SENATE

Tuesday, May 05, 2015

The Senate met at 10.30 a.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Children's Authority of Trinidad and Tobago, Children Authority Fund for the year ended September 30, 2013. [*The Minister of Finance and the Economy* (*Sen. The Hon. Larry Howai*)]
2. Annual Audited Financial Statements of Palo Seco Agricultural Enterprises Limited for the financial year ended September 30, 2014. [*Sen. The Hon. L. Howai*]
3. Freedom of Information (Exemption) Order, 2015. [*The Minister of Trade, Industry, Investment and Communications* (*Sen. The Hon. Vasant Bharath*)]

ANSWERS TO QUESTIONS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Madam President, consistent with the undertaking I gave the hon. Leader of Opposition Business in the Senate, the question from the Ministry of Sport is not yet completed in its vetting and the Minister—that is with respect to the written answer which is a comprehensive and wide extent of reporting requirements required, and with respect to the one on advertising, the Minister of Finance and the Economy will say a few words because he is currently engaged in the process and he has completed a few of those, and, perhaps, I call upon the Minister of Finance and the Economy to explain to you the current situation with respect to that.

Madam President: The Minister of Finance and the Economy.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you, Madam President. As I indicated, Madam President, I am working. I have asked all Ministries to provide the required information. We have come up with a format which we are using, which indicates—lists all of the expenses, identifies the ones that are relating to the answers that were given, and then also lists the totals, in various columns, of all the additional expenses which were

captured under that heading that still have not—or were not included in the answers. So that it will be as transparent as possible in the reading that what was included and what was not included, and will account for the entire total.

I have not received all of the answers from all of the Ministries yet, but I have given them this format and we are working because it is quite extensive and it involves going back for the years, and some of them did not do it in this kind of rigorous detail. So, we are in the process of getting it completed, Madam President, and we need a couple more weeks to have it done.

Madam President: Senator.

Sen. Robinson-Regis: Thank you very much, Madam President, and thank you to both Ministers for the explanation. I know we do not have that many more weeks left, but I am hoping that we will get the information prior to the Parliament being prorogued. Madam President, I just want to make the observation that the answer for the written answer, with regard to the question to the Minister of Sport, was due since January 05 and we are now in May. So, you know, I really think it is a long time that we have been waiting for this answer. So, I implore the Ministers to really ensure that we get this information. Thank you very much, Madam President. Thank you, Ministers.

ORAL ANSWERS TO QUESTIONS

Madam President: Minister, are we going to answer the questions?

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Madam President. In order to clean up the business I omitted to indicate that the two questions appearing on the Order Paper for oral answer, we are in a position to answer today.

Green Fund
(Details of)

70. Sen. Anthony Vieira asked the hon. Minister of the Environment and Water Resources:

In relation to the Green Fund, could the Minister inform the Senate:

a) what was the balance in the Green Fund when the current administration took office in 2010;

b) what is the balance of the Green Fund at present i.e. in March 2015;

c) what has been the quantum of deposits into the Fund and the expenditure/project disbursement and administration costs each year since 2010;

d) were there any International and Caribbean Funding Agencies grants to the Fund during period (2010-2015) and are there any future commitments, in this regard;

e) what were the certified activities financed from the Green Fund over the last 5 years and how much has each activity received; and

f) have any of the certified activities identified at (e) above been terminated or suspended, and, if so, why?

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you very much, Madam President. Madam President, the question by Sen. Anthony Vieira requests, a) what was the balance in the Green Fund when the current administration took office in 2010? The audited balance available as at September 30, 2010, was $2,221,298,122.26. This is from the Auditor General's Report, page 62, for the financial year ended September 30, 2010.

b) What is the balance of the Green Fund at present, that is in March 2015? The most recent audited balance available as at September 30, 2013—this is also from the Auditor General's Report—for the financial year ended September 30, 2013, was $3,252,186,047.97. The 2014 report is before the Auditor General's Department, so we are not in a position to indicate that audited balance at this stage.

c) What has been the quantum of deposits into the Fund and the expenditure/project disbursement and administration costs each year since 2010? For 2010: the BIR receipts, $295,061,118.59; interest on BIR receipts, $30,020,360.88; total receipts, $325,081,479.47; payments, $10,624,516; making a balance of $2,221,298,122.26.

In 2011: BIR receipts, $342,599,046.27; interest on BIR receipts, $23,140,589.41: total receipts, $365,739,635.68: payments, $5,480,144: the balance $2,581,557,613.94.

2012: BIR receipts, $319,629,204.03; interest on BIR receipts, $26,872,429.68; total receipts, $346,501,633.71; payments, $11,913,692; balance as at 2012 is $2,916,148,340.54.

2013: BIR receipts, $348,591,677.04; interest on BIR receipts, $21,083,064.39; total receipts, $369,674,741.43; the payments, $33,637,034; balance, $3,252,186,047.97.

