

HOUSE OF REPRESENTATIVES*Friday, May 29, 2015*

The House met at 1.30 p.m.

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

Mr. Speaker: Hon. Members, I have received communication from Mr. Patrick Manning, Member of Parliament for San Fernando East, who has asked to be excused from today's sitting of the House. The leave which the Member seeks is granted.

PAPERS LAID

1. Administrative Report of the Chaguanas Borough Corporation for the period October 2012 to September 2013. [*The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal)*]
2. 37th Annual Report of the Ombudsman of Trinidad and Tobago for the period January to December, 2014. [*The Deputy Speaker (Mrs. Nela Khan)*]
3. Annual Report of the Strategic Services Agency for the year 2009. [*The Minister of National Security (Sen. The Hon. Brig. Carlton Alfonso)*]
4. Annual Report of the Strategic Services Agency for the year 2010. [*Sen. The Hon. Brig. C. Alfonso*]
5. Annual Report of the Strategic Services Agency for the year 2011. [*Sen. The Hon. Brig. C. Alfonso*]
6. Annual Report of the Strategic Services Agency for the year 2012. [*Sen. The Hon. Brig. C. Alfonso*]
7. Annual Report of the Strategic Services Agency for the year 2013. [*Sen. The Hon. Brig. C. Alfonso*]
8. Draft Elections and Boundaries Commission Local Government and Tobago House of Assembly Order, 2015. [*Hon. Dr. R. Moonilal*]

JOINT SELECT COMMITTEE REPORTS**(Presentation)****Insurance Bill, 2015**

The Minister of Transport (Hon. Stephen Cadiz): Mr. Speaker, I have the honour to present the following report:

Report of the Joint Select Committee on the Insurance Bill, 2015.

The Minister in the Ministry of Works and Infrastructure (Hon. Stacy Roopnarine): Mr. Speaker, I have the honour to present the following reports:

**Ministries, Statutory Authorities and State Enterprises (Group 1)
Anti-Corruption Investigation Bureau**

Thirteenth Report of the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group 1) on the administration and operation of the Anti-Corruption Investigation Bureau (ACIB).

National Insurance Property Development Company Limited

Fourteenth Report of the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group 1) on an enquiry into the administration and operation of the National Insurance Property Development Company Limited (NIPDEC).

**Ministries, Statutory Authorities and State Enterprises (Group 2)
Telecommunications Services of Trinidad and Tobago**

Mr. Collin Partap (*Cumuto/Manzanilla*): Mr. Speaker, I have the honour to present the following report:

Twenty-third Report of the Joint Select Committee appointed to enquire into and report on Government Ministries, Statutory Authorities and State Enterprises (Group 2) on an enquiry into the administration and operation of the Telecommunications Services of Trinidad and Tobago (TSTT).

URGENT QUESTIONS

Mr. Jack Warner (*Chaguanas West*): Thank you, Mr. Speaker. Mr. Speaker, before I ask my questions, I would like to crave your indulgence for two minutes just to say that I was not here on Wednesday last because I was in prison. I was in prison, Mr. Speaker, for charges I know nothing about. I want to say also, equally, that at the end of the day I have worked for this country fearlessly and I would continue to do so as a good patriot and nothing I have done, either locally or internationally, can in any way impugn my character.

So, Mr. Speaker, I thank you for those kind sentiments and may I just say also too thanks to the Deputy Commissioner of Prisons, Mr. Morgan; his Superintendent, Mohammed; and all those officials at the prison who were very kind to me and treated me with dignity.

Thank you, Mr. Speaker.

**Public Servants
(Payment of Revised Salaries)**

Mr. Jack Warner (*Chaguanas West*): Question one, to the Minister of Finance and the Economy: Can the Minister advise whether the Government intends to pay public servants their revised salaries and back pay this year and if so, what is the anticipated implementation date?

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you, Mr. Speaker, the answer to the question is, yes, it would be paid in this financial year. In fact, the salary increases would go into effect. As you know, Mr. Speaker, there are many thousands of persons for whom computations need to be made. Those have been worked on by the public service. We expect that the salary increases would take effect in June and that the retroactive payments would be effected from August. Thank you.

**Forensic Science Centre
(Unavailability of Pathologists)**

Mr. Jack Warner (*Chaguanas West*): To the Minister of Legal Affairs and Justice: Minister, given the recent pile-up of bodies at the Forensic Science Centre, St. James, due to the unavailability of pathologists and the great inconvenience caused to the families of the deceased, what measures are being put in place to ensure that the centre has a full complement of pathologists?

The Minister of Legal Affairs and Justice (Hon. Prakash Ramadhar): Thank you very much for that question. May I indicate that the backlog, if I may call it that, has been dealt with and there is no outstanding autopsy, as I have been informed. The reason for Monday's backlog was that the pathologist who was scheduled and rostered for duty did not turn up, as a result of which I have given instructions for the immediate engagement of Dr. Alexandrov to ensure there is no such repeat.

Let me just indicate that the complement for pathologists is four and we have been operating on the number of three for some time. That is not as a result of any lack of effort because we had taken steps to recruit internationally and that matter has taken several months because of the delicate nature of the profession, if I may put it like that. Two candidates have been identified and I have already signed off for offers to be made to them and it is up to them to accept or not. Thank you.

Mr. Warner: Supplemental. So, Minister, based on what you have said, the optimistic date for when the full complement shall be in place, shall be—what do you say?

Hon. P. Ramadhar: Thank you very much. Well, let me say, it is dependent now that the offer being made, that it is accepted and that should be in a very short period of time, if they do accept to have them here. But in the immediate need I have directed the Permanent Secretary to engage the services of Dr. Alexandrov as of today, so we will have a complement of three going forward. Thank you.

Current Extradition Matter (Attorney's Involvement)

Mr. Jack Warner (*Chaguanas West*): Thank you, Mr. Speaker. To the Attorney General: How does the AG explain the State having in its team of legal representatives in a current extradition matter, an attorney who is himself the subject of two police investigations, “prison-gate” and the case of the missing/stolen/walking judicial files?

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Mr. Speaker, on behalf of the hon. Attorney General, there was an amendment somewhat in the presentation of the question, so I will deal with it here. May I also acknowledge the return of the Member for Chaguanas West who was unavoidably absent on Wednesday last. The Ministers were here for the two questions that the Member did file. They were not in jail.

Mr. Warner: Not yet.

Hon. Dr. R. Moonilal: Mr. Speaker, the Attorney General's response to question No. 3, as far as we are aware there have been no findings of wrongdoing against any attorney-at-law involved in that current extradition matter. There have been no findings of wrongdoing against any attorney-at-law in that matter and the Legal Profession Act does not debar an attorney from discharging his legal functions merely on an allegation of wrongdoing although it may be the subject of a police investigation.

Mr. Speaker, just to explain the matter a bit more for the Member for Chaguanas West. It is very much as if a Member of Parliament is accused of wrongdoing, whether locally or internationally. He is still free to come to the Parliament and represent and practise and conduct the business of a Member of Parliament. In this way, an attorney-at-law may have questions or allegations

which may or may not be the subject of ongoing police enquiries, but the Legal Profession Act does not debar him from pursuing his professional duties, very much as an MP who also has serious accusations against him, which may be the subject of ongoing police international investigations or may be the subject of a charge as well. There is nothing that debars an MP from conducting his duties; same thing.

Mr. Warner: I never asked about an MP but since you were so kind, thank you very much. What I want to know, Mr. Speaker, is if the last speaker sees nothing wrong in a lawyer who has two, not one, but two charges pending against him—one is “prison-gate”, one is, of course, some missing documents—being on a team to discuss extradition. If nothing is wrong, fine, nothing is wrong.

Hon. Dr. R. Moonilal: Mr. Speaker, the attorneys involved in that extradition matter, not one attorney involved in that matter has a charge against him or her. Mr. Speaker, I see nothing wrong with that as I see nothing wrong with a Member of Parliament who has 14 indictments against him, entering the Parliament and conducting his duties for which he was elected. I see nothing wrong in that, so an attorney-at-law is free if there are no findings of wrongdoings and there are certainly no charges in this matter. So the attorney-at-law is free to conduct his professional duties. To suggest otherwise would be a serious violation of his own rights and equality of opportunity and equality to conduct his professional duties.

Prison Litigation Probe (Status Report)

Mr. Jack Warner (*Chaguanas West*): Thank you, Mr. Speaker. To the Minister of Legal Affairs and Justice: Given the deep—

Mr. Speaker: To the Minister of National Security.

Dr. Moonilal: National Security.

Mr. Speaker: But go ahead, you are on question No. 4. Are you on question No. 4, hon.—

Mr. Warner: Yes, Mr. Speaker, but I have “Minister of Justice” here.

Mr. Speaker: No, it is Minister of National Security. I think we need to give you the proper paper because I think you went off course. [*Interruption*] Yeah, give him a proper copy.

Mr. Warner: Thank you very much.

Mr. Speaker: Question No. 4.

Mr. Warner: This is to the Minister of National Security: Given the deep concern of prison officers, would the Minister please give this House, and by extension the prison officers, a status report on the police investigations into the prison litigation probe?

The Minister of National Security (Sen. The Hon. Brig. Carlton Alfonso): Thank you, Mr. Speaker. Mr. Speaker, I am sure the hon. Minister of Legal Affairs and Justice is also concerned but I am advised that the police service is still conducting investigations. They have interviewed a number of persons and have collected numerous documents from the courts. I am further advised that this investigation will take some time to conclude. I can advise also that the investigating officer is Assistant Commissioner of Police Denoon.

Mr. Warner: Supplemental. So, is it true to say you cannot give a date, or suggest one, when this “prison-gate” probe would come to an end? Is this what you are saying?

Sen. The Hon. Brig. C. Alfonso: No, I cannot. The police have said it will take some time.

End of Parliamentary Term (Introduction of Legislation)

Mr. Jack Warner (Chaguanas West): To the Leader of the House. Can the Leader of the House explain the rationale for introducing legislation in the areas of industrial relations, cybercrime, gambling and more, as well as the possibility of legislation to increase government spending towards the end of the Government’s parliamentary term?

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Thank you very much. Mr. Speaker, in the very limited time allocated I will just have to make a few general comments. In the House, we did introduce path-breaking legislation in the areas of industrial relations, cybercrime, gambling and gaming and other pieces as the question says. At this moment, we do not have any Bills before us dealing with increased government spending. That may or may not come up. But there is nothing before us now, so.

In the area of industrial relations, Mr. Speaker, the amendment seeks to make path-breaking changes to the 1972 Industrial Relations Act particularly as it relates to workers’ rights, to reshaping the composition of the Industrial Court and its relationship to the wider Judiciary and other matters. The Cybercrime Bill, 2015 is a very critical piece of legislation on the agenda for many years

addressing that issue of criminalizing and creating offences and penalties for involvement in cybercrime. Gaming dealt with regularization of a major industry in the country that has generated income and employment and wealth transfers and bringing order and regulation to that sector; but also protecting customers, protecting citizens, protecting the vulnerable and those who may be prone to the social and economic evils of that sector.

So that there is clear rationale for the introduction of all. I think the Member did have, notwithstanding Wednesday last, an opportunity to speak on industrial relations and cybercrime. The gambling, I think, was dealt with on that Wednesday. So the Member did contribute, himself, to that but that would be the rationale for introducing these matters.

We are hoping, Mr. Speaker, that we can come to an end and vote on a couple of these matters. The Cybercrime Bill, 2015 may require amendments, the Industrial Relations (Amdt.) Bill, 2015 may also require amendments. The Gambling (Gaming and Betting) Control Bill, 2015 has been passed, I think, on the last occasion. So that is as far as we go with that matter.

Mr. Warner: Supplemental, Mr. Speaker. Does the Minister not agree that the bringing of controversial, special majority legislation to Parliament in the dying days of the Government's term is a rushed and wilful departure from parliamentary procedure or convention?

Hon. Dr. R. Moonilal: Well, Mr. Speaker, the Government has a mandate that is encapsulated in our manifesto and our policy papers. Part of that mandate is to introduce new policy, and new policy leads to legislative change and the Government has a constitutional period to operate within. Yes, we are a few weeks away from the end of the Tenth Parliament but we have a duty to bring those pieces of legislation that require attention by the Parliament before the end of the Tenth Parliament.

So it is a duty that we are fulfilling. It is not our fault that Members of the Opposition, apart from the Member for Chaguanas West, have walked out of the job, so to speak, and will not contribute to this. In an ideal situation we would have hoped that the Members of the Opposition would have been more responsible and accountable, and participated in these very important debates on critical issues of policy and change. Notwithstanding the Wednesday last and the fact that the Member was detained elsewhere, the Member has been participating in several of these key and critical policy issues and pieces of legislation and we

are hoping that the Member would at least remain available for a little while more to continue to participate in the rest of the parliamentary term.

Mr. Warner: Essentially, Mr. Speaker, the question remains unanswered. I sat here and listened, and listened and it has not been answered. I ask it again. In the dying days of the term of this Government, do you think it is a rushed and wilful departure from parliamentary convention?

Hon. Dr. R. Moonilal: Mr. Speaker, I know of no parliamentary convention that suggests you cannot debate serious and important legislation, whether it is the beginning, it is the middle, or it is the end of a parliamentary term. [*Desk thumping*] The Member would know that the end of a parliamentary term is the end of the Parliament; it is not the end, strictly speaking, of the Government. So there are no “dying days” here. We are coming to the end of the parliamentary term, there are critical pieces of legislation and they must be dealt with. Not all may be dealt with to its conclusion but I am sure that with the debate of the Member for Chaguanas West—regrettably the Opposition is not here, they have abdicated a few weeks ago, but I am sure with his contribution, we can pass and seriously consider some of these critical pieces of legislation. But there are no dying days, and the Parliament continues. We have other pieces of legislation to come as well, apart from what you named here. There are other pieces.

Today, I believe, there is a critical matter with squatting and land tenure to be placed on the Order Paper. So other matters will come. We act properly within our duty to bring, debate and pass, if possible, critical pieces of legislation. It really has nothing to do with the timing as such, and we are sure that we can continue. Objections may be raised, both in the House and outside, to certain matters, we continue to engage the national community as we did on the cybercrime legislation, I would let you know. We continue to engage the wider society so that we can come about with the best possible legislation at this time.

Mr. Warner: Mr. Speaker, may I be allowed one more supplemental? Thank you, Mr. Speaker. Following what you have said Minister, does the Government plan to proceed to pass the unconstitutional Constitution (Amdt.) Bill?

Hon. Dr. R. Moonilal: I would like to ask what is the unconstitutional Constitution—[*Interruption*]

Mr. Warner: Does the Government proceed to pass—let me put it another way. Based on what you have said, does the Government intend to pass the Constitution (Amdt.) Bill? Some people call it the “run off”.

Hon. Dr. R. Moonilal: Oh, it is the run off, okay. Well, Mr. Speaker, there is no unconstitutional Constitution (Amdt.) Bill—[*Interruption*]

Mr. Warner: I take that back.

Hon. Dr. R. Moonilal:—but I am sure the Member would have had an exhausting week and would not be completely at it today. Notwithstanding any other matter, the Member has a tendency to vacate the compound at 4.30. If the Member would be here on the adjournment, we normally announce the business of the next day. So I am sure if the Member sticks around to the adjournment today or next week, as the case may be, and so long as the Member is available, and not otherwise detained, the Member would know what is on the agenda coming and we intend to cover the Order Paper as it is. So, it is coming and I am hoping that the Member would remain available to consider that Bill as well.

CEPEP and URP Employees (Involvement in UNC Rally)

Mr. Jack Warner (*Chaguanas West*): You can insult me as often as you want, I will still ask the question. I would not be deterred at all. To the Minister of Housing and Urban Development. Continue your assault, Minister, I will ask the question: Can the Leader of the House tell this House whether there has been an investigation into media reports that CEPEP and URP employees were required to attend a recently held UNC rally under duress, under fear of losing their jobs?

Hon. Dr. R. Moonilal: Mr. Speaker, it is not my intention at all to insult any Member of the House. [*Interruption*]

Mr. Speaker: Please!

Hon. Dr. R. Moonilal: The Member has filed seven questions to ask. We are here to answer all seven questions, to the Member. [*Desk thumping*] It is really not my intention to insult the Member. Can the Leader of the House—yes. Mr. Speaker, our investigations reveal that the CEPEP Company Limited and the URP employees have not been mandated, forced or directed to attend any political rally of either the UNC or the People's National Movement held over the past week or so. Members were not directed or forced in any way to attend.

