caribbean Airlines.

Sen. M. F. Rahman: Point taken and I still say it is very convoluted. Why in the case of BWIA did the Government permit a complete carte blanche not to be subject to this levy? In the case of Caribbean Airlines, which I had thought was some sort of sacred cow because of the way the Government treats that entity—I am beginning to wonder whether the Government is treating the sacred cow as rather a common cow at the same time—why is it limiting the benefit of two years to a maximum amount of US \$2 million? I find this is a peculiar contradiction, because we are looking at a very competitive industry and you are doing a remarkable thing. The last thing we learnt that you are subsidizing fuel for Caribbean Airlines even when it buys the fuel overseas.

Sen. Browne: For a period of time.

Sen. M. F. Rahman: I do not take that very seriously for obvious reasons. It seems to me we pass laws here; people are supposed to register; come under the registration law; then you give them extension after extension after extension. When you talk to me about a business plan with a serious face, I want to laugh, because I do not think you are going to stick to it at the end of the day, particularly when we see Caribbean Airlines being given the virtual authority to pontificate on how many hospital beds we should be having in preference to luxury jets, which you are still asking where it is. You know where it is; it is in the pipeline. You are still waiting to build your landing strip in Sea Lots to be able to accommodate your executive jet.

Anyway, with that said, what I want to point to is this, there are laws—and I do not know, this Government does not take all of the laws very seriously—relating to the operation of airlines, and IATA laws will dictate many a time certain things that cannot be done to accommodate an airline, even though it is a national airline. I am wondering whether the fuel subsidy is one of the things that IATA permits, and whether the withholding tax relief is also one of the things that IATA permits. If they are, all well and good, but you may very well be jeopardizing the—[*Interruption*] Pardon? [*Interruption*] BA? British Airways? Is that a fact?

4.15 p.m.

This is a very interesting thing, you are subsidizing fuel for Caribbean Airlines overseas, you are subsidizing overseas airlines in Tobago and you are penalizing Trinidad and Tobago people with an increase in fuel for their cars. [*Desk thumping*] Again, charity does not begin at home in the books of the Government at all. This is another thing. We have a situation here where the Government is always happy to facilitate foreign companies coming in with subsidizing gas for Alutrint when it comes, we propose to subsidize natural gas for Essar and we are doing all sorts of things. And that resource belongs to the people of the Trinidad and Tobago and here you are telling the people, we did not build any more roads for you, you are going to have to stop buying cars, we are going to tax your cars a little more—we do not need the money but we want to prevent cars from coming on the roads—so pay some more money—33⅓ per cent—on fuel.” And all along we are being told that the subsidies were not going to be touched and next thing you know, we are being told that diesel vehicles—SUVs—are now in the majority and when I asked the question, we were told that you do not really have a statistic for that, you dropped the diesel aspect and you come and tax the bit of fuel that is going to damage people’s engine when they are trying to do like I am doing today and try to economize and put some—what you call it?—additives with the “super”.

I do not know, I may end up suing the Government for damage to my vehicle at the end of the day if the engine starts to pink. We learned from the Minister what a pinking was. She passed on this valid information to us, so when we start to pink—

Sen. Annisette-George: You tried it?

Sen. M. F. Rahman: I tried it and I “ain’t” hear the pinking as yet. I “ain’t” hear the pinking as yet, but I do not know when the bong-bong will come later on. It “ain’t” pinking now. [*Interruption*]

You know what I find, Mr. Vice-President? It is the Government who does not always have a complete overall consolidated plan for anything. It does things on a kind of a haphazard basis. Many years ago a Senator in this place said that the Government governs by “vaps” and sometimes you want to really believe that that is how it functions. Here it is making concessions to Caribbean Airlines and penalizing citizens, and we are looking at inflation of 15 per cent now; this thing jumping up by 1 per cent per month. Countries of the world that start to see hyper inflation like that, face serious trouble in a little time. We are looking to a disastrous situation developing in the country because the Government is not taking things seriously.

One of the things they have structured their development on was tourism and here we have a cannon fired into the hull of the tourism boat by the present crime situation in Tobago. We have actually been sabotaged by the very people that the Government has been very careless about arresting. We have been told by our social scientists that drugs have nothing to do with the linkage with the guns and the crime. You understand? Yet the Government is insisting upon an overall plan to use fast patrol vessels and 360 radar to deal with guns that it thinks are coming from outside and the guns are already here committing murder and mayhem.

We have a situation where—a few weeks ago I was complimenting the Acting Commissioner of Police for having saved us a lot of trouble by reducing the murders and getting in all of these guns, but that was not only a premature judgment, it was a stroke of good fortune that attended him at that time to make it look as if he was very efficient. But I have to say when the Government cannot appoint a Commissioner of Police, stands up in the House of Representatives and makes all sorts of rigmarole to destroy its own standards and methods of selection, how are we going to deal with anything? We are proceeding apace with all sorts of international summits, expenditure and development and now we are subsidizing Caribbean Airlines which I cannot argue with. If we do not subsidize Caribbean Airlines in this way, we are going to have to subsidize them like how

we subsidized BWIA and eventually the Government is going to say, you know what—I do not know what they are going to say; how they are going to shut down Caribbean Airlines this time, because Caribbean Airlines is headed for as much failure as BWIA had to face through the years.

Airlines are collapsing all over the world. It is like steel companies that do not last. You know, super giants have to come to survive for a few years. The biggest airlines are going into bankruptcy. We rush off on fait accompli—we have already done it—but my God, I hope we do not end up scrapping Caribbean Airlines and starting afresh again in three and four years time.

What we are doing is not recognizing that there are certain industries and endeavours that require Government support and subsidy. We have a need for an airline. We travel! We are an island. We have to have commerce, we have to have businessmen travelling and we have to have tourism. You have to look at the total economy, see what you are bringing in and even if you have to subsidize the airline as we had to in BWIA days, you have to accept it as part of the cost. Because do you know what? It is like growing up your children, you have to feed them, clothe them and spend behind them. You do not get any returns out of your children, you know; you do not make them work in the house to pay for their keep. That is your duty, because this is the country's resources and the patrimony of the citizens and we have a right to certain things. We have a right to a proper police force, we have a right to proper prisons, we have a right to proper health services and we have a right to all of the infrastructural benefits that a civilized country has. We do not have a right to put up skyscrapers foolishly without cause; we do not have a right to squander money; and we do not have a right to buy a \$500 million jet when you could pay \$2 million in two years to travel wherever you have to go.

The reality is, the Government is awash in money now, and is not really paying attention to what is happening in the whole world. We have a collapsing global financial situation and it is continuing to maintain that we are not really in any great amount of danger. We are in terrible danger. Good lord, just go on the Internet and Google “financial collapse”, Google “economy”, Google anything you want related to the issue and you are going to get tons of information as to how dire the situation is. Countries are going through. We had to go to the IMF—was it in 1986?—and do you know something, when this Government leaves office I am sorry for this country, you know. We are going to have to go hat in hand just like Pakistan, Ukraine, Hungary, Iceland and wherever else because we

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[SEN. RAHMAN]

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would not have anything remaining. And they are not listening to any advice; there is no brake being put upon the squandermania, there is a perception of—I do not know, lord how to call this? This is a delusion! It is a delusion.