The source is the Auditor General's Reports for financial years 2010—2013. It should be noted that administrative costs are not met from the fund, but is by way of vote in the budgetary debate. Whilst there is a proposal to utilize the administrative cost from the fund, I thought that it is not prudent because the administration has a way of bloating itself up whilst not disbursing the moneys. So, the Green Fund, under this administration, as in the previous administration, administration costs is not from the fund itself.

d) Were there any International and Caribbean Funding Agencies grants to the Fund during period (2010—2015), and are there any future commitments, in this regard? There were no international and Caribbean funding agencies grants to the fund during the period 2010—2015. There are no future commitments in this regard.

What were the certified activities financed from the Green Fund over the last 5 years and how much has each activity received? One, Fondes Amandes Community Reforestation Project, certified activity: Sustainable Community Forestry Initiative. Description: the funding from the Green Fund will be used mainly to complete the reforestation activities within WASA's lands in the Fondes Amandes watershed, upgrading infrastructure of the facilities on site, and to continue their outreach/educational activities. The funds will also be used to pay the Fondes Amandes Community Reforestation Project staff, purchase equipment, and to conduct a feasibility study and business plan, which will be done by a consultant to further develop the microenterprises aspect of the project. These activities will be conducted during the first phase of the project in 2010. This is to be followed by a second phase to complete the reforestation in other State lands in Fondes Amandes watershed, and, later, a third phase to complete the reforestation in private lands in Fondes Amandes watershed. The total grant, $1,914,806. The disbursements to date $1,914,806.

Secondly, Greenlight Network's Plastikeep, description: In this pilot project post-consumer plastic was collected from selected communities and schools in the Maraval, Diego Martin areas, and delivered to one of two processing facilities in Trinidad, Recycling in Motion (RIM), located in El Socorro, or Piranha International Limited, located in the Point Lisas Industrial Estate, to be sorted, chipped, baled and shipped to a recycling facility abroad. The pilot will encourage public participation in the necessary physical processes, such as sorting and bagging for collection, and delivery to the processing facility. Manufacturers will also be encouraged to participate in recovery and recycling efforts since they present a primary source of the material, and since they are profiting from production of plastic products.

10.45 a.m.

As part of the Plastikeep pilot, there will also be an initiative to educate and inform the public, communities, schools and corporate entities about the importance of proper disposal and processing of plastic waste, empowering people to shape the condition of their own environment. Total grant, $901,205; disbursement to date, $901,205.

Environmental Management Authority—the Nariva Swamp Restoration, Carbon Sequestration, Wildlife and Livelihoods Project, revised to the National Restoration, Carbon Sequestration Wildlife and Livelihoods Project. The general objective of the project is to restore forest cover in the Nariva Swamp while maximising the capacity of this cover for carbon sequestration and wildlife habitat. To establish a wildlife sanctuary, conduct national wildlife surveys and to implement this work with the full participation of the communities in the area, whilst also developing community livelihood opportunities.

Additional management objectives include: building capacity and knowledge of stakeholders for the long-term management of Nariva. The project will also develop a communication, education and public awareness strategy supporting all activities. The project will be implemented over the period April 2010 to December 2016. Total grant, $68,545,511; disbursement to date, $18,917,153.

The Environmental Management Authority—pilot installation of solar-powered equipment and solar power for surveillance cameras at 13 Police Surveillance Bays along the Uriah Butler and Solomon Hochoy Highways. The Government of Trinidad and Tobago has embarked on a pilot programme to install Police Surveillance Bays on the median of the Uriah Butler and Solomon Hochoy Highways. The PSBs will be established at 13 identified sites from Caroni to Golconda, and it is now currently revised to nine sites, and will each be equipped with solar-powered street lights, solar-powered road markers, solar-powered signs and solar power for surveillance cameras. The solar-powered road markers, warning lights and signs will be installed at a specified distance from the nine identified police surveillance sites on the shoulders of the northbound and southbound carriageways of the Uriah Butler and Solomon Hochoy Highways.

Each site has an opening in the median that is approximately 30 metres, with the acceleration and deceleration lanes on both the northbound and southbound lanes being approximately 100 metres. These sites will allow emergency vehicles on either the northbound or southbound lanes of the highway unobstructed access to opposing lanes. The overall length of the site is approximately 230 metres.

The solar-powered road markers will be installed to clearly mark all the lanes of the northbound and southbound carriageways of the Uriah Butler and Solomon Hochoy Highways, in the vicinity of these police surveillance sites. The pilot project will include elements of maintenance of all equipment, including warranties and replacement schedules. Total grant, $9,635,199; disbursement to date, $9,442,487.

Green Light Network—Plastikeep Phase 2. Plastikeep phase 2 addresses a mounting problem of plastic waste and, secondly a lack of consciousness about proper plastic disposal in Trinidad and Tobago. Plastikeep phase 2 will address two vital outcomes: accumulating material for processing and overcoming the inertia in initiating a recycling culture. In Plastikeep phase 2, it is proposed to further develop the work begun in the pilot phase.