Having arrived at that conclusion, from our preliminary investigation at both the CEPEP company and the URP, there is no further action that one can take. May I indicate to the hon. Member that not one single employee of the URP, not one single employee of the CEPEP—in fact, the Member can check CEPEP himself, he has some connections with the company—indeed has lost their job or may be in

fear of losing their job from the CEPEP or the URP. So that, the matter just does not arise and they were not forced or directed to attend any meeting of the PNM or the UNC.

Mr. Warner: Supplemental, Mr. Speaker. Is the Minister aware that persons employed in the gaming industry have also complained about this matter?

Hon. Dr. R. Moonilal: Mr. Speaker—

Mr. Speaker: If the hon. Member wishes to respond, he can, but that question does not arise from the matter before us.

Hon. Dr. R. Moonilal: Is the Member aware that no one has so indicated to any Government official that they were forced to attend any rally? Is the Member aware that no one has complained about being forced to attend a meeting last evening in Endeavour?

General Election (Transparency in Campaign Financing)

Mr. Jack Warner (*Chaguanas West*): I am tempted but I would not, Mr. Speaker. I am tempted but I would not, I have more respect for this House. To the Prime Minister: What plans does the Prime Minister have to ensure transparency in the Government's campaign financing for the imminent general election given her stated commitment to campaign finance reform?

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Mr. Speaker, on behalf of the hon. Prime Minister, may I indicate that the Government has taken very strong action and historic initiatives in pursuing this matter of campaign finance reform which was a commitment made by the hon. Prime Minister upon taking office. Whereas prior to 2010, the issue of campaign finance reform has only been discussed by way of Motions and private Motions in the House, for the first time, Mr. Speaker, this Government, under the leadership of the Member for Siparia, initiated a joint select committee to look into the proposal for legislative framework to govern the financing of election campaigns. [*Desk thumping*]

Mr. Speaker, this was a historic report. This report has been submitted to the Senate of the Republic of Trinidad and Tobago. It is a report that speaks to campaign finance reform, new policies, a new agenda and a legislative and policy framework to develop in the future a protective arrangement to deal with campaign finance reform. It also speaks to the issue of the institutionalization and creation of legal entities as political parties.

So, Mr. Speaker, a lot of work has been done. This has been submitted to the Parliament of Trinidad and Tobago. It is a joint select committee made up of Members of both Houses. It is expected that this will be a matter that will continue so that we can arrive at legislation, a policy and new institutions to manage campaign finance reform.

Mr. Warner: Thank you. Will it be asking too much, Mr. Minister, if I were to ask you whether it would be possible, based on the rush of Bills and so on coming to the Parliament, that this can be implemented before the general election, before the House is prorogued?

Hon. Dr. R. Moonilal: Mr. Speaker, before the Parliament is dissolved, it would be the members of the legislative team that would look at this policy document to draft legislation. Now, Mr. Speaker, the Member just complained about rushing important legislation through the House in the last days and now asks whether we can also rush this through the House—*[Interruption]*

Mr. Warner: Well, that is the norm.

Hon. Dr. R. Moonilal:—in the last days. This matter is a very weighty matter in that it still requires consultation with the national community, it still requires a lot more work and the avenue we may use is further consultation, but we have arrived at a historic point in that we now have before us a document representing the views of the Parliament on campaign finance reform. It is the furthest that we have ever reached as a country in dealing with this matter and we will have to see if between now and the dissolution of the Parliament whether we can bring a legislative item to begin to deal with this matter. It is not something I am willing to commit at this time.

2.00 p.m.

STATEMENT BY MINISTER

**Short Stay Visa Waiver Agreement
(Signing of)**

Mr. Speaker: The hon. Minister of Foreign Affairs. *[Desk thumping]*

The Minister of Foreign Affairs (Hon. Winston Dookeran): Mr. Speaker, it is my honour today to inform this honourable House that, as you may have already heard in the media, the Short Stay Visa Waiver Agreement between the Republic of Trinidad and Tobago and the European Union has been signed. *[Desk thumping]*

The signing took place at a ceremony on Thursday, May 28, 2015, which commenced at 1.00 p.m., Brussels time, at the headquarters of the Council of the European Union in Brussels, Belgium. Her Excellency Margaret King-Rousseau, Ambassador Extraordinary and Plenipotentiary of Trinidad and Tobago to the Kingdom of Belgium and the European Union, signed on behalf of Trinidad and Tobago.

Mr. Speaker, it has been a long process. You may recall that this process began many years ago in 2009, when the then Government of Trinidad and Tobago first attempted to achieve visa waiver status for its citizens. The early years of the pursuit were challenging. In 2010, the European Union ruled that there was no justification for the Republic of Trinidad and Tobago to achieve visa waiver status. However, given the importance of our relationship with the European Union and the level of interaction between Trinidad and Tobago and the EU Member States, Trinidad and Tobago continued to pursue its objective in the hope of facilitating a deepening of that relationship.

In January 2011, lobbying efforts for the visa waiver status for the citizens of Trinidad and Tobago recommenced, including the dispatch later in the year of correspondence to each EU and Schengen Zone Foreign Minister, the President of the European Parliament, the President of the European Council, the President of the European Commission, the European Union High Representative for Foreign Affairs and Security Policy and the European Commissioner for Home Affairs.

Trinidad and Tobago also campaigned and lobbied extensively in support of this bid in bilateral and multilateral fora for the last four years. In November 2012, the European Commission submitted a proposal to the European Parliament and the Council of the European Union that Trinidad and Tobago be exempted from the Schengen Visa obligation. In May 2014, our efforts resulted in the amendment of the European Council Resolution, (EC) No. 539/2001, which listed (i) third countries whose nationals require visas to enter EU Member States, and (ii) those countries whose nationals are exempt from that requirement, then to include Trinidad and Tobago. Following this landmark decision, Trinidad and Tobago proceeded to finalize the bilateral agreement proposed by the European Union.

Mr. Speaker, in a single negotiating session, through a collaborative effort involving the Ministry of Foreign Affairs, the Ministry of National Security and

Statement by Minister

Friday, May 29, 2015

the Embassy of Trinidad and Tobago in Brussels, Trinidad and Tobago was able to adequately arrive at an agreement which was initialled by the Contracting Parties on December 15, 2014.

Following Cabinet's approval of the text of the agreement and the completion of internal procedures, the date, Thursday, May 28th was agreed upon by both contracting parties for its signature.

The Short Stay Visa Waiver Agreement is subject to application within the Schengen area and includes the territories of the EU Member States, except Ireland and the United Kingdom, but excludes overseas territories of France and the Netherlands. The agreement provides for visa free travel for the citizens of the European Union and the citizens of Trinidad and Tobago when travelling to the territory of the other contracting party for a maximum of 90 days in any 180-day period. The agreement achieves full reciprocity for citizens of Trinidad and Tobago and citizens of Europe with regard to visa free travel.

Recognizing the importance of transparency for the citizens of the European Union and Trinidad and Tobago, both the Republic of Trinidad and Tobago and the European Union have agreed to ensure full dissemination of information about the content and consequences of the visa waiver agreement and related issues such as entry conditions.

Mr. Speaker, as can be seen by all, the signing of this agreement is the culmination of years of dialogue, lobbying and collaboration and a determined effort. It is, therefore, my genuine pleasure to bring this news to Parliament today and to also inform that by the consent of the contracting parties, the agreement is applied on a provisional basis from the date of signature, that is, Mr. Speaker, as of May 28, 2015. The agreement has already been placed before the European Parliament for completion of the ratification process, and Cabinet will shortly be asked to consider ratification.

Mr. Speaker, this is but an act of confidence in the integrity of the Government of Trinidad and Tobago. [*Desk thumping*]

Mr. Speaker: The hon. Member for Chaguanas West.

Mr. Warner: Thank you, Mr. Speaker. Thank you, Minister. For purposes of the public and possibly for me, can you say, specifically, to which countries this agreement applies in Europe?

Mr. Speaker: The hon. Minister of Foreign Affairs.

Statement by Minister

Friday, May 29, 2015

Hon. W. Dookeran: Mr. Speaker, this applies to all the countries that are now members of the Schengen Zone in the European Union. There are 28 such countries at this point in time and in due course there are six other countries that are likely to join. I can give you the list, but it is well known.

**STATE LAND (REGULARISATION OF TENURE)
(MISCELLANEOUS AMENDMENTS) BILL, 2015**

Bill to amend the State Land (Regularisation of Tenure) Act, Chap. 57:05 and the State Land (Regularisation of Tenure) (Certificate of Comfort) Regulations, Chap. 57:05 and to revoke Legal Notice No. 151 of 1999, Legal Notice No. 134 of 2000 and Legal Notice No. 135 of 2000 [*The Minister of Land and Marine Resources*]; read the first time.

Motion made, That the next stage of the Bill be taken on Wednesday, June 03, 2015. [*Hon. J. Seemungal*]

Question put and agreed to.

ARRANGEMENT OF BUSINESS

Mr. Speaker: The hon. Minister of Housing and Urban Development.

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Mr. Speaker, with your leave, I move for the suspension of Standing Order 82(2) in order to provide for a meeting of the Standing Finance Committee on Wednesday, June 03, 2015. The documents for Members of the House have been submitted to the Clerk of the House for immediate circulation.

I beg to move.

Agreed to.

INSURANCE BILL, 2015

Order for second reading read.

Mr. Speaker: The hon. Minister of Finance and the Economy.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you, Mr. Speaker. Before I start, I would like to extend my own congratulations to the Member for Tunapuna and the Minister of Foreign Affairs for having been able to [*Desk thumping*] achieve this particular milestone of having the waiver of the visa requirements for the Schengen Area. I know that quite a number of persons have been asking about this for some time, so I want to congratulate the Minister for having achieved this.

Mr. Speaker, I beg to move:

That a Bill to repeal and replace the Insurance Act, Chap. 84:01, to reform the law relating to insurance companies, to regulate insurance businesses and privately administered pension fund plans and for other related purposes, be read a second time.

Mr. Speaker, this Bill seeks to provide a new regulatory framework for the insurance industry and continued regulation of privately administered pension fund plans and to repeal the existing Insurance Act, Chap. 84:01.

The Bill was debated and passed in the other place last Wednesday. This was on May 27, 2015, and the journey to getting to this point has been a long and, perhaps, at times, arduous one. The discussions on having a new Bill actually took place, or started, somewhere around the mid-1990s and this followed the collapse of Winsure, the West Indian National Insurance Company, which had collapsed, with losses to many policyholders back in the late 1980s. And it was recognized that there was a need for us to have much more robust legislation in place to address the concerns and weaknesses of the industry. In fact, as early as the year 2000, there was the recognition that Clico itself had begun to have problems and there was the need for us to put some kind of more stringent and, perhaps, stronger regulatory framework in place to facilitate the management of the insurance industry, which continues to grow.

This industry, the financial services industry, accounts for about 15 per cent of GDP and, of course, it makes a very significant contribution to employment and, therefore, it is something that needs to be considered very seriously as part of what we need to do on an ongoing basis.

The process, of course, has taken quite a long time. As I said, since the year 2000 there was the recognition that, perhaps, there would be need to introduce some kind of legislation to help manage this industry in a much more proactive manner. In fact, perhaps, if we had done so, some of the losses—the debacle that occurred back in 2009 with the collapse of Clico would probably not have occurred. Nevertheless, we are here in this place seeking to ensure that we put legislation in place, and a regulatory framework that would avoid similar circumstances in the future.

A precursor to this Bill was actually laid on November 25, 2011, but it lapsed, and then in 2013 another version of the Bill was laid after further consultation with the industry, and this was sent to a joint select committee. That joint select

Insurance Bill, 2015
[SEN. THE HON. L. HOWAI]

Friday, May 29, 2015

committee was unable to complete its work, but some of the work that had been done was saved and it was brought into the last session that we had, in the period 2013/14. During that time, we had something like about 13 meetings held by a joint select committee, starting on December 03, 2013 and going until July 16, 2014.

That committee completed a clause-by-clause analysis, but needed to prepare a complete list of amendments prior to it finally being laid, and the list of amendments was reported on to this House on July 18, 2014. Again, however, the work was not completed and we were unable to complete the debate on that version of the Bill.

So, following the completion of that sitting, the Bill was worked on again by a very strong team comprising technical representatives from the Central Bank, from the CPC's office, as well as consultants, with a view to regularizing and treating with all of the issues that came out of that full year of deliberation on the Bill.

I want to also assure this honourable House that there has been quite extensive stakeholder engagement on this matter. So not only have we engaged quite eminent support in terms of consultants and so on, that have been used for the Bill, not only did we spend quite a long time—over a year—considering all the clauses, clause by clause in the Bill, but we also ensured that stakeholders had adequate time to make representations, and also were given the opportunity to make both written and oral presentations to the joint select committee.

We had a number of hearings at which ATTIC, ICATT, the Institute of Brokers, IBATT, Central Bank, and a number of insurance companies: Maritime, Pan American Life; as well as trade unions: the Banking, Insurance and General Workers Union—all of these had an opportunity to comment on the work of the committee, had an opportunity to make representation and had an opportunity to have their views heard.

So, Mr. Speaker, the work on this Bill has continued over an extensive period of time, has involved quite an extensive amount of consultation and, in fact, I should add that early on in the life of the work on this Bill there was also a public consultation that was held, so that there was the opportunity for members of the public also, in general, to make a contribution to this Bill. So, overall, I want to say that there has been quite extensive consultation on this Bill and I want to give this honourable House the assurance, therefore, that the Bill before us is quite robust and it is quite rigorous and we have addressed most of the issues—in fact, all the issues—which have come up.

Following the work on the Bill in the last session, as I indicated, we made quite a number of changes and these changes required extensive reworking of the Bill, and I want to say, one of the key changes we made in the original Bill, as well as subsequently, was that we removed the statutory fund which used to be the basis on which some protection was provided to policyholders, and instead we have introduced a risk-based capital approach to this Bill and to the regulation of the insurance industry.

One of the changes that was made in the committee—because a further joint select committee was put together, Mr. Speaker, as you know, which completed its work somewhere around, I think, the 25th of May or thereabouts, and one of the things that came out of that, and out of the discussions that we had prior to that, was that foreign branches were allowed in Trinidad and Tobago under the previous version of the Bill.

Going forward, we will not allow foreign companies to have branches in Trinidad and Tobago. What will happen is that they will be required to form themselves into limited liability companies in Trinidad and Tobago and will fall under the ambit of the regulatory framework. They will also be required to have capital here in Trinidad and Tobago and they will fall under the same kind of regulatory framework as would apply to local insurance companies. [*Desk thumping*] So, as a result of that, we had very, very extensive changes being made to the original Bill which had been presented to this honourable House.

Another area that I just wanted to just touch on briefly, Mr. Speaker, is the fact that throughout this Bill, at nearly every stage of this Bill—I would not go into all the different clauses and so on that relate to it, I will just say that in general, throughout every stage of this Bill, the main focus has been to ensure that the rights of consumers are protected. [*Desk thumping*] We wanted to make sure that—there has always been so much concern expressed by the general public that it is easy to pay your premium; it is hard to collect whenever you have a problem.

Therefore, in this particular Bill that we have drafted and put before this honourable House, very important changes have been made and is integrated throughout all parts of the Bill where specific emphasis—and I will make reference to one or two as we go forward—specific reference is made to ensuring that the rights of individuals are protected; that the rights of the citizens are protected; and that citizens have the right of redress should there be any concerns with respect to the collection of payments in the event that citizens suffer loss.

Insurance Bill, 2015
[SEN. THE HON. L. HOWAI]

Friday, May 29, 2015

Mr. Speaker, when the deliberations of the committee were completed—the joint select committee which was formed of both Houses of this honourable Parliament—we submitted and laid before both Houses the following reports: the deliberations of the committee, which the hon. Member laid earlier today; amendments which were made in the committee; the Bill with the amendments made in the committee; and the Act as it would read, with all the amendments.

I want to particularly highlight a few areas where we made changes. As we go through this debate a number of other Members will speak on a number of areas that the Bill touches, but I wanted to expressly address five specific areas when we looked at the Bill in committee. We thought that there was need for further work and changes and we have made those changes and incorporated them in the final version of the Bill.