I heard recently that the Government had a vision. Well let me say, this vision is a virtual nightmare, when you wake up it will be a nightmare. Right now we are undertaking to embrace little islands that are having trouble with our diminishing resources which we are hurrying to give away to companies at subsidized amounts. Subsidize Caribbean Airlines, but do not subsidize Alutrint with fuel, do not subsidize Essar, do not bring up giant industries that will gobble up our little fuel and after 15 years we will have none. We have no guarantee of the gas and oil that is under the ground. The oil is getting harder to extract, the gas is a diminishing product.

Mr. Vice-President, we did something right or you had a rethink. I am feeling very comfortable and I would not take advantage of your good nature, Sir. [Laughter]

Mr. Vice-President: I read your letter.

Sen. M. F. Rahman: You read my letter. Oh, thank you very much. I am very pleased to hear that. There is one thing I want to say and I am lucky I looked at my notes here. The Government is subsidizing Caribbean Airlines. I “doh” have a problem with that. I do not want you to subsidize massive industries coming in, but I do want you to take a hard look at local businesses and small entrepreneurs. I know you have the Small Business Development Company, but let me tell you something, you have to look at assisting small businesses. Every government regulation, tax and law applies equally to the smallest fledgling company as it applies to the huge corporations.

Now, let me tell you something, it is very daunting. The amount of regulations that you have to conform to—and this is one of the reasons companies do not always register themselves and break the law and if the Government ever invokes the law, everybody is getting charged \$100 a day for the last 20 years that they were operating quietly. Fortunately they have not been implementing that law. What is happening here is this, in order to exist as a company you have to register; once you register you get letters from the Inland Revenue, from the VAT board, from the labour office, from this ministry, from that ministry; you have to have national insurance, health insurance; you have to conform. You have to conform to a dozen requirements that make the development of your little business—you have to hire accountants, you have to hire clerks, you have to hire bookkeepers, you have to hire all sorts of things to run a one-man business.

The Government has to find a formula to encourage small businesses to come into being. Bear in mind that every time a fellow starts a small business he automatically goes into self-employment and saves the Government the need to have to find employment for one more citizen, and if he employs his children, his wife or his family he is also assisting in the employment of the country and certain requirements that the law imposes right now, including minimum wage and all of the other little—I lost track of them now. I wrote about that already but now it has gone from my mind—several requirements that people have to toe the line with, with the smallest business that you are starting.

I want sincerely to recommend to the Government that it is sensible to frame an environment to facilitate small businesses coming into being without having the onerous business of all of the taxes, VAT, corporation taxes, individual taxes, national insurance, health insurance deductions and—good lord, you could spend your day looking after Government requirements and not buying and selling what you are supposed to buy and sell.

This is a serious recommendation I would really like to put across to the Government. You need to find a formula and one of my earlier recommendations years ago is that the Government could even set up small businesses—like you build a building and you rent it out as a warehouse—you form and start a business and then you franchise it out. You understand? Then you train the people who are going to enter and take over these businesses, because this is a way to stimulate employment, productivity, gross domestic product and all of these things.

You are going to be assisting your country, developing your country in these ways which is also going to be relieving the Government of many burdens. You understand? But at the same time I want to remind you, build some roads, build some highways, do the other things; provide the schools, provide the police stations; enhance the prison service as you want to. I know you want to, you know, but you know what is causing these areas to be neglected? It is very simple. You are occupied with other things that are not really necessary. It is a question of a mix up of prioritizing.

You are building buildings, you are bringing in the Chinese labour, you want to build all the buildings in five and 10 years that you are supposed to take 20 and 30 years to build. You are trying to do the things that big businesses—you know, Ansa McAl had a plan to put up a 25-plus storey building somewhere opposite to the Twin Towers, Central Bank and with Government going ahead and building buildings all over the place, there is a disincentive. Do you know what? One of these days the Government would have to start to sell those buildings to private

enterprise, because at the end of the day we are building buildings that are going to—the amount of rental space that is going to get available when Government pulls out its offices from those rental areas and fills up the areas here, we are going to have a real estate problem in this country. This is because the Government does not make a holistic plan when it is doing anything; not to talk about the areas where it does not plan at all and it seems almost as if it sets about to destroy—

Mr. Vice-President: Hon. Senators, it is now 4.30 p.m. Unless you are winding up—because you have been abusing my generosity. So, if you want to wind up now, I will allow you to wind up and then we will take the tea break.

Sen. M. F. Rahman: I want to wind up. Fundamentally, let the Government make a holistic plan, work in the interest of the people, subsidize the airline but also work in the other areas that I have put forward to you. My apologies Sir, for my digressions and I thank you for your kindness. [*Desk thumping*]

Mr. Vice-President: Hon. Senators, it is now 4.30 p.m. We will take the tea break now and resume at 5.00 p.m. This Senate is now suspended until 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. Basharat Ali: Thank you very much. Mr. Vice-President, I wish to make a brief intervention on the Bill before us, the Bill to amend the Income Tax Act, Chap. 75:01, in fact by the addition. I have a few questions that I was hoping the hon. Minister in the Ministry of Finance would have been here because looking back at the history of that same section 50 of the Act, and this particular subsection which was included, section 50(2B), was from Act No. 5 of 1995. I got this from the other place when the Bill was presented by the hon. Minister of Finance and this was Act No. 5 of 1995, when this section 50(2B) which we see mentioned here was passed and that says:

"For the purposes of subsection (1)"—which relates to the payment—"a payment made to a non-resident company pursuant to a lease agreement made by the non-resident company to let aircraft and related equipment to BWIA International Airways Limited, shall be treated as a payment arising outside of Trinidad and Tobago to such non-resident company."

Now, to me that sounds very strange, but I am really wondering which BWIA International Airways this really is, because we are talking about that date early in 1995 and this is the period when BWIA was negotiating or the Government was

negotiating for divestment of part of BWIA, if not all of BWIA. So there was a question of BWIA as a corporation already in the law books under the Companies Act and then there was the second, TTIA, I think that is what it was called—I am sure Sen. Dr. Saith will remember—Trinidad and Tobago International Airlines and with BWIA in the middle of it. That was what the organization as far I am aware—I stand to be corrected—and that was in operation during that period 1995 until all the problems came up, whereby the Government bought back the shares et cetera, from people like Acker and eventually when BWIA was closed down, not so long ago. So the first question is that this here is a rather strange way of saying that you are pretty well deemed a payment made here as being from outside of Trinidad and Tobago, and they say that was to help BWIA.