The first related to the incompatibility and disproportionality in the penalty structure when compared with similar pieces of legislation, for example, the Securities Act and the Financial Institutions Act, and I would speak to that a little bit. Secondly, the ambiguity in the definition of certain terms was dealt with; thirdly, instances of the expansion of the powers of the regulator beyond reasonable, or what would be considered reasonable limits, and what we sought to do in finalizing this Bill was to ensure that the powers of the regulator remained reasonable and that always throughout, parties who feel that their rights may have been abrogated in some way, that they have the opportunity to take the matter to court and to have the legal system opine and judge on that particular issue.

Fourthly, there was inconsistency in the determination of periods for reporting or completion of certain actions, and we have dealt with those; and fifthly, the application of negative resolution provisions to certain schedules and regulations that I need to come to towards the end of my own presentation.

So, Mr. Speaker, some of the key changes which we have made from the original Bill that was laid in this honourable House related to ensuring the streamlining of the penalty structure as it compares with other pieces of legislation. And in preparing this Bill, what we have done is, we have sought to align it with the penalty structure that exists in other critical pieces of financial legislation. For example, there was one change we made in the version of the Bill that was previously laid here, where in clause 131, an individual operating as an intermediary, while unregistered, had a fine of \$150,000 and 10 years' imprisonment, and we thought something like that seemed to be disproportionate. On the one hand, the fine is only \$150,000, but the imprisonment is 10 years, and

we thought that we should try and streamline all of these things and bring them in line.

So, while we thought that in clause 131 which deals with fraudulent representation and so on, that what we would do is that we will increase the fine to \$1.5 million, we reduce the prison penalty to two years. So what we have done is, we have sort of streamlined the process of penalties throughout the legislation, and that is just one example of what we sought to do and we have done it throughout the legislation. So we feel comfortable that the schedule of fines and penalties within this legislation is consistent with what exists in other legislation and also consistent with what one would expect from the point of view of proportionality to the offence that has been committed.

Another area that I just wanted to touch on, briefly, Mr. Speaker, is the question of the definitions of certain terms and so on. What we have tried to do is, we have, of course, made the list of definitions quite extensive, but during the course of the work of the committee, we made further changes, and where, for example, definitions may have been considered to be too wide, for example in section 4, the definition of “insurance consultant” was actually taken to be so wide as to include any kind of consultant, when the intention was just to deal with insurance consultants. Therefore, what we did was, we introduced words to restrict the definition to include only insurance consultants and not allow it to be construed so widely that it could include lawyers, accountants and any other types of consultants.

Another area which we focused on was—in making some of the changes recently to the final draft that you have before you, is we have redefined “credit exposure” to remove the words “net of provisions”. What happens is that in looking at this particular definition, we need to ensure that insurance companies have enough capital that they are able to meet the requirements of payment and of meeting their obligations for all policies under their control. And, therefore, in preparing the accounts, we need to make sure that they are solvent enough and that they have enough capital.

And one of the things with this particular definition is that it is a definition that could potentially expose the insurance company to more losses than have actually been reported and, therefore, we needed to make sure that the definition could be amended.

Now, one of the things with this is that, currently, in the global industry, there is a great debate going on in this particular area concerning the adequacy of

Insurance Bill, 2015
[SEN. THE HON. L. HOWAI]

Friday, May 29, 2015

provisions and the adequacy of capital. In fact, there is a Basel consultative paper where this matter is still up for discussion globally, throughout the world. So what we did was we removed that part of the definition and we have put it into a schedule so that at any time should the definitions change—should we think that the definitions need to be amended—we can easily make it without having to come back and amend an Act of Parliament that requires a special majority.

So those are some of the changes that we have tried to make. One of the things that we also addressed was the question of the duties of directors to make sure that they are more in line with the Companies Act. What we found was that, in looking at that definition that we had in the Bill that, perhaps, it may have been too wide and what we sought to do is, we looked to our consultant, Dr. Denbow, who actually is one of the leading consultants in the insurance industry here in the Caribbean, and we asked for his input in this particular area. In fact, we asked for his input on the entire Bill, and he did do quite a tremendous amount of work for us on this particular piece of legislation.

But one of the things that we had in the legislation was, we were seeking to recognize—to ensure—that the insurance company recognizes the interest of policyholders in addition to the interest of shareholders and employees. What we found was that sometimes, in trying to ensure that you meet the interest of policyholders, that may not necessarily be in the interest of shareholders, for example, and therefore, it could be a conflicting point.

Therefore, what we have sought to do was to make amendments to the legislation to address that. And, actually, we turned to the Jamaican legislation and we used the definitions in the Jamaican legislation to deal with that. Perhaps, if I could refer to the advice that we got it may make the point a little bit clearer in terms of what was being said. What I would like to do, Mr. Speaker, is refer to a memo written by our legal consultant dated May 12, 2015, where the consultant noted that a provision had been inserted into the legislation in respect of the duties of directors which appeared to be conflicting, and he pointed out that this was destined to create confusion and uncertainty which is undesirable as a matter of law.

2.30 p.m.

I would quote from the consultant who said, and I quote:

“Directors cannot at one and the same time have a duty to act in the best interests of the company under the...”—Companies Act—“and then act in the best interests of the policyholders under the Insurance Act.

Apart from the recent CLICO debacle”—he goes on—“in Trinidad and Tobago, there appears to be no good policy reason why directors of insurance companies should be subject to an additional fiduciary duty which is in conflict with the well-entrenched common law principle that a director’s paramount duty is to act in the best interests of the company.

It is not difficult to predict that should this provision become part of the...”—Insurance Act—“then it will provide fertile ground for litigation against directors of insurance companies and act as a disincentive to individuals accepting such directorships. It is not advisable that that provision should remain in the Act.”

So in considering the matter, we took the—and I end quote—concerns expressed by the consultants into account and we have made appropriate changes to reflect that.

Another area that some concerns had been expressed with is in respect of independent directors and what we did is we made amendments for consistency with the Financial Institutions Act so that directors of connected parties may be considered to be independent to sit on the audit committee. You know, one of the things, Mr. Speaker, as we go through and as we try to streamline this Act and try to get as much input as possible—and this is one of the things that we faced, that while we tried to do that, we ended up in a situation where even having completed deliberations on the Bill, actually going into the Senate to debate the Bill, we still had persons making suggestions about changes and so on. So you have this kind of request coming in on an ongoing basis. People, as they look at the Act, they think of new things and so on, but I think that overall we have given everyone enough time to be able to deal with it.

One of the things—final amendment that came in—was this definition of an independent director, and it was felt that in a small country like Trinidad and Tobago it may be very difficult to get persons who were as independent as perhaps the regulators may have wanted to see, and therefore, we had to find the right balance. And again, we made changes, and the change we made is to say that at least one of the independent directors of the audit committee must not also be a director of a connected party. So if you have about six directors on the committee, one of the independent directors must not also be a director of a connected party. So the other five could, potentially. So within a group you could have directors drawn from other parts of the group, who are independent directors, who could sit on the audit committee of a subsidiary.

Insurance Bill, 2015
[SEN. THE HON. L. HOWAI]

Friday, May 29, 2015

So these are changes, Mr. Speaker. They are somewhat technical, but they are changes that we had to make in order to ensure that this Bill was robust enough to meet the requirements of good regulation, but at the same time to ensure that it recognizes the constraints which we face as a small economy and a small country here in Trinidad and Tobago. We also changed the definition of insurable interest in the 1980 Act which was deemed more suitable, and we have aligned it properly with the other pieces of legislation, both the Securities Act as well as the Financial Institutions Act.

We also made a change to this Bill, Mr. Speaker, and we have included in here, in the 2015 Bill, which allows a divorced person to remove his or her former spouse as a named beneficiary for an insurance policy. We had this restriction at times and what we sought to do is address this, and I am sure it would probably come as a relief to quite a number of persons in Trinidad and Tobago. I understand the divorce rate is quite high now and perhaps my colleagues might have better statistics than I do on that, but I am sure perhaps at least 25 per cent of the population is probably pleased with this particular piece of change that we will be making and, of course, that we have made. What it did too, is that it required a consequential amendment to repeal section 11 of the Married Persons Act to avoid the legislative conflict and that change we have made recently.

We have made a number of other changes and I do not want to go into all of those changes. They are somewhat technical in nature. I just wanted to say that in general what we sought to do—and the two biggest changes that we have made in this legislation is what I referred to earlier, which is we are now putting a capital adequacy framework in place and we are also requiring that all insurance companies be domiciled here in Trinidad and Tobago so that we can properly manage and control those insurance companies.

Another area that we focused on was the powers of the regulator, and what we sought to do throughout this Bill, Mr. Speaker, is to ensure that the powers of the regulator did not go beyond reasonable limits, and I just want to highlight that we did make a change. One of the changes we made was where the Central Bank was allowed to remove a director by reason of its own action that, in fact, the Central Bank could remove a director from a company. Again, we sought the advice from one of our consultants and, again, if I could refer to the same piece of correspondence from our legal consultant just to make the point as to why we made that particular change. What the consultant had to say was that:

“One consideration here is whether”—I quote from the consultant, and this is clause 35(4) of the Bill:

“One consideration here is whether this is necessary”—this is the power of the Central Bank to remove a director or an officer of an insurer where there has been non-compliance with a directive and the consultant was saying that:

“One consideration here is whether this is necessary having regard to clause 65(2)(c) where the person who is being directed to be removed as director will most likely be not fit and proper and would automatically be debarred from continuing to act.”

So what the consultant was saying is, you already have power to deem a person not fit and proper, and in that situation why would you want to give the Central Bank the power to simply remove a director or officer if they did not comply with what they said. So the consultant indicated that the insertion of that clause:

“...would seem to be overreaching and smacks of being high-handed and dictatorial. It is unnecessary to achieve the purpose of removing delinquent directors from the board. The Central Bank does not have to arrogate itself power to fire when it already can achieve that same objective under the powers in clause 65(2)(c) whereby a director who ceases to be fit and proper cannot continue to act.”

So basically, Mr. Speaker, this one is one example of where we have tried to go through the legislation and ensure that the powers of the regulator, while there is sufficient to ensure proper regulation, they do not become overbearing and are not high-handed or dictatorial.

Finally—well second to last, the final point in this particular area that I would just like to make is the question of negative resolution. An earlier version of the Bill that was put before this honourable House had regulations being changed by negative resolution. A subsequent version had it as being only changed by positive resolution. One of the good things about going back and revisiting these things is that you are able to refine these things. So, in this version of the Bill, what we have is the regulations being amended by both affirmative as well as negative resolutions, and we found precedent for this in the UK legislation. So what we have done here is that where there is a change that affects constitutional rights, those will have to be amended by affirmative resolution.

Other changes which are technical in nature—and this is a fairly highly technical Bill and a lot of the regulations are very technical regulations, those will be amended by negative resolution. So, Mr. Speaker, what we have done is, perhaps for the first time—but certainly for the first time as far as this Bill is

Insurance Bill, 2015
[SEN. THE HON. L. HOWAI]

Friday, May 29, 2015

concerned if in fact we do have it in any other piece of legislation, but I was not able to identify any other piece of legislation where the changes are both affirmative as well as negative for the regulations.

So finally, Mr. Speaker, we have quite a number of people who will speak on this. There has been a lot of ventilation of all of the issues arising out of this over a number of years through two Joint Select Committees and, of course, having gone through the other place. I just want to say a few words on taxation which is not in the Bill, but which is something that we need to treat with. Because we no longer have a Statutory Fund it means, therefore, that we have to deal with the issue of taxation in a different way, and eventually we will go to a position where the companies are taxed on the basis of their total income from all sources. But for the time being and as a transitional measure, what we will do in the Finance Bill, which we will probably be reading somewhere in September or October of this year, we will be putting a new regime in place for the insurance industry.

And just for purposes of Members of this House, I would want to say that we have consulted with industry and stakeholder groups, and these groups have proposed an initial solution for an amendment to this taxation regime which lays the basis for the longer term solution that we want to put in place. This arrangement or agreement by them was confirmed in a letter to us dated March 19, 2015, from the President of ATTIC, and the initial solution that is being considered is one where the net investment income of a life insurance company will be taxed at 15 per cent with the exception of income associated with registered approved annuities. Registered approved annuities are not subject to tax where the net investment income from these investments are held to meet the future liabilities of the annuity liabilities. So that is not taxed.

So we maintain that same arrangement going forward and we will however have an uplift which is in keeping with what is already in place, and that uplift will deal with increasing the Corporation Tax rate to 25 per cent if a dividend is declared and to be distributed to shareholders and not at the point of transfer to the shareholders' accounts. So what we will do, is that if the portion of the income which you are now proposing to pay out as dividends to your shareholders, that will be subject to a standard 10 per cent uplift in the taxation. So that is something which we are signalling that we will be doing, and we are looking at change that we will be seeking to make in the coming months.

So finally, Mr. Speaker, again I want to emphasize that this Bill is a fairly comprehensive Bill, 284 clauses. It covers all of the issues that affect all aspects of the insurance industry. We are convinced of the rigour of the Bill. The Bill has

gone through many versions and iterations, and I did not think it was necessary for me to go through all of the details of the Bill. It is benefited from the views of many eminent professionals who comprised part of the committees, the Joint Select Committees that we had used. In fact, the leading consultant on this particular Bill is currently the head of the Insurance Practice Group of the Financial Sector Operations and Policy Department of the World Bank. So we have used quite a high ranking person to help us, a very eminent member of the staff of the World Bank to help us in crafting this Bill and bringing it to this point, and we have also used many local experts both in life, general and general field who have practised in the industry, as well as leading law experts in this particular area. The industry also had sight of the Bill and have made their comments on it.

So, I think it is important now, Mr. Speaker, for us to get to the point where we can make this piece of legislation law. I have to say I am grateful to the Members in the other place, where all of the Independent Senators unanimously supported this piece of legislation. They were very comfortable with this as a comprehensive, robust and rigorous piece of legislation, and therefore, I would like to commend this legislation now to this honourable House.

Mr. Speaker, I beg to move. [*Desk thumping*]

Question proposed.

Mr. Speaker: The hon. Minister of Transport.

The Minister of Transport (Hon. Stephen Cadiz): Thank you, Mr. Speaker. Just 282 clauses. Quite a comprehensive and heavy Bill as they say to debate, but even so a Bill that really and truly brings relief, long-awaited relief, to the general population because I am pretty sure that those of us who buy insurance on a regular basis would find it very difficult to really and truly understand all the ramifications and contract law, et cetera, that goes with insurance. Therefore, as John Public, we will need to have the insurance business regulated and managed in a way, where any one of us buying insurance for whatever it is, whether it is property, vehicle, life insurance, that we feel safe that the regulations that have been put in place will in fact lead to, if there is ever a claim that we would not be at the mercy of any insurance company.

So bringing this Bill to this House with the amendments is a key part of the legislative agenda for this People's Partnership Government, where every time we come here we look at issues of how we are going to improve the quality of life for each one of our citizens, and I sat here and heard earlier on the Member for Chaguanas West talking about rushing Bills and bringing Bills to the Parliament,

Insurance Bill, 2015
[HON. S. CADIZ]

Friday, May 29, 2015

et cetera, et cetera. Well that is the purpose of the Parliament. The purpose of this Parliament is to debate issues surrounding the everyday lives of citizens, because every single thing that is done here will affect us in some way, and therefore, it is key that we bring this very, very necessary legislation as and when it is required. I think the Member for Oropouche East dealt with that already, but just to re-emphasize that this Parliament is not about only for a certain time, for certain people. It is for us to discuss the people's business.

Mr. Speaker, insurance is a way of managing risks, and when a member of the public buys insurance, in effect he—actually, he is transferring the cost of a potential loss to the insurance company in exchange for a fee known as a premium, and more often than not insurance companies invest their funds securely so it can grow and pay out when there is a claim. Premiums may vary and, for instance, in the case of an automotive insurance the insured may pay a mere \$800 for a policy depending on the age of the vehicle, or conversely for a new vehicle of a higher value the insured might be called upon to pay in the vicinity of between \$30,000 to \$40,000, and similarly premiums on properties also vary depending on the value of the property. But then if there is a claim, you are paying X amount of dollars. I mean, for a property insurance, for instance, you could be paying \$1,000 again, or \$15,000 depending on the value of the property, but when there is a claim it is millions of dollars in claim, and therefore, the risk that is taken by the insurers, that has to be regulated the way in which those risks are managed and hence the reason for this Bill coming to this House.

Mr. Speaker, in the *Express* newspaper, May 08, 2012, the then Central Bank Governor Mr. Williams and I quote from the article and he is saying:

“There are several rogue insurance companies in Trinidad and Tobago whose unethical practices are tainting the responsible image of the industry that is otherwise regarded as a solid pillar in the financial services sector.”

He goes on to say:

“‘In order to capture market share, some companies are prepared to underprice premiums while operating with inadequate claim reserves. Consequently they have difficulty in meeting consumer claims,’...

He said from 2008—2011, there were over 2,000 complaints to the Office against insurance companies...”

Two thousand complaints against insurance companies.

“...primarily for auto insurance claims.

The bulk of the claims, he said, were for unfair claim practices, such as forcing legitimate claims to litigation, underpayment of claims and unreasonable delays in paying claims.”

And he goes on to talk about, for instance, then in 2005 the current Insurance Act was dating back to 1966, old legislation, and he says that:

“The old legislation makes taking serious action very difficult.”

For instance:

“Just to levy a sanction for a company that has not submitted its audited financial statements, we can’t do anything; we need to go to the police. They have to investigate and then to court—and that can take years, ’...”

We know the justice system in Trinidad and Tobago is extremely slow when it comes to dealing with issues like this, and therefore, the policyholder, where there is a claim on your insurance company, that insurance company outside of the new regulations and this new Bill can in fact, as I say, take somebody for a ride and you could spend years in court trying to get your case heard where you will be dealt with.

So, Mr. Speaker, the concern of errant insurance companies, it is no way a recent one. There is another article in the *Newsday* dated Friday, October 28, 2005, which again quoting Mr. Williams, the Central Bank Governor, disclosing that the Financial Services Ombudsman has recently dealt with a significant number of public complaints against local insurance companies—and this is in 2005, eh. A new legislation to strengthen Trinidad and Tobago’s financial sector will come to Parliament before year end. And that is since 2005.

Now between 2005 and 2009 there were three amendments, but nowhere as comprehensive as this Bill that the People’s Partnership Government is bringing to this Parliament today. So after many, many years of the public questioning the insurance industry and really and truly not knowing whether or not when there was a claim, whether or not they would actually be settled and settled favourably in a just manner, we bring this Bill to the Parliament to deal with that. So Mr. Speaker, this Insurance Bill is a very welcome piece of legislation because it not only addresses the shortcomings of previous legislation, it also conforms to international operating standards concerning governance and risk management.

Mr. Speaker, financial industries operating in an unregulated environment— we recently brought the gaming Bill—is like a compulsive gambler, letting loose a compulsive gambler in Las Vegas with his life savings is the same risk, and

Insurance Bill, 2015
[HON. S. CADIZ]

Friday, May 29, 2015

therefore, we have to be able to legislate properly where John Public understands at all times that they are being protected. Not because you have a very fancy sign on your building, a nice big plush fancy door to enter the premises, that you can trust those people. You need to have the legislation to backup and to give it that confidence so that when you are going to buy insurance that you are being looked after.

I mean, we have seen the signs. For instance, we have seen in the financial sector. Remember in the 1970s the famous savings and loan collapsed, untold losses for people with their life savings. When people put their life savings into investment business like insurance and pensions and what have you, they expect that when they are ready to go and get their money that the money is there. How many times have we heard of people taking their lump sum pensions and putting it into an investment company, or an insurance company, and then they go back the next day and the door is locked, place closed?

Of course, we had issues. The Minister of Finance and the Economy mentioned Winsure, then you had Capital Insurance, Nationwide Insurance and, of course, the greatest one of all, the one company that was too big to fail, the one company that was highly respected in Trinidad and Tobago that nobody ever thought there would even be a little glitch in the system is Clico. How many people suffered as a result of the collapse of Clico? So this Insurance Bill, 2015, provides for a micro examination of the financial returns and statements of the insurance companies and that is seen in Part V:

“(3) The Central Bank may consult with insurers to create abridged financial statements for...publication.”

So no longer you are buying “cat in bag”. You as a potential policyholder or an investment in an insurance company will make the demand to see the financials of these companies.

Clause 153 would empower the Inspector to appoint an independent actuary to review the work of the insurer’s actuary, the cost of which will be payable by the insurer. So again, it is being able to double-check and to constantly be investigating, supervising and managing the business of these financial institutions.

Clause 154 will allow the Inspector to prohibit an insurer from recognizing in its financial statements or returns, its reinsurance arrangements. And that is where if those reinsurance arrangements are not accurate, are not supportive by the reinsurer’s own financials, that you cannot say that I am reinsuring with Dr.

Khan's reinsurance company if it is that those financials are not available. So the issue of hiding and the issue of pulling the wool over people's eyes, the policyholders, the persons walking off the street, those issues are dealt with in this Bill by the Inspector being able to properly manage the business of the institution.

"Corporate Governance" provisions provide a high level of duty on the board of directors in clauses 65 to 81 of the Bill, and when you look at the responsibility of the directors, again it is not a case of "all ah we is one family in de business", and therefore, we could do what we want. The public's money is what you are taking here. The policyholders are people, again, walking off the street. People go into people's homes in the evening to go and sell insurance as they say. You know, if it is one thing in the industry, I think what the industry has been very proud of over the years is how good they could talk, and when an insurance representative come into your home or your business place to sell you insurance, if it is one set of people that could talk, is them. They could talk better than the Member for Oropouche East to convince you to do certain things. *[Interruption]* Sorry.

Hon. Member: He used to sell insurance.

Hon. S. Cadiz: He used to sell insurance? I did not realize that. That was a compliment, Member for Oropouche East. You are very good on your legs.

So, Mr. Speaker, it is about that protection to John Public, that protection to the people, and I would like to—you know, I mentioned briefly before the collapse of the CL Financial group, and again who on earth—unless you were deeply involved in CL Financial or as a regulator, unless you were very much involved in it, nobody would have thought ever that that would have failed. I remember I was driving to Chatham to go and look at a project down in Chatham and heard it over the radio that CL Financial had collapsed, and the people who were in the car with me could not believe what they were hearing. So, John Public is none the wiser what goes on behind those closed doors of the insurance companies, and therefore, hence the reason for this very detailed and comprehensive Bill in dealing with insurance.

So, back to Clico. This Clico issue represented a major financial shock, not only to Trinidad and Tobago, but of course the Caribbean, and the collapse came fast on the heels of the global economic crisis that had spillover effects in more than 15 Caricom States, except for Jamaica and Haiti, leading to costly Government interventions.

Insurance Bill, 2015
[HON. S. CADIZ]

Friday, May 29, 2015

3.00 p.m.

In 2010, the hon. Prime Minister referred to it as a scandal of monumental proportions and one of the largest financial failures in this country; the Government having had to now take over the rescue efforts of a company that had been acquired under the former administration.

So here it is that the owners of Clico, going about their regular business, spending money, making all kinds of investments that maybe would not have been made if you had to keep to the regulations as laid out in this Bill, making all these investments and not even thinking about the possibility of collapse.

And who is affected? Sometimes people think that the only people who invest in insurance companies and in these pension schemes, and what have you, are people with money. But again this is John Public. Tens of thousands of citizens of this country, from all walks of life, had money in Clico. People put in a little \$50 a month, a little \$100 a month. Okay, you had the huge investors also but they have a right, like everybody else, to invest in Clico. But Clico covered—the history of the Colonial Life Insurance Company said that there were people from all walks of life. They prided themselves with that. But that is how they built their business. Here it is, again, John Public walking in the streets, passing the Clico building, looking at it, admiring the building, saying how these people have my money, my money is safe there and then the collapse.

Of course, Clico went and offered products that, really and truly, they could never ever have supported those investment products, paying interest rates way above anybody else. If the banks at the time were paying on fixed deposits, maybe 4 per cent and 5 per cent and Clico was in the double digits, how could they do that? How could you justify that? Therefore, this Bill seeks to provide the protection for the policyholders that will not allow the owners and directors and shareholders of these companies to do what they please.

Then, of course, when you have a collapse like Clico, who has to pick up these losses now? It is the Government. And who is the Government? The Government is the taxpayer. So you lose twice. So where you had your money invested in Clico, when Clico goes belly up and bankrupt, it is the Government of the day that has to come and bail them out but the Government has no money. It is taxpayers' money and therefore our money had to go and bail ourselves out. So a double whammy is what we got. But if we did not bail out Clico, what would have happened to all these people?

What would have happened to all these tens of thousands of people? Bankrupt—the amount of people would have been bankrupt by the Government not doing what it was mandated to do, or elected to do, which is to look after the interest of the people of this country. And that is what this responsible Government did. The other Government, well—I know the Member for Oropouche East likes to give the story about the duster coat and thing. I would not go back into that. It is true.

And when people talk about: where the money gone? They are not here today. They were not there the other day. They were not here last week and we do not know where they have gone to but all on the other side you hear them “ratiraying” outside—when they go into a public meeting—“where d money gone?” Who bailed out Clico? Where did the money come from to bail out Clico? It did not come from anywhere other than the State, taxpayers’ money. That is where the money gone. So where they failed miserably to deal with the greatest failure in this country, failed miserably to deal with it, this responsible Government led by the Member for Siparia comes, does what it has to do in a responsible way and then when “yuh finish and yuh bail out everybody and everybody goes home happy they want to ask the question, ‘where d money gone?’” Well, of course, we know where the money went with Clico.

And then all the other things that this Government has done. If we are talking about: “Where d money gone. Like dey doh drive. Dey doh leave Port of Spain, yuh know.” Those on the other side do not leave Port of Spain. I do not know where they go to. Because if you go any part of this country, Mr. Speaker, any part of this country, the answer to “where de money gone” is right there in front your eyes, in the development of this country throughout this country. Every single square foot of this country you are seeing the development by this very, very responsible Government. But, anyway, that is their electioneering business so we would leave them with that.

So, back to the Bill at hand. The Central Bank, during the Clico debacle, identified a number of deficiencies: excessive related party transactions, which carry significant contagion risks; an aggressive high interest rate resource mobilization strategy to finance equally high risk investments. That is the old story. I cannot remember the names now but way back during the Winsure deal when they had—what was the name of the company, something finance?—again, offering interest rates that there is no way they could sustain that. There is no way ever in life they could have sustained it, and yet still, here it is that years after, you see a company like Clico doing the same thing. But this Bill now prevents that.

Insurance Bill, 2015
[HON. S. CADIZ]

Friday, May 29, 2015

You are not in a position to do that, otherwise the inspector is going to be coming after you.

The fines in this new Bill, the penalties associated to owners and directors and people in charge of making these investments, are no joke. It is millions of dollars and imprisonment, five years imprisonment, in some cases. So, therefore, where it was that in the old Bill, I think, they were looking at a \$10,000 fine. You bankrupt the country and the heaviest fine you could get is \$10,000? That is no longer the case. When you do wrong things in this country, under this Bill, when you are doing wrong things and you are taking people for a ride and “yuh tiefing” people money and knowingly misrepresenting the facts, you will pay for it.

You do the crime, you do the time and that is where this Government is going because we have to protect John Public. John Public has to be protected from all kinds of people working “all kinda ratch” and racketeering “tiefing”, taking people’s money, misspending people’s money, taking money on behalf of other organizations and doing what with it? That is racketeering and, therefore, this Bill is going to deal with those people. So I, really and truly, want to commend the Minister of Finance and the Economy for bringing this Bill to this House.

Again, the Central Bank comments on CL:

Very high leveraging of Clico’s assets which constrains the potential amount of cash that could be raised from the asset sales.

So again, you are going and making investments where you could never ever recover the cost of making those investments. It was impossible to do it. Where you had assets that were worth \$1 million, Clico was paying \$10 million and \$15 million for it. So never in a lifetime you could get back your money. But again, that is being highly irresponsible with other people’s money.

It is strange how that happens. You know, when it is your money it is a whole different picture, but when you are taking money from people just walking off the streets and giving you money like that to invest for them, it is all hell break loose. They could do what they want “you is a kingpin because it is not your money yuh spending. Is other people money yuh spending, and therefore you feel as though you are king of the hill. Now, it has no more king ah de hill.” With this Insurance Bill, we will deal with the king. We will deal with those people who insist on stealing from poor persons who do not know better, because they cannot read a financial contract. Who could read a contract?

Mr. Speaker, when you go in a bank and you go to do a mortgage, the bank tells you: read this mortgage document and sign that you understand the mortgage document. Who could read that? Who could sit down in a bank and read pages and pages of legal jargon and then “dey tell yuh if yuh doh understand it get yuh lawyer tuh tell yuh it right.” But you have to sign it, you know. You have to sign it stating that I understand what I am reading here.

Now, I mean, at some stage you have to sign a contract, at some stage you have to sign something. But where it is that people are asking you to sign things that you do not really and truly understand, if those persons are going to be giving you documents that, really and truly, could destroy your life then they would also be held accountable.

So we go on. Clause 44 of this Bill goes further than the amendments that came from 2005 to 2009, and one of the big issues here, of course, is the catastrophe fund, which provides that every insurer carrying on property insurance business shall establish and maintain at all times in respect of the catastrophe risk, a catastrophe reserve fund and there should be no less than 20 per cent of its net written premium income on its property insurance business per year reserved in the event of a catastrophe and this will enable the insurance company to remain liquid enough to meet its current liabilities. Look at where we live. We live in the tropics. We have possible hurricanes, even though Trinidad is very fortunate to live below the hurricane belt.

In fact, special hurricane insurance is not required for property insurance where we are in Trinidad. But still, you never know. There was a storm I think, in 1935 that went through Icacos and ripped through and destroyed the coconut plantations and whatever else was down in Icacos in 1935, as low down as—
[*Interruption*] Yeah.

Then you had a couple storms go through Tobago, never, of course, not seeing the devastation that we have seen in Grenada in the last hurricane that went through Grenada that destroyed 90 per cent of the housing stock in Grenada. So, it is not to say that it cannot happen here in Trinidad and Tobago. So we have to be able—if you are buying insurance and you are buying insurance to insure your property, you want to know that insurance company is liquid, that it will be able to meet its high liabilities, in the case of a storm. Hence the reason the regulations for the reinsurance and how much insurance you could write and what percentage you can write on what.

Insurance Bill, 2015
[HON. S. CADIZ]

Friday, May 29, 2015

Therefore, this Bill allows and creates that sort of regulation that protects the policyholders. Of course, I do not believe Clico had anything like that. It was not part of the law then, so we have that now.

There are further things in this Bill. Clause 47 now provides where an insurer is a member of a consolidated group, like Clico, in which there are two or more financial entities. The Central Bank shall direct the controlling shareholder to engage in a restructuring to form a financial holding company such that the local insurer is directly controlled by the financial holding company and the resulting structure calls for a consolidated supervision.

This means, Mr. Speaker, the Central Bank now has the authority and the power for consolidated supervision. So you cannot have it in one company, transferring assets into another company that the Central Bank is not aware of. All of it is going to be consolidated so whether or not you have one, you have 10 companies, the Central Bank is going to be able to monitor and manage all those 10 companies.

So, Mr. Speaker, the primary focus of this Bill is customer-driven. It is for those of us who do not understand the insurance business. As the Minister of Finance and the Economy said, it is a very complicated Bill. Again, you probably find if you ask the majority of policy holders to read this Bill and understand the 282 clauses in it, they would not. But the Government has taken the time and effort to make sure that John Public, the man in the street is properly protected from insurance companies that might have other views of how to do business.

Again, they are increased and very, very high penalties to pay. It is about the owners, directors and the people governing the insurance and the people managing the insurance companies. Those are the people that are going to be liable should they break the law. So you cannot just walk away from it, drop everything, jump on a plane, for those of you who could fly out from here, and leave the jurisdiction just like that. You are not going to be able to do that.

The Bill strengthens corporate governance of insurance companies and establishes more effective policyholder protection. The Bill also addresses fundamental prudential deficiencies and includes important requirements for insurance companies consistent with international best practice.

Mr. Speaker, this new legislation will bring together a series of operational amendments aimed at creating greater efficiencies and coherency throughout the insurance and financial industries, benefitting future generations of the citizens of Trinidad and Tobago. This Government, this People's Partnership Government,

this responsible People's Partnership Government, has also approved the new framework where the Central Bank would increase its scope of supervision to include systemically important non-bank financial institutions consistent with international benchmarks.

Mr. Speaker, there is no doubt in my mind that this piece of crucial and critical legislation before us is good law and this is not about rushing no law through this Parliament. This is protecting the man in the street. That is what this law is about. So for those who think that we just come in here to "ramajay" and to say we passed so many Bills, that is not what this is about? This is a responsible Government making sure that the people outside this Parliament feel safe when making investments, as a result of this new Insurance Bill.