Now, on this period here, BWIA up to that time was 100 per cent Government owned, so maybe—and I stand to be corrected again—after that, we were in fact helping other partners who were in BWIA by this kind of exemption, but I really do not know how this transaction was handled. Whether it was one of the subsidiaries of BWIA outside of Trinidad and Tobago which were committed to the lessor and to which the payments would have been made, because in the document from downstairs, they did say from the other place that most contracts will require you to give them the indemnity, but I am asking this question in the context of double taxation treaties.

BWIA, at one instance, was a 100 per cent owned company and the Government is the one who collects withholding tax. The Government collects withholding tax from companies, for example, like lessors of aircraft and the easy way is for them to say, “Well look, this is the net we want back and that is what we will negotiate”, and it was left to the lessee to find out how he is going to get back his money or find some way to pay it. But when you have a treaty on double taxation, the person on the other end can be relieved or will have as a credit whatever they pay as double taxation treaty—
[*Interruption*]

Sen. Dr. Saith: Provided they pay tax.

Sen. B. Ali: Yes, provided they pay tax in their own country. Now the same thing applies for royalty for example. I know for a fact because I did that one in 1980 or thereabout for royalty withholding tax. If you did not have a double taxation treaty, the royalty payment was something like 30 per cent of the fee, and if you did, it could be down to 10 per cent, depending on with which country you were dealing and with whom you had double taxation treaty.

In fact, I know we paid in that period 30 per cent because we were a sub-licensor of ICI technology from a Japanese company and we had no double taxation treaty with them. So we had to pay it, because they said that is what they

needed; then go back and seek Government's help in paying it back, but there was no question of an exemption as we have here in the Bill before us today. So, the two questions I have: one, from 1995 to 2007, who were other parties enjoying this exemption by use of this subsection (2B), and how in fact was it done? Two, was it that we were using an entity outside of Trinidad and Tobago? Otherwise, I think we were fooling the people or fooling the Income Tax Department, whoever it was. So this is a question I pose. I was trying to find out how much withholding tax will be. I understand it may be of the order of 15 per cent, I would not know, but then we can quantify that amount.

Mr. Vice-President, now we have gone a little further in the proposal before us to seek to put in subsection (2C) which says:

“Notwithstanding subsection (1),”—which is the payment clause—
“Caribbean Airlines Limited, shall be exempt from withholding tax in each of such years...”

Which is 2007—2009, the two years we are talking about.

So Caribbean Airlines (CAL) will be exempt. My position is that in this case that Government company is a strategic part of our business in Trinidad and Tobago, in terms of transportation and everything else, but let us take another company. Suppose Guardian Holdings comes to us and says: “Look, I am going to enter into a lease and I want similar arrangements to BWIA or to Caribbean Airlines.” What are we going to say to them? Because if we pass this, it means that this is entrenching the law only for Caribbean Airlines. So another company in Trinidad and Tobago does business here, which is much used by the Government right now, in fact, chartered services, et cetera, and they will not be in that position. So to me it appears as—*[Interruption]*

Sen. Dr. Saith: When we own the land—*[Inaudible]*

Sen. B. Ali: I am not hearing you clearly.

Sen. Dr. Saith: It has to be owned by the Government.

Sen. B. Ali: Well, this is what this is saying. You put a Government private company in a special position, whereby you have another company which does not get that benefit. Are you not giving them an unfair advantage? The next thing is that the National Helicopter Services Limited may want to lease two or three helicopters. They are a private company also and they are a subsidiary of National Gas Company as far as I know, so would they be in a similar position when they want to get withholding tax exemption to come back and say, “Well, let us try (2E) in fact or to change (2C) to include them.”

So while I see the necessity of giving Caribbean Airlines an advantage, it is subject to unfair treatment or maybe subject to unfair treatment to other parties who are in similar business, particularly a private sector company like Guardian Holdings.

Sen. Prof. Deosaran: That is exactly the point, one advantage.

Sen. B. Ali: Yes, exactly, so they do not get that advantage. So that is one relating to the Bill. But, Mr. Vice-President, only a couple weeks ago, I think you were in the Chair on October 21, when this question of the hedge arrangement with Caribbean Airlines came up, and it is quite plain that the hedge is in fact a subsidy; a subsidy of one kind or the other. It might not be a total subsidy. I do not know how the hedge actually works because in the Minister's statement, and I have that here, they speak of two things. They speak of the price per barrel of crude oil of \$50 a barrel as a benchmark, West Texas Intermediate, and they speak of the price paid for fuel of US \$1.75 per American gallon which in fact works out to US \$73.5 per barrel of jet fuel. So that is the ratio. In fact if you do the arithmetic you will get a ratio of about 1.3 and I have that here before me.

I do not know when this \$1.75 kicks in or \$50 kicks in because the answer did not address that question. I have been doing some work on it. I am familiar with jet fuel pricing because in the good "oil" days in the late 70s when Texaco was supplier of fuel to our airport, I often sat down with BWIA to assist them in any negotiation. I was an unpaid advisor of BWIA in negotiations for aviation fuel, not only in Trinidad, but at their other ports because there was just one contract to provide fuel whether it is London, Canada or the United States.

I remember working there because we got into some difficulty and we even went down to what we have now in crude oil prices. We said okay, we are not going to go on these posted prices for jet fuel in the Caribbean—they were not representative—so we went into the question of a basket of crude oil which will be fixed to a certain jet fuel price. We got much licks there too because crude oil started to go way up. But that is part of what we have done and I did that with the gentleman who is now the Advisor to the hon. Minister of Energy and Energy Industries. He and I used to work on those things like baskets of crude oil in terms of giving BWIA a position where they were at least the most favoured airline in the Caribbean, if nowhere else.

So this is what I know. But when this question was answered I realized we were already rebating to CAL for that period, January 2007 to December 2007 into January 2008, and that figure of \$52 million was a figure quoted there when the budget provided for that year 2008, for \$54.247 million. The whole amount was

given to CAL and they had applied part of it to the month of January 2008 according to the answer given to us, but that is not the whole story. So for that period 2008, this is when the crude oil prices were going up, up, up and I have some figures here. In fact, at \$1.75 jet fuel—I will be going back to 2005, the WTI price of \$56.64 per barrel and that price as I said \$1.75 per gallon is equivalent to \$73.5 per barrel and that will be a factor of 1:3.

5.15 p.m.

This is information provided by the Air Transport Association of America; a whole tabulation of prices of jet fuel in New York Harbour, US Gulf Coast, Los Angeles, and the average of those in cents per American gallon (AG) and in dollars per barrel, if that is the unit you want. They go further and give you the average paid price for those years. The average paid price would be a mix of long-term contracts, spots and everything else in there.

I am anticipating, now that we are in 2008 up to October; the average crude oil price is \$111; per barrel the West Texas Intermediate average crude oil price, according to this—and I agree with it—is \$111 per barrel. In this same document they are saying that up to that time the average price for jet fuel sold was US \$3.29 US per American gallon; so that is a big hike going up there now. Even if you look at \$1.75 and you are going to \$3.30, there is an additional amount of subsidy or hedge. I do not call it a hedge; that is not what I understood to be a hedge.