I want to commend the Chief Parliamentary Counsel and drafters of the Bill, as well as the legal team from the Ministry of Finance and the Economy, Legislative Review Committee and the Central Bank for their hard work and the effort taken to shape this Insurance Bill, 2015 into what it is today.

The Minister of Finance and the Economy made the statement that the amount of consultation that went on with this Bill: hours and hours of consultation. Before I came here I spoke to a leading member of ATTIC and he said: "You all taking the vote today?" He said: "We want this Bill, you know. The insurance company wants this Bill."

Mr. Speaker: Hon. Members, the speaking time of the hon. Member for Chaguanas East has expired. Are you interested in an extension?

Hon. S. Cadiz: Yes, just a couple minutes.

Mr. Speaker: Hon. Members, the question is that the speaking time of the hon. Minister of Transport be extended by 15 minutes.

Question put and agreed to.

Mr. Speaker: You may continue.

Hon. S. Cadiz: Thank you, Mr. Speaker. Member for Fyzabad, you might need insurance. This Bill will help you when you are buying insurance.

Mr. Speaker, to the average citizen in Trinidad and Tobago, let me just say this: this Bill will provide the regulation to help ensure that we never ever see or witness a Clico event again in this country. It would enable you to have a more suitable range of products. It would better protect you against most identifiable risks. Because of this Bill you can be more confident that the law makes the

Insurance Bill, 2015
[HON. S. CADIZ]

Friday, May 29, 2015

financial institutions holding your money more accountable with stringent financial penalties for failure.

Mr. Speaker, this Bill is a key part of this Government's strategy for strengthening the economy of our country. According to the Minister of Finance and the Economy, 15 per cent of the GDP is as a result of the insurance business. At the same time, it embodies the key principles that underly the strategy.

So in a nutshell, we will continue to protect the social and financial well-being of our citizens, particularly those most vulnerable. At the same time, we will strengthen the regulation of financial players of all sizes, increasing investor confidence in our economic stability. Both go hand in hand in serving the short, medium and long-term needs of our people and this will continue to be the focus of this Government.

Mr. Speaker, I thank you.

The Minister of Public Administration (Hon. Carolyn Seepersad-Bachan): Thank you, Mr. Speaker. I am pleased to participate in this debate on the Insurance Bill, 2015: An Act to repeal and replace the Insurance Act, Chap. 84:01, to reform the law relating to insurance companies, to regulate insurance business and privately administer pension fund plans and other related purposes.

Mr. Speaker, it is important to note that the insurance sector, as you know, is a major contributor to the domestic economy. It accounts for over 20 per cent of our GDP. The sector is mainly a major repository for private savings and by covering risks and unanticipated contingencies it facilitates private and public sector activity. The industry is one of enormous economic and social value and critical to the development of our economy.

This Bill to date, therefore, we would all agree that this new legislation to regulate and supervise the insurance industry is long overdue. The bar was set by the Central Bank of Trinidad and Tobago, the industry, by the many stakeholders who participated and the Joint Select Committee referred to by the Minister of Finance and the Economy to ensure that the new provisions would be robust enough to support the financial viability of our insurance companies and to ensure that our regulatory framework is of such a standard so as to earn Trinidad and Tobago the respect of our regional and international peers and to secure a favourable rating from international financial system assessors such as financial stability assessment programme.

Mr. Speaker, today I want to address three main areas of the Bill that demonstrate some of the areas of robustness. These include firstly the adequate capital, which is one of the prudential criteria, which the Minister of Finance and the Economy spoke to some length in his contribution.

Secondly, corporate governance as we heard from the last Minister of Transport, the corporate governance standards, which are proportionate with the fiduciary responsibilities of the boards in the insurance industry; and, thirdly, the delineation of the functions and accountabilities of the appointed actuary and the standards by which they are to carry out their responsibilities.

Mr. Speaker, I will address the areas in this Bill that represent new requirements for our insurance intermediaries, with respect to licensing and standards of market conduct.

As I turn to the first issue of capital adequacy, clause 22 of the Bill in this new legislation would require all insurance companies to hold a minimum stated capital of \$15 million, as referred to by the Minister of Finance and the Economy. When it comes to whether you are in the business of long-term insurance or general insurance, your stated capital requirement is \$15 million. But if you are in the business of both long-term and general insurance, your stated capital requirement is \$22 million.

Recognizing that there would be times, and according to clause 22, when the companies themselves, insurers, at the time of this Act, will not be in compliance with those stated capital requirements, a five-year transitional period has been established to allow such insurers to become compliant after this period of time.

During that period of time, in accordance with clause 22(2)(a), an insurer who is in the long-term insurance business shall have that capital requirement between \$15 million within the five years but will be required after the first year to establish that \$5 million; after the second year, \$8 million; after the third year, \$11 million; and, after the fourth year, \$13 million; and, after the fifth year, \$15 million.

Where we are speaking to insurers who are in the business of both long-term and general insurance what is required over the five-year transitional period is \$6 million after the first year, \$10 million after the second year and after the third year, \$15 million; \$19 million at the end of the fourth year and \$22 million at the end of the fifth year. Mr. Speaker, this is in accordance with clause 22(4).

It is important to note that although this is stated, the inspector himself—and probably I should say this first: by having this stated capital requirements of \$15 million and \$22 million, these represent significant increases and improvement from the current Act under which general insurance companies were only required to hold \$1 million and life insurance companies to hold only \$3 million.

It should also be noted that the current Act does not provide the authority to the Central Bank to increase the level of capital. But in this Bill, in this legislation, the inspector can require an insurance company to increase this capital level depending on the particular circumstances of the insurer.

Mr. Speaker, by saying this about the inspector, let me first of all indicate, because I think it is important because I think during the Joint Select Committee some mention was made about the discretion of the inspector, the regulator, the Central Bank of Trinidad and Tobago. I think throughout this Bill there will be mention of the discretion of the inspector and it is important to note that this discretion of the inspector would be at all times based on internal policies established by the Central Bank of Trinidad and Tobago and by guidelines established for the exercise of this discretion.

As it is noted, at all times the inspector must always act reasonably. Because as we know, such decisions will be subject to judicial review and the inspector must have grounds to support his decision and such decisions must be proportionate to the particular contravention and it must be consistent. I thought that it was important to mention this issue because it was raised several times while in the Joint Select Committee.

Mr. Speaker, the Minister of Finance and the Economy spoke to the issue of risk-based capital. In accordance with clause 82, the regulatory capital ratio is stipulated to be at least 150 per cent. Risk-based capital measures will depend on a company's specific risk profile, as determined by its mix of assets, liabilities, capital instruments and lines of business such as individual group insurance and individual annuities.

Similar to regulatory capital ratios have been implemented in other jurisdictions, and we heard so today in Jamaica and Canada and it is now being increasingly adopted in other jurisdictions. This new capital regime will require many insurers to hold capital commensurate with their risk profile. As a result of that, could result in hundreds of millions of dollars in additional regulatory capital depending on the risk profile of the assets of that particular insurance company.

Mr. Speaker, this compares with the current Act, which only requires \$3 million for life insurance companies as now required by the law. So there is a vast difference, in that instead of having a stated requirement of \$3 million or X million, we are now saying that percentage, which is 150 per cent, which could require hundreds of millions of dollars if we are speaking to high risk assets in this insurance company.

Again, Schedule 9 of the Act establishes, again, a transitional period. And in accordance with Schedule 9, there is what we call the transitional capital ratios and it will allow the companies, such insurance companies, to establish, after the first year, a minimum regulatory capital ratio of 110 per cent, after the second year 120 per cent, after the third year 130 per cent and after the fourth year 140 per cent and then 150 per cent at the end of the five years.

Mr. Speaker, I now turn to the issue of corporate governance. For some time we know the issues—and the last speaker, the Minister of Transport, spoke to the issues of poor corporate governance. The Minister of Finance and the Economy also spoke to the issue of corporate governance. Poor corporate governance in board rooms can contribute to institutions failures and can impact not only on the individual institutions but the financial system as a whole.

The recent financial crisis, as the last speaker spoke to, has brought to the forefront the importance of corporate governance to the stability of our financial system. Boards of Directors, therefore, need to recognize that their fiduciary responsibilities are equally important as their entrepreneurial responsibilities. Governance at financial institutions require a higher duty of care.

This new legislation promotes good governance and risk management practices by significantly strengthening the corporate governance duties and requirements for directors, auditors and actuaries.

I would like to focus, Mr. Speaker, on specific requirements for both directors and appointed actuaries. It is important to note that following a review of the corporate governance practices in the insurance industry, the Central Bank of Trinidad and Tobago concluded that there were significant deficiencies among our companies in their practices with respect to corporate governance and risk management systems.

This Bill, therefore, codifies a number of new responsibilities on the board, which represent minimum standards consistent with higher duty of care expected for all financial institutions.

3.30 p.m.

Mr. Speaker, starting with clause 68—in accordance with clause 68, it is now mandatory that the board appoints an audit committee. We always hear about the role of the audit committee of the board, but far too many times we do not take that responsibility very seriously. It is also important to note that the internal auditor of the company—and it is required here as well—must report to the audit committee of the board. The internal auditor may report to the chief executive officer only for administrative purposes, but must report to the audit committee in order to ensure that it is independent of the executive management of the company. Too many times we hear about the role of the audit committee, we hear about the role of the internal auditor, and we do note—and I have seen this in several companies—where the internal auditor reports to the executive management of the company, a very poor corporate governance practice.

This Bill requires that the audit committee must comprise—again going back to clause 68, and the Minister of Finance and the Economy spoke to it—of a financial expert, the majority of the directors on the audit committee must be independent, meaning they are not part of executive management, and the Minister spoke to the definition of this independent director, and it must be chaired by an independent director.

The audit committee as well is responsible for establishing the appropriate audit framework to ensure that the audit functions and the duties of the internal auditor are constantly monitored and evaluated over the period of time.

The board is also responsible for maintaining adequate risk management systems and internal controls in accordance with clause 72 of the Bill. One of the things with clause 72 is that we will find—if I just quote from clause 72—it refers specifically to the issue of the risk management systems and therefore in accordance with 72(a), it must:

“(a) establish, document and maintain adequate risk management systems and internal controls;...”

But this is also important to know that in clause 69(c), the board of directors, one of the requirements by the Central Bank of Trinidad and Tobago, the Inspector, is that there must be a report which contains a signed statement on behalf of its board of directors, possibly signed by the Chairman of the board, which will insist that it is satisfied that the risk management systems and internal controls are adequate for managing the risk, and are being properly applied.

The board must also maintain policies to govern transactions between the insurer and connected parties and connected party groups, in accordance with clause 70 of Bill. The board must also ensure that there are systems in place to identify and monitor the insurer's compliance with the limits on credit exposures, and this is established in clause 71 of the Bill.

The Minister of Finance and the Economy spoke to the issue of these credit exposures, because it is important to note that the credit exposures sometimes are where we run into serious risks. Clauses 89 and 90 address the credit exposure limits. In fact, this Bill introduces a limit of 25 per cent of an insurer's capital base, a single counterparty or to a group of related counterparties.

Where the exposure is to a connected party, the Bill prescribes a limit of 10 per cent of the insurer's capital base to a single connected party or an aggregate of a limit of 25 per cent of its capital base to all connected parties within the group. That is specifically established in clause 90 of the Bill.

Mr. Speaker, the Bill furthermore deals with the issue of the obligation of the board to report to the Central Bank on an annual basis on its satisfaction that the risk management systems in place are adequate for managing the risk of an insurance company and the established internal controls are being appropriately applied. This was dealt with, Mr. Speaker, as I indicated earlier. What it really means is that the board of directors now will take the necessary steps to rectify the gaps they perceive in the company's operations if they are unable to confirm their satisfaction with the adequacy and application of systems and controls. So it is in the interest of the boards to be proactive in addressing their gaps, as the contravention of their obligations described above constitutes an offence.

In fact, in clause 254(3), such an offence is covered under that general clause for which the penalty is a fine not exceeding \$600,000 and imprisonment for two years, as well as a daily fine of \$60,000, as long as the offence continues. It should also be noted that clause 254(6) states that where:

“...the person”—who committed the offence—“intended to deceive, defraud or profit from the offence, the penalty shall be...ten times the amount stipulated for that offence and to imprisonment for twenty years.”

Mr. Speaker, I want to turn to the issue of actuarial reserves, because I think it is important to note that when we are dealing with insurance companies, actuarial reserves are equally important, and if not so, probably more important than capital in terms of providing policyholder protection. This is why the quantum and integrity of the reserves are so crucial. Actuarial reserves typically comprise over

Insurance Bill, 2015
[HON. C. SEEPERSAD-BACHAN]

Friday, May 29, 2015

80 per cent of the life insurer's total liabilities, and the accuracy of the claims' reserves for general companies is critical for the companies to be able to meet their policyholder expectations when it comes to paying motor insurance claims, for example.

Clause 128 requires the appointed actuary of all insurance companies to make a valuation of policy liabilities and any other actuarial liabilities which form part of the company's obligations; for example, when we speak about interest rate guarantees. The appointed actuary for life insurance companies under the current Bill, it is important to note, is now required to submit their actuarial report annually, as opposed under the current Act of every three years. So in this current legislation we must have a report every year. That reduces the risks involved, because sometimes with the business of insurance, risks arise and a three-year period tended to be too much of a long period to allow for this actuarial report. Therefore, an improvement from the current Act is moving this three-year period to the one-year period, an annual report.

The current legislation as it stands, requires all life insurance companies to have an appointed actuary, but under the current legislation the same requirement is not required for general insurance companies. As a result of that, clause 78 of this current Bill requires that general insurance companies must now have an appointed actuary. This is critical in ensuring that the claims' reserves established by the insurance companies for motor vehicle insurance in particular are adequate. I say this because, you know, there is a report by the Central Bank, which I want to quote from, a report from June of 2011, and it is called the "Financial Stability Report", June 2011. I just want to read from it, because I think it is important for us to understand why we need this actuarial and this appointed actuary.

I just quote from the June 2011 mid-year review report, from a section of it:

"The Central Bank is concerned that insurance companies specializing in third-party motor insurance may have underpriced the cost of this risk. The charging of inadequate premiums has untoward consequences as companies then establish less than adequate reserves to cover the claims that they are liable for. Any under-reserving threatens policyholder protection and encourages poor service and unfair claims practices.

Understating claims reserves also results in companies compromising the integrity of their statutory funds as they hold less than adequate levels of assets to cover their motor insurance liabilities. Furthermore, in extreme cases, this could result in insurer insolvencies. Indeed,..."—at that time in June

Insurance Bill, 2015

Friday, May 29, 2015

2011—“two non-life insurers that wrote primarily third-party motor insurance coverage have already been placed into liquidation.”

Therefore, Mr. Speaker, the report stated, and I just want to repeat:

“Any under-reserving threatens policyholder protection and encourages poor service and unfair claims practices.”

Remember, as I said, it went on to say:

“Understating”—these—“claims reserves also results in companies...”—holding—“less than adequate levels of assets to cover their motor insurance liabilities.”

Mr. Speaker, that has been the story of our lives for the last couple of years. I have heard so many people, and I am sure Members would agree with me, constituents who come into your office—Minister and MP for Barataria/San Juan, and the Minister of Transport. When we talk about people who come into your offices with these third-party insurance policies, some of them are injured and are unable to make their claims or claims are delayed out, or by the time they get a settlement for their claim, it is reduced, almost inadequate to cover some of the personal injuries, and they end up in our offices seeking assistance to deal with this issue. As a Member of Parliament, I am very happy that today we are putting these requirements in place to ensure that this story comes to an end in Trinidad and Tobago. [*Desk thumping*]

Therefore there is need for an independent third party with actuarial expertise, in addition to the auditors and financial officers of the general insurance companies in the determination of the level of reserves. So it is not the internal auditor who is making this estimation, it is not a financial director within the company, but a third party with actuarial expertise giving that. This places the importance of ensuring that we maintain the adequate actuarial reserves, which is so important, and as I indicated may be even more important than the capital reserve of the company.

Mr. Speaker, clause 159 requires the appointed actuary to carry out an annual investigation, otherwise stated, it is a form of stress testing of the insurer’s current and expected future financial conditions. One part of the stress testing may allow the appointed actuary to actually stress test and say if there is a high morbidity rate, what the impact on the liabilities and the assets of the company would be, or may be required to look at if interest rates increase or decrease, what the impact on assets and liabilities would be.

Insurance Bill, 2015
[HON. C. SEEPERSAD-BACHAN]

Friday, May 29, 2015

That form of stress testing will allow for some estimation of the expected future financial condition. This is important because the Minister of Finance and the Economy spoke to the issue of identifying plausible threats in the future and, therefore, this particular investigation will allow for the identification of these plausible threats and actions which will mitigate those threats. The actuary then produces what is called a “financial condition report” which will reveal the company’s vulnerabilities and potential negative impact on its capital level.

This information becomes very useful, not just for an inspector of the Central Bank of Trinidad and Tobago, but it is very useful for the management of the company and the board of directors, so that they may institute appropriate steps to limit any undue risk of exposure. In fact, going back to clause 69 of the Bill, we will note that in clause 69(b) statements are again required on behalf of the board of directors that it has received this particular report, with respect to the financial condition of the company based on the stress testing done by the actuary. The reason again for that is to allow the board of directors to take proactive steps where necessary, to ensure that we reduce or mitigate those threats to the company in the future.

Therefore the appointed actuary is expected to apply the standards of accepted actuarial practice, with respect to the work required under the Act and regulations, in fact clause 215. The Bill also gives the inspector the authority to set these standards if he considers it necessary. I know during the Joint Select Committee meetings we did have a discussion on the setting of these standards, and which standards would be adopted. It was eventually agreed that it would be determined by the inspector as to what these standards would be. This will ensure some consistency and, therefore, peer comparisons in the industry with respect to valuation of liabilities.

Mr. Speaker, the Central Bank places heavy reliance on the appointed actuary in the following areas for additional control and compliance with the Act, regulations and policies required of the insurer. If we look at clause 166, the required appointed actuary is to report on the fairness of a proposal to pay a dividend from the participating policies surplus account and whether the proposal is in keeping with the policy that governs dividend payments by the board of directors of an insurance company.

Clause 80 also encourages the actuary to provide information or give opinion in good faith to the inspector, where he believes that the insurer is in contravention of any law, by providing an indemnity in any civil action relating to his communication. I think it important for us to appreciate that the reason for this

is that at any point in time the actuary will be giving this recommendation for the board of directors to appreciate and understand that you will not be paying dividends out of or in any way impact negatively on the insurer's capability to pay its claims. Therefore what this particular section is doing is to be able to inform that decision of the board of directors, which is a requirement of the Bill as well, that you have to protect your claims. Your claims payments take first priority over any other payments, such as dividend payments.

The appointed actuary must sign off on all balance sheets, which are part of the company's statutory returns to the Central Bank, by providing an accompanying certificate—in fact, clause 145(2), in respect of the long-term insurance business. An insurer cannot make payment from the participating policies account to shareholders. *[Interruption]*

Mr. Speaker: The speaking time of the hon. Member has expired. Would you like an extension?

Hon. C. Seepersad-Bachan: Yes, please. Just a couple minutes.

Mr. Speaker: Hon. Members, the question is that the speaking time of the hon. Minister of Public Administration be extended by 15 minutes.

Question put and agreed to.

Hon. C. Seepersad-Bachan: Thank you, Mr. Speaker, and thank you to Members of the House. Just before, I was stating that an insurer cannot make a payment from the participating policies account to shareholders, unless the appointed actuary has given his opinion that due regard has been given to the interest and fair treatment of policyholders, including their reasonable expectations and that the payment to shareholders will not affect the insurer's ability to meet its obligations under its participating policies, and finally, that such payment will not lead to a breach of the regulatory capital ratios.

The actuary has a responsibility to present that opinion, and the board of directors, in light of that opinion, would ensure that they do not breach. In fact, they would be acting counter to this Act if they should so do and pay dividends, where it could be possible that they could breach the capital ratio requirements or where it is possible that they could impact negatively on the payment of claims to the policyholders themselves.

Mr. Speaker, I now want to turn my attention to insurance intermediaries. Insurance intermediaries in Trinidad and Tobago comprise approximately 3,100 persons who are sales representatives, agents, brokers and adjusters. That is a

Insurance Bill, 2015
[HON. C. SEEPERSAD-BACHAN]

Friday, May 29, 2015

considerable number of intermediaries involved in the marketing and selling of insurance products and services and aftersales services as well. In this context, I want to address some of the clauses in this Insurance Bill which have a direct bearing on these insurance intermediaries. Firstly, to protect policyholders, agencies carrying on general insurance business and brokerages will establish and maintain a consumer trust account. This account is to facilitate the receipt and payment of consumer funds, so as to ensure that there will be no commingling of policyholder premiums and moneys due to consumers from within the other funds of the intermediary.

Clause 133 subclauses (1) and (2), agencies and brokerages shall report to the Central Bank on such consumer accounts, in accordance with clause 133(7), and auditors will be required to certify that the operations of this account are in accordance with the Act and in accordance with clause 139. There are now specific deadlines by which intermediaries must pay over premiums received to the insurer, and moneys from the insurer to the consumer. These are within 10 business days and within five business days respectively, in accordance with clauses 134 and 135. I think this is an important issue, because we normally hear about these intermediaries, brokers and sales agents, and many times they are able to collect funds, they commingle with their own funds and there is no accountability for the client or the consumers' premiums. These clauses address this particular issue.

The current Act permits individuals to be registered as agents and brokers. The Bill requires that all individual agents and brokers to incorporate their operations within one year of the commencement of this Act. In order to reduce the administrative burden on both the applicants and the Central Bank, the Bill proposes that the registration of all intermediaries be renewed for periods of three years, rather than annually in accordance with clause 117 subclause (2).

Mr. Speaker, there are some sales representatives in the industry today employed by agencies and brokerages, and they have not met the requisite educational requirements to be registered individually. A sales representative is defined as:

“an individual who is contracted by an insurer, an agency or a brokerage to solicit applications for insurance or to negotiate insurance on behalf of that insurer, agency or brokerage;”

The Bill makes provision for these unregistered sales representatives to continue to operate under a provisional certificate, so as to allow them time to take the

requisite examinations. The provisional certificate can be renewed for a period no longer than three years, as that time is considered to be sufficient for the sales representative to become adequately qualified, in accordance with clause 114.

Mr. Speaker, the Bill also speaks to this issue of fit and proper, and the Minister of Finance and the Economy mentioned the issue of fit and proper. In accordance with clause 113, all intermediaries will be required to satisfy the fit and proper requirements on an ongoing basis, not just at the time of registration. I think this is important. So there is a continuing monitoring and evaluation of the industry. So not at the time when I register, I am fit and proper, and after that I become “non-fit” and “non-proper”.

These criteria, the criteria for fitness and propriety as set out in Schedule V of the Bill, apply to both shareholders of the agencies and brokerages, and agencies and brokerages as well. They incorporate a minimum number of persons, with sufficient knowledge and experience of the business. Diversity in directors, independent directors, financial soundness, maintaining adequate liquidity and maintaining adequate systems of internal control of its businesses and records.

Mr. Speaker, the Bill also enhances the terms of licensing requirements to take into account the changing financial services environment. It is time the insurance industry also rise to the occasion and to the challenges, so similar to other industries, practitioners who have been in the business for many years need do refresh their skills and, therefore there must be a form of continuous learning and continuous improvement in the insurance industry. An obvious prerequisite to good market conduct practices, is the appropriate technical capacity to serve the needs of policyholders.

So continuous professional development—a pet subject of my own—is necessary to equip agents to properly evaluate the needs of their policyholders so as to assess suitability of different products and advise accordingly. We expect our clients, our citizens in Trinidad and Tobago today, to get better advice through these particular provisions.

It is important that intermediaries be technically qualified, not only as I said, at the time they are registered, but also on an ongoing basis, through continuing professional development. In accordance with clause 119, evidence of continuing education will become a requirement of the licence renewal process. The Bill also incorporates—grants authority—to the Minister of Finance and the Economy to approve an educational institution to supervise and administer continuing

Insurance Bill, 2015
[HON. C. SEEPERSAD-BACHAN]

Friday, May 29, 2015

professional development, for an initial period of three years and subsequently for a period of one to three years, in accordance with clause 119.

A new provision is also being inserted into the Bill for market conduct. By virtue of clause 266, all insurance companies, intermediaries and consultants must follow the standards of market conduct, as laid out in Schedule 12. These standards are not exhaustive, and will be augmented by the Central Bank of Trinidad and Tobago in the future. The reason, again, it is expected as the industry grows and the industry develops and new practices emerges globally, that such practices can be adopted and included, and the Central Bank of Trinidad and Tobago will have that responsibility from time to time to augment these standards.

The current standards will cover the period at the point of sale mainly and post-sale communication, to all consumers. The standards follow general principles, for example, firstly, sales and marketing materials and procedures that should be followed, and there are procedures prescribed to ensure that there is no misleading of consumers. Key information should be brought to the attention of the consumer. Secondly, the intermediary or officer of the insurer should obtain sufficient information about the consumer to ensure that an appropriate product is offered. Thirdly, insurers and intermediaries are required to keep confidential all aspects of the financial transaction, including personal data of our consumers. Lastly, all post-sale documents and communication should be clear, fair and complete and should not mislead policyholders.

Mr. Speaker, as I conclude, I want to state that these new prudential governance and actuarial requirements are directed towards promoting stronger and more effective governance and risk management processes. This in turn will bode well for our insurance industry to be well managed. These along with the new market conduct standards and other requirements for the insurance intermediaries, will better enable the industry players to consumer and policyholder expectation.

Mr. Speaker, I commend the Minister of Finance and the Economy. I want to take this opportunity to thank the many stakeholders who participated in this process during the Joint Select Committee meetings. I also want to take this opportunity to thank the Central Bank of Trinidad and Tobago for the time and effort spent in developing this new regime that will take the insurance industry into the 21st Century. Finally, I thank the Minister of Finance and the Economy and his team for the hard work he has put into the development of this particular Bill. I thank you, Mr. Speaker.

The Minister of State in the Ministry of Finance and the Economy (Hon. Rudranath Indarsingh): Thank you, Mr. Speaker. Before I get into my contribution here this afternoon, with your permission I want to take a few minutes to reiterate and to extend the Government's deepest sense of appreciation and congratulations to the Minister of Foreign Affairs and the Member for Tunapuna, on having achieved for the citizens of Trinidad and Tobago the waiver of the requirements of the Schengen Visa, and to congratulate all employees and officers of the Ministry of Foreign Affairs and, more specifically, Her Excellency Margaret King-Rousseau, Ambassador Extraordinary Plenipotentiary of Trinidad and Tobago to the Kingdom of Belgium and the European Union.

Mr. Sharma: You will be making a trip soon? [*Laughter*]

Hon. R. Indarsingh: Mr. Speaker, the very fact that this has been achieved on behalf of the people of Trinidad and Tobago by the distinguished Minister of Foreign Affairs and the Member of Parliament for Tunapuna, is in keeping with the Government's continued thrust of delivering to the people of Trinidad and Tobago.

4.00 p.m.

Mr. Speaker, when we campaigned, we indicated to the population of Trinidad and Tobago that Pillar 7 or under Pillar 7 of Trinidad and Tobago's manifesto:

“Foreign Policy—Securing Our Place in the World From a foreign policy perspective, we will work in concentric circles, beginning with CARICOM, in an increasingly connected and interdependent world, to secure space and opportunity in the world for our country and our region. We will strike an appropriate balance between bilateral and multilateral initiatives. The entire thrust of our international relations strategy will be to achieve the national goals and objectives that we set for ourselves and to work with others, wherever and whenever mutual interests and objectives meet, to advance common cause...”

Mr. Speaker, as I said, with your permission, I simply want to read into the record the States that the citizens of Trinidad and Tobago will no longer be required to apply for, what we will call the Schengen Visa. And that will take into consideration the following countries: Austria, Belgium Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Holland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland and Liechtenstein.

Insurance Bill, 2015
[HON. R. INDARSINGH]

Friday, May 29, 2015

So, Mr. Speaker, I just wanted to place on the record again our deepest sense of appreciation and commendation to the Minister of Foreign Affairs for ensuring that this journey that began in 2009 has indeed come to an end for the benefit of the citizens of Trinidad and Tobago.

This focus on the people of Trinidad and Tobago has been demonstrated in the continuation of legislation which has been brought to the Parliament of this country, not with a sense of rush but with a sense of a commitment which started prior to May 2010. Because from the point of view of economic transformation, and this piece of legislation that focuses on this Bill which focuses on:

“An Act to repeal and replace the Insurance Act, Chap. 84:01; to reform the law relating to insurance companies; to regulate insurance businesses and privately administered pension fund plans and for other related purposes”

—must be seen in the context of the Government’s commitment via its manifesto which focus on the broad theme of:

“Initiatives to transform our economy”—with a focus on—“ensuring”—financial—“sanity”

And which zeroed in on the areas of:

1. Fiscal Probity...
2. Enabling Environment...
3. Aligning Policy...
4. Investment Environment...
5. Research and Innovation...
6. Balanced Spending...
7. Equitable Distribution...
8. Resource Allocation...
9. Diversification...
10. Financial Crisis...”

When we underscore the point, Mr. Speaker, that we will take action as required to address issues such as the financial crisis in CL Financial and the HCU in the best interest of the people in a timely and transparent manner.

Mr. Speaker, this Bill in terms of its application and also its importance to the people of Trinidad and Tobago clearly demonstrates that there is a thrust of this Government to focus on what we would term to be a modern approach to insurance regulation and supervision. To ensure the strengthening of corporate governance of insurance companies and, more importantly or most importantly, effective protection of policyholders. Because, Mr. Speaker, over the past 50 years or since our independence, the insurance industry in Trinidad and Tobago has endured many changes. There has been new market entrants, company closures and today we have heard of the closures such as Winsure, Summit Finance, International Trust Limited (ITL), and, of course, the most famous within recent times to plague the citizens of this country was the Clico debacle, the Clico CL Financial debacle.

And, Mr. Speaker, as I said, there have been new market entrants, company closures intervention, and in light of what has prevailed over a time there is the need for increased vigilance on the part of regulators. And since the Clico debacle there has been a raging debate in relation to whose responsibility or where the blame should be apportioned in relation to the pain, the suffering, the trauma of thousands of families and their relatives and dependents in Trinidad and Tobago.

I am sure, Mr. Speaker, you would have heard of the trauma, the pain and the suffering when persons would have needed their revenue based on their investments in Clico and CL Financial to get on with their children's education, those persons who would have needed moneys in very critical time to focus on medical care. I myself would have heard, as a Member of Parliament, from persons within the constituency of Couva South who needed moneys for urgent medical attention and could not access it because of the state of play; their children's education and so on. It is important to understand that this particular piece of legislation must not only be seen in the context of merely the insurance system or the insurance companies and also pension funds, but it must be seen in the context of the overall financial system of Trinidad and Tobago.

Mr. Speaker, it is public knowledge, and all the previous speakers have alluded to the fact that there has been official tardiness in the past or as it relates to much needed financial legislative reforms in Trinidad and Tobago. And what is being demonstrated here today is the political will on the part of a Government that its main focus since May 2010 has been people-centered development and addressing issues which have affected the ordinary persons in Trinidad and Tobago. Whether, as I said, it is the Children's Life Fund or this particular piece of legislation, the overall focus has been on bringing a sense of attention and care

Insurance Bill, 2015
[HON. R. INDARSINGH]

Friday, May 29, 2015

to eliminating the pains and concerns and trauma that have been suffered by all and sundry.

Mr. Speaker, it must be noted that those on the other side who are not here today, presided, it was under their watch, and if we go back and do our research, that it was under their watch there has been a consistency as it relates to the failure of financial institutions in Trinidad and Tobago. And it is public knowledge that by way of Legal Notices, Nos. 32 and 33, 2009, the Central Bank on February 13, 2009 assumed control of Clico and British American, pursuant to its special emergency powers under section 44D of the Central Bank Act, Chap. 79:02. This regulatory action was taken in order to safeguard the interest of policyholders and creditors and to prevent disruption, substantial damage or impairment to the country's financial system.