I wonder where that money is being budgeted for. Are we going to find that transfers to Caribbean Airlines (CAL) for the year 2008, which was changed, or has been revised according to the 2009 budget estimates—that \$54.247 million revised 2008 estimates would have been \$225.911 million? I do not know whether part of that is for the hedge or subsidy and part for anything else.

More importantly, for 2009 we have a figure of \$270 million, which is the transfer to CAL. So we are looking at large amounts which probably can be justified, but I would like certainly to see more transparency in the whole exercise to know that this is what we are putting in there. We are giving large subsidies so that we could continue to run an airline, but we also have to ask ourselves how long we are going to be like that.

In the question that was asked, I had asked at the end of it whether it applied everywhere and the answer was yes. I asked whether it was not going to be challenged by other airlines. If American Airlines, for example, which travels here, knows this already, and they may, in fact, know, that CAL has a special price from Trinidad and Tobago, which is essentially a subsidized price, and it will be

quite a substantial subsidy at \$111 crude oil, average to the end of September 2008, they could probably go to this association and challenge. This is why I asked as a supplemental question whether we were not subject to challenge. I am very concerned in the international arena that this is happening.

I was hoping that the hon. Minister would have answered those questions for me, because I have concerns on both this Income Tax (Amdt.) Bill, from the point of view of being applicable only to CAL and for the hedge, which is an ongoing matter. [*Interruption*] I am just about finished.

Sen. Dr. Saith: I will try and explain. When Caribbean Airlines put its business plan, it said, "Give us so much capital and we will run a business plan that will provide a certain profit and loss situation over the next few years", because if you cannot fix the parameters then, of course— They said, "We want to operate on the basis that if oil goes to about \$50 or fuel goes up, then we will have a hedge", because airlines do that.

We said to go out to people who hedge and tell us what it would cost, because people hedge, but it costs you something. At that time they came back and said, "If we hedge for a year, this is what people will charge us; X million dollars." The Government at that point decided since we had the fuel here, rather than pay Morgan Stanley, or whoever, the Government would take that and provide.

What they get is not fuel at \$1.75; they pay whatever the fuel price is, and every quarter they send to us is what they have actually paid and how much that differs from the \$1.75. That is the money that is given, which another private sector would have done, but would have charged them. So there is no question of American Airlines saying, "You are getting fuel cheaper." They are paying the same price as the market price.

If the shareholder is saying, as American Airlines shareholders can do, "Okay, we will put that in," we are putting it in. The reason we are not putting it in without any control, is that it must be related to your operations, because once we put it in, we hold you to the fact that you said that this was going to be the way you would operate.

What you are trying to do with CAL is to have an efficient airline, because what BWIA had become, in addition to the subsidy, was an inefficient airline: the cost per mile of transport, the labour cost, the operational cost. So you are trying to force them to be an efficient airline and where you need to assist, you are targeting that assistance.

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[SEN. THE HON. DR. L. SAITH]

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The previous one about BWIA, I am really not able to say, but this is what it is. So there is no question of American Airlines saying, "You are giving them subsidized fuel." It is the same way as we are doing with other airlines; if we buy airlifts, as we do, as Barbados does, then you pay that, but you pay the difference between what the market is and what you are getting it for.

Sen. B. Ali: Thank you, hon. Senator. I hope that explanation stands, because what the farmers get as subsidies in America is not a hedge. They call it a subsidy there; they are not afraid to call it a subsidy. That is why we have gotten in trouble on the World Trade Organization (WTO); others who did not sign in would be getting into trouble with WTO on some of these products. I would be happy if we do not get caught up in it, because as you remember, hon. Minister, we got caught with dumping, for example, on products into Europe, and it was people serving their own interest. I remember that and we had to stop; we had to stay there and pay it. We had no other option, in fact, open to us, but to pay the dumping charge by the European Union against us. I am just hopeful, but at least I think we should be aware of it.

I feel a little upset when the Chief Executive Officer (CEO) of Caribbean Airlines gets up there with a little smile on his face when you ask him about a hedge and says that it is a special arrangement. It is not a special arrangement; it is a rebated position, which is what they are going to get. This is why I ask the question now of the hon. Minister. Out of the 2008 revised estimates of \$225.9 million, how much of that is going to be hedged with measured prices of crude oil? He has a figure; he must have it already, because the fiscal year is finished and this revised figure, in fact, must be what they know is going to happen. He must know what that amount is going to be in 2009, because based on the crude oil price—

Sen. Dr. Saith: He knows it is going to be less in 2009.

Sen. B. Ali: He knows it is going to be less; that is what I am saying, but these things are very transparent. You just go on the Internet and you get all these figures; that was how I worked out these multipliers based on crude oil. They give you the crude oil price, the jet fuel prices, and I can work out that it averaged about 1.25; but, of course, there may be other charges there at the airport for delivery, et cetera. At least, they put it there and this represents all the United States airlines' fuel deliveries during the period, and it goes right back a long time.

Mr. Vice-President, that is all I wanted to ask on these matters. I hope I will get some response from the hon. Minister. Thank you. *[Interruption]*

Sen. Dr. Jennifer Kernahan: Mr. Vice-President, I just want to make a few remarks and a few commonsense observations on what is happening here. I know this is a very special afternoon for everybody in Trinidad and Tobago.

We are here to debate this Bill before us, the Income Tax (Amdt.) Bill, that the Minister explained would, at the end of the day, allow Caribbean Airlines to benefit from a subsidy, the withholding tax; that is basically what it is about.

The questions I want to ask, and the context in which I want to approach this request by the Government, is based on the history of what has happened, and we have to ask these questions. Caribbean Airlines came into being after the demise of BWIA. The Government gave a *raison d'être* for closing down BWIA and bringing Caribbean Airlines into existence. It said that it wanted to establish a competitive airline industry.

We have to remember that was a very traumatic time for thousands of workers who were part of BWIA, who had a long history with BWIA; BWIA was a national symbol for us in Trinidad and Tobago. Up to now a lot of people have not been paid their pensions; the unions were destroyed and workers were retrenched; so that whole issue was very, very traumatic for thousands of citizens of Trinidad and Tobago. Mr. Vice-President, not to mention the fact that we lost a national icon that had a perfect safety record and we were proud of BWIA. That was part of our national psyche and identity that was demolished by the Government on the basis that they were going to establish something better, something more competitive, an airline that would really not be a drain on the Treasury. This was what we expected, at the very least, based on all the trauma that we experienced at the closure of BWIA.

This Government subsequently came back for subsidies for this new airline to the tune of billions of dollars, after they said that they were going to establish a new industry which would be competitive and that had this business plan. The issue is that when the Minister came and asked for this subsidy, this withholding tax subsidy for CAL, at least, I thought he would have given us an idea. I know that the Minister of Trade and Industry mentioned that they had some business plan they were working to, and so forth, but give us an idea of where we are, because we suffered for this. At the end of the day it is the taxpayers of this country who are going to pay this subsidy; it is our money; it is our resources for our children and grandchildren.