It is important, Mr. Speaker, to see or examine the track record of which administration really focus its attention on a resolution to this particular issue. Having attempted to deal with the issue in 2009, the PNM really did not focus in a very clear-cut manner how they would deal with the particular issue. And it is only with the coming of the People's Partnership Government administration into power, the citizens of the country saw a shift in the way that the whole issue was dealt with, and today it is important to remind the national community of Trinidad and Tobago that it is the People's Partnership Government, led by the hon. Kamla Persad-Bissessar, and the Ministers of Finance and the Economy and the Ministry of Finance in collaboration with the Central Bank of Trinidad and Tobago which have found a lasting resolution to the CL Financial debacle.

In that regard, significant progress has been made between 2012 to 2015 and it is important to reiterate, as I said, and to remind the national community, because sometimes we underscore the financial successes of this particular administration not only as it relates to the stabilization of the economy of this country and putting the economy on a firm path of economic growth and transformation over the last five years, but what we have done in bringing about meaningful change to thousands of families who had their investment in this particular financial institution or this financial group.

And the Government has ensured that there has been continued payout to short-term investment product holders, the cessation of new business in Clico and, in fact, Clico is now financially solvent. The Ministry of Finance and the Economy has been collaborating with the Central Bank of Trinidad and Tobago to find a new direction as it relates to this particular entity, and has focused, as I said, on the streamlining of operation and resources of Clico and British

American, has ensured that there has been the implementation of voluntary separation employee package and rationalization of agent arrangements with the rehiring of a core group to maintain the necessary operation. Also, the independent valuation of traditional insurance business with a view to its transfer to an appropriate buyer has been completed for Clico. And also, the sale of Clico's shares in Methanol Holdings in keeping with the order of the International Court of Arbitration on October 09, 2015, among other initiatives, Mr. Speaker.

It is important to look at the application of this particular piece of legislation, Mr. Speaker. Clause 2 makes it very clear as it relates to where this particular piece of legislation must be applied. Clause 2 makes it very clear and it states:

- “(a) all persons, whether or not established or resident in Trinidad and Tobago, that carry on insurance business in Trinidad and Tobago;
- (b) all persons that carry...in or from Trinidad and Tobago as an intermediary”—or an insurance consultant—

And also it focuses on the issue of:

- “(c) privately administered pension fund plans registered under Part IX whether administered by individual trustees or...trust corporations.”

Mr. Speaker, from a people's point of view, from a worker's point of view and from a trade union point of view, I will have much more to say as it relates to privately administered pension plans and the very sensitive issue of investment, and whether this particular piece of legislation addresses the issue of investments where workers' funds are invested and how it will benefit the workers of Trinidad and Tobago. I think this will be very important to workers in, what we would call, formal unionized environment and also those workers who do not currently enjoy, what we would call, recognized majority status under the Industrial Relations Act of Trinidad and Tobago.

It is important that we continue to ensure as a Government, that what occurred in relation to the failures of the mid 1980s and what transpired with CL Financial and Clico does not reoccur in this country. Because it is public knowledge how much it has cost the citizens of Trinidad and Tobago: a \$20-billion plus hole, and one must be willing to ask the question what would have been the level of development of Trinidad and Tobago or what we could have achieved with this \$20 billion if it was not focused on plugging this hole in Clico. Certainly, there would have been much more schools, much more hospitals would have been completed and, of course, there would have been a strong focus on the continued

Insurance Bill, 2015
[HON. R. INDARSINGH]

Friday, May 29, 2015

vision of this Government to focus on the development and strengthening of the social safety net and addressing the social sector programme in Trinidad and Tobago. That is how we must look at what we have, the citizens of Trinidad and Tobago have been called upon to sacrifice as a result of what transpired.

Mr. Speaker, it has already been underlined and it has been clearly demonstrated that the insurance system contributes very significantly to the gross domestic product of Trinidad and Tobago. And therefore it is incumbent upon this Government, because between 2002 to 2010, the PNM who wants to be the alternative Government of Trinidad and Tobago did nothing or did not come to this particular House with any piece of progressive legislation as it relates to the insurance industry which offered protection to policyholders, which address the issue of regulation and, of course, failed very miserably to address the concerns of the ordinary man from their investment point of view.

Mr. Speaker, the PNM has never been concerned about the blood, sweat and tears of workers in Trinidad and Tobago. And that is why championing or strengthening, what we would call, the prudential requirements of insurance companies was not on their agenda, including the introduction of risk-based capital and financial standards, and also their modus operandi or focus was never on addressing the issue of stringent corporate governance requirement for insurance companies.

In fact, what has been pursued by this Government has been broadly embraced by the Clico Policyholders Group. Just to reiterate their sense of satisfaction to the policy and initiatives of this Government was clearly demonstrated when Mr. Permell, the president or the person in charge of Clico Policyholders Group indicated to the national community under the headline:

“Clico policyholders happy”

From an article in the *Newsday*, Mr. Speaker, and I quote:

“THE CLICO Policyholders Group yesterday welcomed new legislation to strengthen the regulation of the insurance industry. The Insurance Bill—proposing million-dollar fines and liability for company directors and agents—”

And to quote, Mr. Speaker, Mr. Peter Permell said:

“The Clico Policyholders Group fully supports the strengthening of the legislative and regulatory framework for insurance companies in Trinidad and Tobago although for many Clico policyholders it may be a case of too little too late...”

Insurance Bill, 2015

Friday, May 29, 2015

But he was satisfied with what was being pursued by this administration. And he did take the opportunity while commending the Government of Trinidad and Tobago, Mr. Speaker, he took the opportunity, that is the Clico Policyholders Group to:

“...called upon Director of Public Prosecutions (DPP) Roger Gaspard SC and Acting Police Commissioner Stephen Williams to give an update as to the status of the Police Service investigation into Clico.”

And he made that call when he said:

“We respectfully call on the DPP and/or the Commissioner of Police to kindly update the public, as is routinely done in other progressive jurisdictions, on the current status of the investigation...”

And that, to me, is very important in relation to the pain and suffering which has been inflicted upon the citizens and the taxpayers and the workers of Trinidad and Tobago.

And this is what this particular piece of legislation is intended to do, because no longer directors of companies and those at the executive level management must manoeuvre the system and manipulate the system and feel that they can get away scotch free. It is important to hold them accountable, and this Government is fully committed to ensuring that those perpetrators of acts on the ordinary people of this society will not go unpunished, and this is why this legislation in the respective clauses have hefty fines and hefty penalties as it relates to the conduct of directors and those in the levels of executive management whom in the future if found wanting will be subjected, of course, to due process and the whole question of penalties under the laws of Trinidad and Tobago.

It is public knowledge and sometimes it pains me to know that there would have been companies existing with the full knowledge that they did not have the necessary capital, they did not have the necessary finances to deal with the liabilities that they had when they accepted the hard earned cash of the ordinary citizens of the country in whatever investment instruments that they marketed through their public relation campaign and sending out persons to people's homes at various hours into the evening and into the night and so on, to sell their short-term products and whatever investment instrument knowing fully well that when called upon they did not have the necessary financial funds or requirement to meet the liabilities of the instruments that they were selling to the citizens of this country.

Insurance Bill, 2015
[HON. R. INDARSINGH]

Friday, May 29, 2015

And that is why, Mr. Speaker, we must ensure that we go beyond, because, as I said, it was unacceptable that companies were only required to hold between one and three million dollars in capital while mobilizing policy holders funds to the tune of hundreds of millions of dollars and billions of dollars within the economy of Trinidad and Tobago. So from the point of view of address the issue—
[*Interruption*]

Mr. Speaker: Hon. Member, your speaking time has expired. Would you like an extension?

Hon. R. Indarsingh: Yes, Mr. Speaker.

Mr. Speaker: Hon Members, the question is that the speaking time of the hon. Member for Couva South be extended by 15 minutes.

Question put and agreed to.

Mr. Speaker: Before continuing, I would like to revert to item “Announcements”, and when we come back from tea, you shall continue with your extra 15 minutes.

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I have received communication from Mrs. Kamla Persad-Bissessar, Member of Parliament for Siparia and Prime Minister, who has asked to be excused from today’s sitting of the House.

The leave which the Member seeks is granted.

It is a good time for us to pause for tea. This sitting is now suspended until 5.00 p.m.

4.29 p.m.: *Sitting suspended.*

5.00 p.m. *Sitting resumed.*

INSURANCE BILL, 2015

Mr. Speaker: The hon. Member for Couva South.

Hon. R. Indarsingh: Thank you, Mr. Speaker. Before we proceeded on the tea break, I focused on the issue of how the collapse of financial institutions would have impacted upon the stability of individuals and families and so on; and also the importance of this particular piece of legislation in the context of the Government of Trinidad and Tobago, focusing on the ordinary person, the small man in the society and attempting to provide a sense of redress and also attempting to hold the decision makers accountable in relation to their conduct and fulfilling their responsibilities to those who would have entrusted them; those

who would have had confidence, and taking their hard-earned cash and so on and giving it to persons to financially reward them based on investments and so on.

I did indicate too that this piece of legislation must be seen in the context of its importance as what it has in it for the benefit of trade unions, workers and even potential workers in Trinidad and Tobago, because the issue of pension funds and investment of pension funds and holding persons accountable is adequately addressed in this piece of legislation under Part IX. Mr. Speaker, it focuses on the administrative part of pension funds, it clearly spells out the whole registration process and so on and also the role of the Central Bank in ensuring that, from an administrative point of view, the requirements are met and so on.

It is important to note because, based on my experience of 20-odd plus years at the level of the All Trinidad Union, and you, Mr. Speaker, in another place, would have always heard workers complaining—and I am sure the Member for Pointe-a-Pierre, the Minister of Labour and Small and Micro Enterprise Development, can empathize as it relates to what I have to say about the controversy of the investment of pension funds; whether it was invested in the right place, was it bringing back the desired returns, did I know the fine print and so on within pension plans and what was in there for me?—and so on. And in visiting a number of workplaces and branches and so on you always had to deal with this particular issue. I am sure that the Member for Pointe-a-Pierre would have very not too fond memories, but he would have memories as it relates to T&TEC pension plans, the investment approaches and who profited and so on, as a result of investment in pension funds.

It is important to note that this particular piece of legislation continues to provide a sense of protection to the ordinary man, the small man in the society, Mr. Speaker, and it addresses the very important issue of amendments to trust deeds of pension plans not being properly valid until it is registered, and under clause 219(1):

“An amendment to a trust deed or Rules, or both, of a registered”—pension—
“plan shall not be valid unless the amendment is registered.”—with the
Central Bank.

It also focuses, under 219(2), on the very important issue of harmonization of pension plans and the very important issue of benefits of the National Insurance Act and so on and it says that:

Insurance Bill, 2015
[HON. R. INDARSINGH]

Friday, May 29, 2015

“Where an application for the registration of an amendment is made in accordance with section 218(5), the Central Bank shall register the amendment where it is satisfied—

- (a) that the trust deed or the Rules, or both, as amended would not have disqualified the plan from registration under this Part; or
- (b) in the case of a plan which should be harmonised with the system of national insurance established under the National Insurance Act, that the plan otherwise complies with the requirements of any Regulations made under that Act for the purpose of harmonization.”

A very important issue as it relates to workers who are always concerned whether harmonization of plans would take place and the whole question of bringing together, addressing the issue of portability of pension funds and so on.

So it is important to note that this particular issue is also covered in this particular piece of legislation which focuses also on how:

“...a registered pension plan shall not be cancelled unless the plan has been”—formally—“wound-up.”—and recorded with the appropriate resolutions.

—and so on, in keeping with the oversight and jurisdiction of the Central Bank of Trinidad and Tobago. Again, deepening this particular issue of pensions and the operations of pension plans, clause 224 focuses on the issue. Clause 224(1):

“The Central Bank may require any person who is an employer, an insurer, a trustee or an officer of a plan for the registration of which application has been made under this Part, or any registered plan, to furnish either by statutory declaration or otherwise, any information or explanation which may be necessary for the proper exercise and performance of the powers and duties of the Central Bank under this Part.”

It addresses the very issue too of:

“Where the trustees of a registered”—pension—“plan commit a breach of trust by making an unauthorized investment or by violating any rule of the plan, which is necessary for registration under this Part, the Central Bank shall have the same remedies in all respects for the breach of trust as if it were a person beneficially interested in the plan.”

Clause 225 addresses the issue of penalties for default and of course the very important issue of ensuring that there is publication of the annual accounts and

balance sheets of pension plans. Again, in keeping or ensuring that workers have the information at their disposal in relation to how their plans are performing from the point of view of where their contributions are and also addressing the very important issue under clause 227 of an actuarial investigation. Under 227(1):

“The trustees of each registered plan shall appoint an actuary or a consulting actuary to make an investigation into the financial condition of the plan and to report on his findings.”

And this particular investigation:

“...shall be made every three years or at such shorter intervals as the Central Bank may specify.”

And the issue of shorter interval grants the Central Bank that intervening power in keeping with the overall trust of oversight and governance as it relates to the performance of pension plans on behalf of workers in Trinidad and Tobago.

Also, Mr. Speaker, to ensure that the investigations are published and prepared in a timely manner under section 227(3):

“A copy of the report prepared in accordance with Part III of Schedule 4 and signed by the actuary shall be furnished to the Central Bank within nine months after the date of the investigation.”

So that, there are timelines that are placed within the legislation for entities to adhere to, and in terms of investments under clause 228(1):

“The trustees of a registered”—pension—“plan shall not invest the assets of the plan except—

- (a) in such securities as may be allowed in Schedule 8; and
- (b) in any other manner as prescribed by the Regulations.”

Clause 228(2) states:

“No trustee may invest the assets of a pension fund in the equity, debentures or other evidence of the indebtedness of the employer or any subsidiary or associate of the employer or any company of which the employer is a subsidiary or an associate.”

So it clearly addresses too the issue of conflict of interest, it protects the worker against what we would call the issue of manipulation and so on which could all come up in the context of transparency and governance, and fulfilling that sense of responsibility to the employees of the entity.

Insurance Bill, 2015
[HON. R. INDARSINGH]

Friday, May 29, 2015

So, there is a financial side to this particular legislation. There is also the role of what you would call addressing the risk-based capital regime. It also looks at the issue of ensuring that not only the issue of regulation is addressed but it is also an all-encompassing piece of legislation that offers stability to the policyholder. It offers stability to the business entity and it is a piece of legislation which would ensure that workers' interests are served from the point of view of investment of pension funds, where the pension funds can be invested from the point of view of limitations and so on and also ensuring that there is a sense of accountability and penalties to be incurred or imposed upon individuals based on decisions that they pursue. So, Mr. Speaker—

Mr. Speaker: You have one more minute.

Hon. R. Indarsingh:—in winding up, it is important to note and to take cognizance of the hard work that has been done by the Minister of Finance and the Economy, the Joint Select Committee, all the stakeholders who would have been part of the consultative process. I want to commend this legislation which will benefit the financial system of Trinidad and Tobago and play a very important role in the continued development of Trinidad and Tobago. I thank you.

Mr. Speaker: The hon. Minister of Finance and the Economy.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you again, Mr. Speaker. I want to thank my colleagues for the contributions which they have made to this Bill which have amplified several of the pertinent points within the Bill itself and which would have given us all a better understanding of what the Bill is intended to achieve. Of course, when the Minister gets up to wind up the debate it is normally in response to the comments made by the Opposition which gives you an opportunity to respond. It being past the hour of 4.30, as my colleague has indicated, there is actually no one on the other side who has been around that has made any contribution that would allow us to be able to perhaps address the Bill in the way that certainly we would like to do and which would allow us the opportunity to amplify some of the very positive aspects of the Bill.

Nevertheless, Mr. Speaker, I would seek to do so and perhaps touch on some of the comments made by some of my colleagues with a view to expanding somewhat on what has been said so that we would be in a position, or the listening public would be in a position to better understand the strengths of the Bill and what it brings to bear to Trinidad and Tobago.

As I had indicated when I first started my presentation, the contribution of the financial services sector to the GDP on an annual basis is in the region of 15 per cent and that includes real estate services which is normally lumped together with the financial services sector and it is one of the largest employers outside of Government, within our local economy, the second largest sector after the energy sector.

Dr. Gopeesingh: What is the percentage?

Sen. The Hon. L. Howai: Fifteen. Of course, total assets though, if you were to take the insurance sector on its own, the total asset base of the insurance sector is about 27 per cent of GDP. That is separate from the way we would count the GDP; when I refer to 15 per cent, that is the annual contribution as opposed to measuring the asset base, right? So the total assets of the insurance companies are about 27 per cent of GDP. It is quite a substantial amount and therefore it is very important that we ensure that we have a framework which properly manages the sector and certainly avoids the problems that we have had in the past going as far back as I said in the 1980s and then of course we have the recent debacle of the collapse of Clico which has cost the Government in the region of \$20 billion.