At the very least, we should be given some idea of the issue of whether Caribbean Airlines is better off than BWIA, in terms of its status and in terms of competitiveness; tell us what is the status of the company now, economically and

so on; for how many years does the business plan envisage this subsidy for: two years? After two years, will they have to come back for another subsidy, because they came for more injection into this company before? In 2006 they came for \$1.5 billion, and then they went up to \$2.5 billion. Moneys have been injected into Caribbean Airlines, based on the fact that it would eventually become competitive and be able to stand on its own and compete on a level playing field with other airlines.

It is not that we are against subsidizing our industries and our local enterprises, but the fact is that if you destroy one airline in order to establish another airline that you promised the people of Trinidad and Tobago would not have been a drain on resources, would not be a drain on taxpayers, at least we expect you to live up to your promise.

5.30 p.m.

If you cannot live up to your promise, you must tell us why. You must give us the status. Do not tell us there is a business plan. Everything is so secret and we cannot understand why. Yet we have to sit here this afternoon to approve a subsidy of over \$500 million.

The Minister has to tell us the status of Caribbean Airlines. Sen. Basharat Ali raised the point about what is competitive. Competitive is that you can stand on your own in relation to other airlines operating in the same business. If you have to be subsidized, you are not being competitive. It is a farce. It is a sham to talk about Caribbean Airlines being competitive if the Government always has to subsidize it.

The Government closed down Caroni (1975) Limited because it said that Caroni (1975) Limited was not competitive and it had to be subsidized to the tune of millions of dollars, regardless of the fact that Caroni (1975) Limited generated thousands of jobs. BWIA generated thousands of jobs. They had a choice to make. It was either you were going to be competitive; be firm about it; the airline had to stand on its own and pay its way or agree to subsidize. If you agree to subsidize, why close down one airline that you refused to subsidize and establish another? It seems that something more was in the mortar than the pestle. We started to have these issues of mistrust.

There is a reason you wanted to close BWIA and establish another organization. It does not make any sense. If you are going to allow us to make some sense of this, you have to give us more information. You have to tell us that within two, three or four years Caribbean Airlines will be totally competitive and

able to stand on its own. That hardly seems to be happening given the state of the world today. Airlines are closing down. All over North America people are downsizing and going out of business because of the high oil prices.

In this scenario where more resilient airlines are going bankrupt, it is hardly likely that Caribbean Airlines would be able to compete without this input. We would have done away with our national icon for nothing; traumatized thousands of workers for nothing and put a trade union out of business for nothing. Why make all these sacrifices? This is the question we ask this afternoon. This is the commonsense, ordinary, housewife approach to this Bill. I ask these questions. Can we be sure that this will be the last time that the Minister of Finance will come to ask for a subsidy for Caribbean Airlines? It is not the first time and it is not the second time. Will this continue? What is the limit that the Government is willing to put on subsidizing Caribbean Airlines? As my colleague, Sen. Rahman asked, "Will they reach a point where they would shut it down and start again?"

Where is this Government going? What is it doing? They do not care because it is not their money. It is our children's and grandchildren's money with which they are playing. My children, grandchildren and great grandchildren will pay for the fast and loose way in which this Government is using our depleting resources from oil and gas in this country. That disturbs me tremendously. We are living in a world where we are small and vulnerable. Huge economies are going under. God gave us the resources of oil, gas and resourceful people and they have wasted these resources. This Government is not planning properly and is doing things with all kinds of ulterior motives. We do not understand the reasons for the things they do because the results that they promise do not ever pan out. If you said that you were sure that you were going to establish this competitive industry, why do you have to come now with all these nancy stories about having to subsidize, withholding tax and going into long explanations?

We should have left BWIA and subsidized it in the first place. The international climate is deteriorating and our faith in the bright, rosy, glowing picture they paint of the so-called business plan they have for Caribbean Airlines is also deteriorating. It is getting harder and harder for large airlines and enterprises to stay in the air under these circumstances. As my colleague said, there are many questions and we are not against subsidies. This has a traumatic and sad history. Many former workers of BWIA are still out there in the wilderness because of the callous way that the Government dealt with BWIA. We understand that air transport is critical to the economic and social life of our people.

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We are happy to have an airline that can take our people from point A to point B. We understand that it is difficult to be competitive in this environment. We will understand if you have to subsidize. It seems to be some sort of cat and mouse game that you will subsidize this one, but you will not subsidize that one. You are playing games with the different institutions. That is the part we do not understand. We do not understand why you had to traumatize this whole country; shut down BWIA and put thousands of workers in penury and now you come back to say that you have a business plan and you need this money to subsidize. Nobody understands that.

I advise that this Government get its act together; be fair and transparent in its dealings. If you have a policy that you will subsidize a national airline because it is important to the social and economic life of our people, do that. Do not favour one over the other because of all kinds of motives about which we have no clue.

Thank you.

Sen. Subhas Ramkhelawan: Mr. Vice-President, thanks for giving me the opportunity to speak on this particular Bill. Today could be a momentous day and many of us hope that it will be a momentous day in the history of the world. One hundred and seventy years ago slavery was abolished in the Caribbean region. It took several more years for slavery to be abolished in the United States. Just over 40 years ago a lady by the name of Rosa Parks had to move from the front of the bus to the back of the bus because that was considered to be her place. Today we stand on the cusp of a time when her kit and kin will move not from the back of the bus to the front of the bus, but from the back of a bus to the front of a nation, the most powerful nation in the world. [*Desk thumping*] That can only be done in a nation that is mature and enlightened and believes in transparency, full and proper disclosure.

When I look at this particular Bill and the issues surrounding it, I feel we are still somewhat caught in a colonial age, trapped and being pulled back. I say this because sometimes we get information as we like to say in Trinidad, on a “chirrup chirrup” basis, a piece here and a piece there. The proper English word is piecemeal basis. We heard sometime ago because a question was asked, that it is not a subsidy for Caribbean airline; it is a hedge. Coming from the financial discipline, I checked the definition of a hedge. The definition of a hedge is that somebody pays the piper to get that particular price. If it is \$50 a barrel, the lower the price the higher the hedge.

I did not notice in the discussion that took place that there was any seek for this price. Therefore, one has to presume that it is a camouflage for a subsidy. I agree with my learned colleague, Sen. Basharat Ali that it is a subsidy. If it is a subsidy there might be World Trade Organization implications. That is one thing that I would like to endorse and bring to the attention of the hon. Minister of Trade and Industry in terms of what would be the implications. I ask him to look at it and be very clear and more clever in terms of how something like that might have to be camouflaged, lest we be caught in the net of the World Trade Organization.

This matter of Caribbean Airlines whether it be the hedge or the exemption from withholding tax from those who receive benefits, goes to the heart of what Sen. Dr. Kernahan was speaking to and it was the question of what is strategic and what is non-strategic, in terms of what we subsidize and institutions that we need to prop up in a sense, as we go along. I am a supporter in having a national airline. It makes very good sense whether it was deliberate or not deliberate to downsize the level of subsidization that may have to take place as we go forward. Downsizing in the sense that we cannot afford to continue to hemorrhage in the case of BWIA by having a whole number of routes that were not economical. We reduced the number of routes. For some of them it may not be economical and we reduce the level of the subsidy. It gives me a sense of déjà vu that we have BWIA in a new incarnation as Caribbean Airlines. That might be strategic. I will argue that it probably is that we have a national airline.

To digress a bit—I know that you have been very generous today so I will not digress too long—we have done the same thing with other institutions such as the old TTT which was reincarnated or the National Broadcasting Corporation if my memory serves me right, which was reincarnated into the Caribbean New Media Group. In 2005, it lost money; in 2006 it lost \$20 million and the last report if my memory serves me right, we lost \$27 million. Are we going back into the same situation almost subconsciously being drawn in to subsidizing and supporting?

I do not think that the Caribbean New Media Group is strategic. If it is losing money, we should cut our losses and run. I do not think that a case can be made in the Caribbean New Media Group situation as can be made with a national airline. I believe that Sen. Dr. Saith in a previous dispensation piloted the restructuring of the Caribbean New Media Group. I ask him and his colleagues to reconsider what we are doing because it is non-strategic. You have other forms of media and you cannot afford to go down that road of subsidization again.

When Caribbean Airlines was first booted it was booted as the replacement of a hobbling donkey with a new young lion. I get the impression now that it is just another ass in a lion's skin that is taking place.

5.45 p.m.

We have to be careful about what we consider strategic. This takes me to the point that we have always used these terms about what is strategic and what is important for the national good, but we have never defined what is strategic and what is not. It is nice to say that something is of strategic importance to the country. We have said that of National Flour Mills, now we have two flour mills and we can import flour. We said it for the national airline and then we retraced our steps and created what was supposed to be a competitive airline.

We know what is happening in the world. Airlines across the world are failing because of high prices, insufficient carriage and the recent situation is the challenge being faced by Alitalia, the Italian airline. One accepts that there is a very challenging situation in the airline industry and I accept that we should hold Caribbean Airlines as part of our strategic book, but I do not know what the definition of strategic or non-strategic is. Therefore, it is colonial to pass on to our citizens and say: this is strategic and this is not strategic and not be able to define in a clear and cogent manner, what is and what is not.

I am prepared to help as a citizen to subsidize something that is strategic, but I am not prepared to subsidize something that we ought not to cover and subsidize at all. So, I appeal to the Government to come up with a framework and with criteria that speak clearly to what is strategic and what is not.

Once you do that, you bring the citizenry into your fold, out of the colonial past, and share with them information. You do not treat them as though they are not part of this decision-making process. That is the business we are in. We are in the business of the welfare of our citizens and they must know that their money is being spent holistically and not “chirrup chirrup”. Okay, we are spending some money here today on some hedge that is really a subsidy. I did not see in the revenue estimates where the Minister of Finance got a hedge fee and if he has not gotten a hedge fee, it is a subsidy. What did Caribbean Airlines pay you for that hedge? Nothing! I am willing to bet money on it. I will have to pay for hedging that bet.

I think that is at the heart of the issue, Mr. Vice-President, that we must be able to share with our citizens, in summary, what they are paying for and why; if it is strategic and if it is not strategic. The Government must move expeditiously to define and create criteria for what is strategic, why and what would not fall into the category of strategic. Then, we will be able to support the situation much more firmly.

Almost two years ago, a Bill came to this Parliament to sanction retroactively a decision made so long ago. Why? Again “chirrup chirrup” and colonial behaviour. In closing, as we move forward, I appeal for what is necessary—greater transparency and disclosure to our citizens.

I thank you.

Sen. Dr. Adesh Nanan: Thank you, Mr. Vice-President. I rise to make a few observations. When I was looking at the document on the Internet, I saw that Caribbean Airlines was able to cut its flight time by 10 minutes to New York and Toronto. By cutting its flight time by 10 minutes, it has been able to save 443 kilos of jet fuel, which totals over \$3 million annually. Ten minutes is neither here nor there, but it seems, when you think about 10 minutes and know that you are saving \$3 million annually, we see the expenditure that can be saved by cutting time.

We have seen this Government operate in terms of state-owned enterprises to close down one entity and open another. If one is losing money, close it and start a new one. We have seen that with respect to Caribbean Airlines. There are several questions that are still unanswered and it came up recently with respect to the Heathrow slots. The reason I raise that is that there is a report now that Continental Airlines is paying close to \$1 billion for four slots in Heathrow. That is what we have given away. We need to know.

We have, as we have heard in this debate, a scarcity of information. We had the CEO Peter Davies, who we know came from the bowels of British Airways (BA) and that there was some agreement between the Government and BA to give up Heathrow and go to Gatwick instead. We have to ask about the losses.

There is another area I want the Minister to address. It was raised in this debate, but I want to raise it in terms of the amount of money. We still believe that if there was a tripartite agreement BWIA would still exist.

ACAWU invested \$38 million of the surplus on pensions in 15.5 per cent shares on behalf of workers. The workers contributed part of their income to build BWIA and we are still not able to find out what will happen to those workers' contribution. Minister Enill spoke about that matter, but we have not had any evidence coming to the Parliament with respect to these particular workers and the \$38 million. I am sure that he will clear the air on that matter shortly.

In a statement the Minister said that US \$360 million was for Caribbean Airlines' operation over a three-year period. The Minister talked about a no-frills strategy, but we still have to ask that question with respect to \$360 million, which was to terminate the employment contract of all BWIA staff, settle all bona fide

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liabilities and to restructure the existing infrastructure. Did that include these workers? We need to find that out. You have a no-frills strategy and you said you were going to pay off everyone, but then there was another policy that came into being that the creditors are paid first and the workers after. Were the creditors paid and there was nothing left for the workers?

Sen. Dr. Saith: [*Inaudible*]

Sen. Dr. A. Nanan: We want to find out about the shares. I am sure you will clear the air on that particular arrangement.

In looking through the current fleet of Caribbean Airlines, we see six Boeing 737s. Now the Airbus A340 has been terminated and now we have the New Generation on board now; that is ordered. How efficient are these aircraft and from what I have seen in the document—

Sen. Dr. Saith: [*Inaudible*]

Sen. Dr. A. Nanan: In terms of the age of the fleet, it is seven to eight years old. Is that reasonable in terms of time span for an aircraft? Those are questions that need to be asked in terms of whether we are getting the best for our money.