So, it has the potential to make a significant contribution to the growth and development of our economy but on the other hand it has the potential, if not properly regulated, to bring a significant cost to the country and to our economy as a whole. Therefore, Mr. Speaker, it is very incumbent on us to be able to ensure we have a proper regime for managing this sector as we go forward.

Now, one of the things with this sector too is that it is actually one of the more expansive sectors in our economy. Trinidad and Tobago today is perhaps the leading financial centre in the Caribbean region. It has the strongest financial services institutions. Our banks are the best capitalized in the region, they are the most profitable and our insurance companies have spread throughout the region. To that extent we have had the situation where with the collapse of Clico and British American, that impacted not just on Trinidad and Tobago, but on the wider region.

At the present time, Mr. Speaker, with respect to British American we are now in the process of bringing closure to the outstanding issues that affected us there. In total, there was about \$1.4 billion in liabilities; about \$650 million has been paid already, upward to \$700 million has been paid already and I am now about to make a further transfer of about \$650 million from the Consolidated Fund. This is money which I am sure my colleagues would have liked me to bring an

Insurance Bill, 2015
[SEN. THE HON. L. HOWAI]

Friday, May 29, 2015

appropriation Bill to Parliament to give them \$650 million. [*Interruption*] I think I hear my colleague on this side—yeah, but that \$650 million is earmarked for British American to topup the Statutory Fund, to allow us to be able to pay the remaining policyholder liabilities in British American and also I have to set aside another \$100 million which will settle some of the short-term liabilities as well as some of the creditors of British American.

So, I am about, in the next few days to write another cheque for \$750 million, or three-quarters of a billion, which will settle all of British American but which—[*Interruption*]—yeah, none of my colleagues are happy about the fact that the cheques are not being written to different Ministries but they are actually being written for—and certainly it speaks to the cost to the country in terms of roads to be built, in terms of fishing centres to be constructed, in terms of land to be developed for housing, in terms of houses to be developed, in terms of schools, hospitals and so on. So there is a tremendous cost that is associated with this and of course our overall total debt has increased as a result of the fact that we had to deal with this \$20 billion liability.

So, Mr. Speaker, we have to understand that the importance of this legislation is to ensure that we do not find ourselves in the situation where we are faced with having to set aside this sum of money and it is fortunate that we, in Trinidad and Tobago, had the economic resilience and capability to be able to set aside this sum of money to meet the requirements of restructuring and making whole those persons who suffered as a result of the collapse of Clico.

So, Mr. Speaker, the importance of this piece of legislation is that it touches the lives of practically every working person in Trinidad and Tobago and their dependants. The insurance industry provides cover and risk coverage as well as health coverage and a number of other services to persons throughout our economy. There is nobody who is working, gainfully employed, in well-structured places of employment who would not have some kind of either a pension plan or an annuity or some form of coverage, and certainly most people in Trinidad and Tobago will, of course, have homes which are also covered by insurance companies and then of course on the lives of most of the people, most of our working population in Trinidad and Tobago and those who may have an insurable interest, or whom they may have an insurable interest in. These lives are all covered by insurance.

So, it is absolutely important that we have a robust and a well-regulated industry to ensure that the savings, the investments and the risks that people undertake for which they will like to have coverage, are well covered by a

properly operating insurance company. Again, as I said, these companies have the potential to expand in the region, as many of them have done, and that provides greater employment opportunities to elsewhere in the region as well as at home here, in Trinidad and Tobago.

And therefore, as they expand and as they go out, as they get into other jurisdictions, whether it is North America, whether it is in the Caribbean region, whether it is in Central America, whether it is in South America and so on, as they continue to expand what we expect with the regulators in those countries will be looking to Trinidad and Tobago to also ensure that we have a robust framework that will not create contagion risks for operations of financial institutions or insurance companies operating in their jurisdictions because of the facts that there are risks in Trinidad and Tobago which have not been properly managed.

So, Mr. Speaker, as we enter into a global world, as we become more globalized in the environment in which we operate, we recognize the need for us to have a robust financial sector and certainly a robust regulatory framework for our insurance companies. I was very pleased that the Minister in the Ministry of Finance and the Economy, the Member for Couva South, raised the issue of the pension plans because one of the things—the only trade union that really came and made a presentation, and I am subject to correction but speaking from memory, was really the Banking, Insurance and General Workers Union. They came specifically to deal with the issue of pension plans, which we have lifted from the last piece of legislation and put into this piece of legislation, and they did because of the fact that in their own minds too they wanted to understand what kind of changes we were making to the legislation and how it was likely to impact the lives of their membership. Therefore, they came to us to make a presentation and to go through that aspect of the Bill in detail with us and we were very pleased that they took the time to do that and we were very pleased to entertain their comments and their suggestions and it was certainly helpful in helping us to determine how we were going to structure that part of the legislation.

We basically lifted the legislation as it existed and put it here and at some later date when we have the opportunity, perhaps in the second term we will be looking to put forward more comprehensive legislation to deal with the insurance, the pension sector. As you know, Mr. Speaker, with the changes in accounting rules and so on, with the changes in governance, what has happened is that the pension sector itself has been buffeted by the fact that interest rates have come down, that rates of returns and growth in the capital values of equities have come down while the liabilities of these plans have increased.

Insurance Bill, 2015
[SEN. THE HON. L. HOWAI]

Friday, May 29, 2015

So, people are living longer, their pensions need to be paid for a longer period of time but the rate of return on these investments are actually coming down. So years ago when you had interest rates of eight and nine and 10 per cent on deposits, of course people were borrowing at 15, 16 and 17 per cent, but deposit rates were high enough and investments were giving the kind of returns that allowed the pension plans to accumulate surpluses to meet the needs of the liabilities that were arising as people are living longer. What we are finding now is that people are going even longer again. It is not unusual to see persons at 84, 85 and 86—[*Interruption*]

Dr. Gopeesingh: Minister of Health—better health care.

Sen. The Hon. L. Howai: Yeah, better health care as a result of the hon. Member who is not here but nevertheless, yeah, people's longevity further increasing but the interest rates are coming down and the rate of return on your investments are coming down. So it means that the ability of these pension plans to meet the funding requirements for pensioners is likely to become more compromised. Therefore, we recognize the need for us to make the pension plan industry now a major area of focus for ourselves as we start to put a framework in place and we start to look at the implications, given the changing demographics which we have in Trinidad and Tobago and perhaps throughout the world.

In fact, many countries have started to move the age limits up from 60 years as the retirement age. Barbados has actually increased their retirement age; Jamaica, and certainly other countries in the world, including Germany, have increased their retirement age and now it is not unusual for persons to live to be retiring at 67. And there are some countries such as Canada, I am told, do not have a retirement age. Basically, they see it as discriminatory, so you could work until your demise, yeah. Someone working on the Bill mentioned to me that in Canada sometimes you are working with the regulator on something and you have guys who are well past their '70s and if on a weekend, you come back on Monday and you do not see them, it is because they may have met their demise over the weekend. You know, they are no longer—[*Interruption*]
—well, I recognize that. I would not go into that. It is kind of tempting but I would not say anything.

Dr. Gopeesingh: Warren Burger was Chief Justice at 83 years, you know?

Sen. The Hon. L. Howai: I see Sepp Blatter was actually re-elected and I think he is 79. So he will be going into his '80s and he will still be a member of FIFA with no intention of retiring anytime soon.

5.30 p.m.

So I just want to say that we recognize the importance of the pension plan sector and we recognize the importance of putting a framework in place to deal with that. We have continued with the existing arrangements as they are, but, certainly, in the next term there will be an increased focus on that particular area. So, Mr. Speaker, this particular Bill, between insurances and pension plans, touches the lives of nearly every single worker in Trinidad and Tobago.

So if I can get to some of the specifics of the Bill now. The first thing is that—one of the things that I know has been raised as an issue here and also has been raised by insurance companies who have come to us and raised issues with what we have before us—is that they have raised the issue of ensuring that there is a balance struck between penalties and the defences under the Bill; that, on the one hand in the Bill, you do not want to have too many draconian penalties without appropriate defences, penalties which could work against the efficient and the profitable operation of insurance companies, and which could work against individuals, for one reason or the other that someone may have some issue with.

So they have raised issues concerning that. But we have put into this Bill a general defence under clause 254(5) of the 2015 Bill, and this 254(5) says that:

“In any proceedings for an offence under this Act or the Regulations, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by any person under his control.”

So, what we did here, Mr. Speaker, was that we sought to ensure that there was—that if it is that you took all reasonable precautions, if you exercised all due diligence, we understand that things can happen. This is an insurance business. This is a business about managing risks. There are risks that will crystallize, for whatever reason. You could have a global financial meltdown, you could have contagion risks arising from other institutions that may have difficulties and so on, but you may have done all you could within your own power to deal with the risks that could arise.

And also, if, for example, individuals may not have done what they should have done, I mean, you may not be in a position to really do what they were doing every day, day-to-day, and it is the only way that you could make sure it is done right. You know, you always have to delegate things to people and sometimes in that delegation process, there are things that could slip; there are things that people could not do, and therefore, it creates a loss to the institution.

Insurance Bill, 2015
[SEN. THE HON. L. HOWAI]

Friday, May 29, 2015

We are saying that, “Look, if you, as a manager of the institution, as someone with responsibility for the institution, took all reasonable precautions and exercised all due diligence to avoid the commission of the offence, then that is, in itself, a defence and therefore, we have sought to create that balance that would allow for that in this particular Bill.”

I should say, though, Mr. Speaker, that we have prescribed higher penalties, both here as well as in the Securities Bill, and in the FIA before that. Some higher penalties have been prescribed, generally, to send a strong message to the industry and to the industries which we seek to regulate, on the commission of these offences. We thought that it was very important for us to communicate the seriousness with which we see this because the failure to adhere to the regulations, the failure to put adequate controls in place, the failure to ensure that we run a robust institution, could result in significant cost to individuals and to the country as a whole, as I indicated with Clico. We recognized the fact that it could have a significant cost to the country, and therefore, it is important that we establish penalties that would send a strong message to the industry regarding the commission of these offences.

This matter was reviewed by the joint select committee and the joint select committee actually created a matrix where we looked at similar types of offences, what the penalties are, both from a fine, as well as from terms of imprisonment and so on, and we compared it across the board among the different pieces of legislation to ensure that there was some consistency in terms of what we were doing so that it matched up properly with the rest of the industry. So the joint select committee took a close look at these and decided that it made sense for us.

ARRANGEMENT OF BUSINESS

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Mr. Speaker, thank you very much. Mr. Speaker, I beg to move that debate on the Bill to repeal and replace the Insurance Act, Chap. 84:01, to reform the law relating to insurance companies, to regulate insurance businesses and privately administered pension fund plans and for all other related purposes, be adjourned to another day.

Question put and agreed to.

STANDING ORDERS (Amendments to)

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Mr. Speaker, I beg to move that the amendments to the Standing

Orders listed in Appendix III to the Order Paper be referred to the Standing Orders Committee.

Question put and agreed to.

ADJOURNMENT

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Mr. Speaker, I beg to move that this House do now adjourn to Wednesday, June 03, 2015 at 2.00 p.m. and to indicate on that day it is the intention of Government to debate the State Land (Regularisation of Tenure) (Miscellaneous Amendments) Bill, 2015, to be piloted by the Minister of Land and Marine Resources. We will also, time permitting, continue debate on the Industrial Relations (Amdt.) Bill and wind up on the Motion on the Ombudsman Report.

Mr. Speaker, I beg to move.

Indian Arrival Day Greetings

Mr. Speaker: Hon. Members, before putting the question for the adjournment, we are all aware that Saturday, May 30, would represent the historic 170th Anniversary of the arrival of our sisters and brothers of East Indian descent to the Republic of Trinidad and Tobago.

From 1845 to 1917, over 140,000 Indian indentured workers came to our twin islands. We acknowledge that they also brought with them their agriculture, delicacies, religion and education, which helped Trinidad and Tobago to be the rich, multi-ethnic society it is today. For 17 decades, hon. Members, these labourers played an integral part in the development and transformation of Trinidad and Tobago.

Hon. Members, on behalf of the Parliament of Trinidad and Tobago, I would like to take this time, on the 170th Anniversary of Indian Arrival to recognize their rich and varied contributions and to pay tribute to our brothers and sisters of East Indian descent.

I would now like to call on the hon. Minister of Arts and Multiculturalism to bring greetings on this very important and auspicious occasion. [*Desk thumping*]

The Minister of Arts and Multiculturalism (Hon. Dr. Lincoln Douglas): Thank you, Mr. Speaker. As you have rightly said, Indian immigration to Trinidad and Tobago spanned the period of 1845 to 1917 and during this period, over 140,000 Indians were transported to the islands. This journey was long and

Indian Arrival Day Greetings
[HON. DR. L. DOUGLAS]

Friday, May 29, 2015

arduous, and in many ways very life-threatening, with deplorable conditions, where they disembarked on Nelson Island, fed and rested for a little while and then distributed to various estates throughout Trinidad and Tobago.

This arrival we now celebrate on this day, May 30, to commemorate the first Indian indentured labourers from India to this country and the arrival in 1845 on the *Fatel Razack*. This 140,000 East Indians who were transported to Trinidad and Tobago, some came voluntarily, some were forced, some were snatched, some were abused, but all in all, it was very poor, dangerous conditions, adverse to life, threatening to family and to community.

But once you arrive, Mr. Speaker, the issue then becomes an issue of survival. It was Viktor Frankl who said that in order to survive, you have to find meaning. And I am sure at that point in time it took everything from the East Indians to really survive this whole journey, as well as living under a difficult colonial system.

So one of the fundamental means of survival and resistance had to be their traditions, the religions of Hinduism and Islam, music, song, dance; the whole village system of survival, respect for authority and family life. So that, in itself, provided a means of support, survival and even hope for the future.

The same Viktor Frankl said, everything can be taken from a man, but one thing, the last of the human freedoms, to choose one's attitude in any given set of circumstances; to choose one's own way. And I am certain that it is this choice to survive, and to make their way in a new world, was the reason for their survival.

So we are aware today of the many accomplishments of the ancestors and the present-day people of Indian descent. In the *Caribbean Beat* it says:

If the 19th and 20th Century phases of Indian presence were characterized by resistance to the values of the plantocracy, the modern period has been a rapid adjustment to modern life. In Trinidad and Tobago the exploitation of oil reserves led to rapid urbanization and semi-industrialization. Indians moved from their garden patches to seek their fortunes in the factory, in the offices, in the education system, in the political system. There are professional class—

Hon. Member: Everywhere.

Hon. Dr. L. Douglas: As my brother here said, everywhere. They are lawyers, teachers, civil servants, politicians, merchants, doctors, et cetera. I mean, time would fail me to tell of the many accomplishments of people like Rudranath

Capildeo in politics and Basdeo Panday, Vidia Naipaul in literature, Bhadase Sagan Maraj, Ranjit Kumar, an engineer who worked on Wrightson Road, Sundar Popo, and others in the field of art and chutney; Kamaluddin Mohammed as one of our first Acting Prime Ministers, to Noor Hassanali as our first Indian President, even people like Nicki Minaj, who most of us might shun from but has made international fame; Andrew Cipriani. I mean, it goes on until our present day. Time would fail me to tell of the accomplishments of our very own Prime Minister, the hon. Kamla Persad-Bissessar. [*Desk thumping*]

Hon. Member: Suruj Rambachan. [*Laughter*]

Hon. Dr. L. Douglas: And all our illustrious brethren who sit within this august House, Mr. Speaker. So, I think we all can conclude that the accomplishments at present are a fitting tribute to the struggles of the ancestors and their commitment to surviving an arduous time.

So, in closing, Mr. Speaker, I want to say, to quote Viktor Frankl again:

When we are no longer able to change a situation, we are challenged to change ourselves.

Mr. Speaker, without doubt, the Caribbean and Trinidad and Tobago has changed Indians in very profound ways. They are not the same as they used to be, and I hasten to add that Indians have changed the Caribbean and Trinidad and Tobago in very profound ways. We are not the same as we used to be, and it is all good.

Happy Indian Arrival Day. [*Desk thumping*]

Question put and agreed to.

House adjourned accordingly.

Adjourned at 5.44 p.m.