Another question with respect to the age and size of the fleet is what is happening on the route to Tobago. We have seen from time to time, in fact very often, there are situations on the Tobago hub since Caribbean Airlines is in charge of the route. Right now, they are operating with a Bombardier Dash 8 aircraft and that particular aircraft operates in Guyana, Barbados and Venezuela. Is there any particular business plan? You could have given some information on how they will proceed since we are saving fuel. What are the prospects in terms of what are they going to purchase and what aircraft they are looking at in terms of the saving of fuel.

What is ironic is that, for the Heathrow slots, for many aircraft it is “use it or lose it” so they fly without passengers; they just keep running. Did the Government consider anything like that? We have no cost benefit analysis for the Parliament. We need to consider all those factors. We have had a scarcity of information and we still have to ask questions in terms of the type of aircraft being purchased and how many. You said you would trim the fleet and make it more manageable.

I want to look at an article taken from the *Trinidad Guardian* dated Tuesday, June 10, 2008:

“Pariseau, the airline’s manager—corporate communications, yesterday said Caribbean Airlines, hedges its fuel as every other airline in the world does.

‘...therefore we pay a fixed cost for our fuel’, he said.

Asked at what price Caribbean Airlines is purchasing fuel, Pariseau said no airline reveals that information,”—That is what Sen. Ali was talking about—“but stated the hedged price of its fuel was lower than market rates.

‘If you don’t hedge well, it can put you in a favourable or de-favourable position. We have hedged for a good foreseeable future.’”

Sen. Dr. Saith: [*Inaudible*]

Sen. Browne: It is a good question. You do not want to answer it?

Sen. Dr. A. Nanan: The Government has agreed to establish a hedged price of US \$1.75 per gallon of aviation fuel. On one hand, it is a big secret and now the Government has given the answer here with respect to the hedged price.

6.00 p.m.

We have to ask the question. We are subsidizing an airline, just as we have subsidized BWIA. We have heard of an airline that had reports of poor punctuality, in terms of oversize management. As Sen. Dr. Kernahan said, we have agreed to come on board, whilst many questions still remain unanswered with respect to the initial closing of BWIA. We want to see—I think it is the right of the taxpayer—a business plan. We should not have Sen. Dr. Saith giving us a small idea, or every time we ask a question, we get a small amount of information. We want to see the business plan of Caribbean Airlines, because it has to be a proper business plan, so that it would not be in the same vein as BWIA.

When we asked for the Caroni (1975) Limited plan—we have not seen a plan—we saw that lands would be utilized all over the country. We have seen no business plan in that particular area. We have to come to the conclusion that there was no plan and there is no plan here either and that you are operating by vaps. I am sorry to say that. We have no information.

As I close, I want to point out that the tripartite arrangement that I made reference to earlier—in fact there was no consultation, you could deny that if you want—between the unions and the Government, with respect to this particular closure of BWIA; total absence of consultation with the interest groups.

I thank you.

The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. Vice-President, I had thought that we are here today to discuss the amendment to the Income Tax Bill, but noticed that we had gone into different territories, with regard to definitions of hedges; a definition of colonialism; and also an argument from a business perspective, with regard to a definition of strategy. Perhaps, we would do well to start off with a couple of things.

First of all, I do not think anybody here has seen the business plan for the UNC. Has anybody seen the business plan for the UNC?

Hon. Senators: No.

Sen. The Hon. M. Browne: Does that mean they have none?

Hon. Senators: Yes. [*Laughter*]

Sen. The Hon. M. Browne: I am sure they have none, on the basis of the evidence that I have seen. One of the fundamental issues I guess, perhaps, is that we should look at it with regard to organizations which have a strategic interest or alternatively a strategic concept. Because we are shareholders of Angostura, in a more local setting, which, perhaps, everybody would understand, does that mean to say that you are entitled to see the formula for Angostura Bitters?

Sen. Narace: No, you may get to see the balance sheet and the details.

Sen. The Hon. M. Browne: You are correct. You are entitled to see the balance sheet and the details. The financial statements for Caribbean Airlines will be published, will be brought to this Senate and will be discussed. It is late, that is one point, but it will come. The audit is taking a little longer than one would want. Because we are in the Parliament of Trinidad and Tobago, does that mean to say that trade secrets should be put on the table? There is no way that there are certain trade secrets that should be put on the table. That is a fact. For example, we do supply gas to a number of organizations, through NGC in this country, does that mean that the contracts between NGC and each of the companies that are supplied by NGC should be discussed in the Parliament? Should we put competitive trade data on the table? That idea is out to sea.

With respect to the issue of the definition of a strategic position—because if it means that you are not giving that position, you are colonial, then I guess I am colonial. I think I also understand that Sen. Ramkhelawan will not put his business plan for his funds on the table. [*Interruption*]

Sen. Dr. Kernahan: Because that is a private enterprise.

Sen. The Hon. M. Browne: I buy into it as a unit holder. Then, by definition, I should see what it is, because he is investing my money in the same fashion. *[Interruption]* No, that is not one of the reasons I have not given you any of my money. I guess it is a different perspective, in terms of what we mean and certain types of positions, which are, in a sense, sensible, and sensible business arrangements. Sensible business arrangements require that certain items remain in the boardroom, which is where they should be. *[Interruption]*

Sen. Dr. Kernahan: Parliament should have oversight.

Sen. The Hon. M. Browne: Parliament should have oversight and Parliament has oversight. Parliament will see the financial statements when they are published. I am responsible for that and I would ensure that the financial statements are laid in this Senate. In fact, today I sent a message to Caribbean Airlines requiring them to publish the financial statements without further ado, because we are behind hand.

Having said that, I move on to the business of the Bill. I do not really want to go over the issue of the why of Caribbean Airlines, how it was formed or anything else along those lines. It was formed with a certain degree of consultation.

With respect to whether other organizations and whether other governments elsewhere in the world provide assistance for their airlines, I think the answer to that will have to be yes. The reason why Alitalia, for example, is going through its difficulties at the moment has nothing to do with WTO. It has to do with an EU directive, which governs how public funds are spent and there is a deadline with regard to that particular reorganization. It does not have to do with WTO; it has to do with an agreement between European countries that sets limits on how public funds are spent and an agreement for competition in that order; not WTO.

If you were to look, for example, to our north, in terms of the arrangements which are made with regard to US national airlines, when these airlines were in trouble, not too long ago they were low passenger loads and everything else that went with it, as a result, I think, of 9/11, when we found a number of people stopped flying, what did the government of the USA do; the country which talks about free trade? It had a strategic interest. Why did it have a strategic interest? If and when there is an urgent requirement to use US Flag airline by the armed forces to shuttle their soldiers anywhere in the world, they use the carriers. On that basis, they support them. So, after 9/11, if I am not mistaken and I stand to be corrected by anyone on that side or anybody, I am pretty sure not only were the airlines given support mechanisms, but they were also given grants. That happens from time to time.

What is the definition of a strategic interest, what is a strategic interest and how should we be transparent in that regard? The very proponent or the argument that says that we are not being transparent, why then would we have to come to Parliament, in this Senate, to say that we are giving CAL, if you want, relaxation, waiving or withholding tax on payments for leased aircraft? What could be more transparent than that? We could, alternatively, have not done it at all; not made any amendment to the legislation and simply given them the money as a subvention, bring it and agree to it as part of the budget subventions. That was an alternative. We could have done that. Instead, we maintained the provisions which were included here before and simply put CAL in the same position as BWIA was at the time. We have done it and we have put a time limit on it. It is time-bounded, in the same way that the agreement to support Caribbean Airlines is time-bounded, with regard to its fuel position.

Remember all organizations that start sometimes need assistance for them to be able to grow. You have to make a decision, as you make with your children, that as they are old enough, you let them out of the nest. They need to go on their own. In this particular instance, it was agreed that we would support Caribbean Airlines for a period of time. That period of time ends in 2009. What were the options before us; have no airline, restructure BWIA or start a new one? What were the advantages of starting a new one? Start with new arrangements, start with new staff and bring new developments into position. If you were to restructure and re-organize, having done it three times before, and it not be successful, what will be the chances of success on the fourth occasion? If we were committed to a policy or movement and we wanted CAL to stand on its own, moving forward into the future, you have to give it an opportunity for it to succeed and that does require some transition. We have agreed to the transition period. You want to know the business plan. I think we have argued cogently why the business plan cannot be put into the public domain as a public document.

You cannot fight American Airlines, Continental, Delta or British Airways, by publishing exactly what you are going to do and publish the details of what your route structure is. They could infer that if they want, but we cannot give it to them. By definition, making it a public document gives it to them. That is not something that you could do. That is not an argument in favour of transparency. That is an argument in favour of further losses, perhaps. So that approach does not work. That argument with regard to—[*Interruption*] yes, sir.

Sen. Dr. Nanan: Before you wind up, could you answer the question with respect to workers who purchased shares?

Sen. The Hon. M. Browne: Thank you. I would get to that one too. I had planned to deal with it. That is not an argument we can follow. Clearly, the issue of transparency is satisfied by bringing this Bill to his Senate and putting it on the table, that is the provisions with respect to withholding tax which will last until 2009. We are in 2008. We have even put a number on it. The number we have come up with, very simply, is based upon the existing lease payments. That is why we have a specific number as the approximate value of the lease payments.

With respect to the comment by Sen. Basharat Ali with regard to the disaggregation in the numbers, the numbers which are included in the budget also include the payments to CAL for the air bridge. The two numbers are combined, that is one of the reasons. In fact, the bigger number at the time, I think, was the payment for the air bridge. I do not have the numbers at the top of my head. I would get them for you. The two numbers are combined.

With respect to the issue of the shareholders in BWIA who were disenfranchised—on coming into government, I recognized that there was an issue and we are attempting to deal with that. It is expected that would be done before the expiration of December 31, 2008. In fact, we agreed, I think last week, on a press release which is being managed by a local stockbroking company, where a public advertistment would be placed in the papers with an offer to repurchase the outstanding balance of 2.5 per cent of the total shares, which belong to the former staff of BWIA. Those shares would be purchased at the last valuation before winding up. In fact, they will even be purchased at a price above the valuation. For the last valuation, prior to the winding up of BWIA, the value placed on the shares was zero. An offer would be made to all shareholders, at a rate which is less than \$1. I do not remember the number off the top of my head, but that would be done. Also too, the offer would give the shareholders the opportunity to apply to the court for a valuation in the event that they are not satisfied with the offer that is being made by the Government to acquire the balance of those shares that are outstanding.

6.15 p.m.

So, former BWIA employees who hold shares in the company and anybody else for that matter who have not been dealt with—the minority shareholders—will be made an offer, and that offer should be made during the course of this month to repurchase those shares. I hope that answered the question that was asked. So, that will be done.

We fully understand the definition of strategic interest; the definition of part of national consciousness and the national psyche. It is always difficult to make business decisions where we have to cut our links with the past. In fact, it is always difficult if you want to have a divorce. It always leaves both sides traumatized.

In this particular instance, transport arrangements and maintaining contact with the outside world is deemed to be a strategic sector which is important to the country. The examples are clear. In turbulent times, other flagships or other carriers could withdraw services, and you could end up, for example, not having contact with the rest of the world.

It is possible for countries not to own airlines. In fact, some countries in the Caribbean do not. It is also possible for countries in the Caribbean as well, which do not own an airline but which depend on other countries for airlift to not pay for the entire airline, but they offer something else. They offer seat guarantees or alternatively they waive landing fees or they would pay a number of other subsidies taking place in the form of grants or transfer payments, however you choose to call them. Alternatively, arrangements are also made with regard to fuel, and that is being done in a number of countries in this region, as we speak.

So, the Government of Trinidad and Tobago took a decision, having regard to all the circumstances and the need to maintain its links with the rest of the world to retain an airline; in fact, to create a new one, and make a break with the past and attempt to give this new airline an effort to succeed in a challenging world.

We also understand that all airlines—given the difficulties that are taking place in the world and the changes in the price of fuel, which is one of the most significant input costs—require some sort of assistance or some kind of break. The idea was that we would put a definitive timeline and the Government and people of this country would support the airline. That deadline, if you will, is 2009. Is that correct, Sen. The Hon. Dr. Lenny Saith?

Sen. Dr. Saith: Yes, three years.

Sen. The Hon. M. Browne: There is where the number came from. So, this Bill is in pursuance of that agreement; this is in pursuance of that business plan and, in a sense, this is the continuation of a provision which took place before. It is for that reason that we are making an amendment to the Act at subsection 2C. In fact, the previous amendment to the Act stays in position. It is worded the exact same way, except that there is no timeline as this particular provision has. This provision is expected to come into position from 2007, because Caribbean

Airlines took over certain leased equipment which belonged to BWIA. So, we were giving Caribbean Airlines the same benefit that we had given to BWIA, as existed at that time.

Mr. Vice-President, therefore, I submit that this is not an attempt to hoodwink the population; this is not an attempt to hide; this is not because we are giving people information on a “chirrup” basis; colonial in any stretch of imagination; but this Bill is in pursuance of a business strategy which recognizes that transport is part of our strategic arrangements and it is a way of maintaining contact with the world.

I know that everybody on this side and on the other side travels for business and does use Caribbean Airlines. I hope that on your next business trip you are going to include Caribbean Airlines plans in your travel. Caribbean Airlines need the support. In these circumstances, I beg to move. [*Desk thumping*]

Question put and agreed to.

Mr. Vice-President: There is a Procedural Motion to be made at this time.

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until the completion of this Bill.

Question put and agreed to.

INCOME TAX (AMDT.) BILL

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

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

Senate resumed.

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

Adjournment

Tuesday, November 04, 2008

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, I beg to move that the Senate do now adjourn to Wednesday, November 05, 2008 at 1.30 p.m. On that occasion, by agreement with the Leader of the Opposition, we will debate Motion No. 1 under “Private Business” on the Order Paper where we should all be in a celebratory mood.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.24 p.m.