The results obtained in the pilot phase indicate that the recycling of plastic is seen by the Trinidadian public as a positive entity for Trinidad's future. As a follow up to the pilot phase, Plastikeep phase 2 will continue to collect post-consumer plastic waste from designated target groups in the Diego Martin region, but expand to Port of Spain and environs, including St. Clair, Woodbrook, Belmont, Newtown, Maraval, St. Ann's, Cascade, Hololo, South-east Port of Spain and Moka.

The plastic will be taken to a depot to be sorted out, chipped, baled and then transformed into the value added recycling PET product or shipped for recycling. Greenlight Network seeks to increase public participation in the necessary physical processes, such as sorting and bagging for collection, and transport of material to a processing facility.

As part of the Greenlight Network mission, there will also be an initiative to educate and inform the general public, communities and corporate entities about the importance of proper disposal and processing of plastic waste, empowering people to shape the condition of their own environment. This will be achieved through branding, social marketing and education and awareness outreach. Total grant, $8,680,532; disbursement to date, $8,435,388.

Madam President, I might add that phase 3 of Plastikeep completion of this process, is before the Green Fund Advisory Committee, and the projected figure there is an additional $1.1 million.

Fondes Amandes Community Restoration Project, phase 2. During phase 2, the Fondes Amandes Community Reforestation Project plans to focus on four core areas of development: forest maintenance and protection of Fondes Amandes watershed, animal husbandry, ecotourism development, community school

outreach and awareness. Under the area of forest maintenance and protection, nursery operation will focus on the harvesting and propagation of hardwoods, herbs, fruit and ornamental seedlings. Field activities will continue through the dry and rainy seasons of phase 2.

During the dry season, fire trace cutting, fire patrol and monitoring, moulding and tending. Seed collection will be conducted by the FACRP field workers.

Rainy season activities will include surface run-off management operations, such as check dam and drain installation and maintenance. Nursery activities will also be conducted, as seed collection, propagation, tree tending and maintenance will be implemented.

Animal husbandry activities will also be conducted. The rearing of sheep and goats will also be carried out as animals will be tended too, as well as the animal pen will be maintained on a daily basis. This activity will produce manure, which would enable the sustainable management of the FACRP organic nursery.

Improvements of FACRP ecotourism package will also be based on the suggestions of the business plan produced during phase 1, and on the additional opportunities for improvement as observed by the management team. Total grant, $1,310,243; disbursement to date, $1,310,243.

The Toco Foundation—water harvesting in the north-eastern region of the country. Water harvesting is one possible way to address the challenges of water insecurity in rural communities. Water harvesting is the collection of excess water during the rainy season when there is an abundance of water, redirecting it and storing it for future domestic, agricultural, ecological or industrial needs. Total grant, $16,938,688; disbursement to date, $4,634,337.

Realize Road Environmental Club—greening the plastic planet. Cognizant of the objectives of the National Environment Policy and witnessing the escalating environmental degradation due to the illegal dumping of plastic and types of waste in their community, along with the complete lack of environmental awareness evident in the community, the group conceived the project to reduce the level of plastic waste and raise the environmental awareness in their community of Realize Road and environs, Princes Town.

The Realize Road Environmental Club, recognizing the high levels of unemployment and poverty within their community, intends to achieve through this project a sustainable change of attitude of the community by their active participation in the plastic recycling project. Total grant, $781,835; disbursement to date, $293,900.

Nature Seekers—the Matura Development Initiative of Awareness, management and ecotourism for natural resource conservation.

This project was developed by the members of Nature Seekers, who are Matura residents, to pursue its vision of "an environmentally friendly community, empowered with the necessary skills and training enabling us to work with each other, generating sustainable livelihood while promoting Community Tourism and the protection of our natural resources". It is the intent of this project to protect the natural resources in the Matura community and environs, while creating opportunities for capacity building and employment for local residents that can be replicated in other communities. This will be done by using tourism as a tool for the conservation of the area's natural resources.

Since tourism needs the natural resources for sustainability, it is very important to invest in the protection of the natural resources. The total grant, $8,303,867; disbursement to date, $6,773,485.

The University of Trinidad and Tobago—anthropogenic hydrocarbon pollution impact on the coastal areas along the west coast of Trinidad. In this particular study, the impacts of land use activities on the coastal resources using chemical analytical techniques are examined. It also assesses the extent of environmental degradation from agricultural, domestic and industrial activities and how this affects the quality of water and sediments along the western and eastern coastal areas of Trinidad.

Encroachment of the coastal areas by agricultural, residential and industrial development has rendered the protective nature of these areas ineffective, or even detrimental to the health of the fishery stock that exists within this zone. There is limited research in Trinidad and Tobago identifying and fingerprinting sources of petroleum hydrocarbon pollution in the marine environment. The combined use of unique biomarkers and various chemometric techniques could improve the identification of oil spills when compared to other known methods published by other research groups.

Total grant, $4,485,338; disbursement to date, $4,261,071.

Institute of Marine Affairs—experimentation into the feasibility of a hatchery management programme for leatherback turtles and changing in fishing operations to reduce negative impacts on offshore foraging adult turtles.

The general objective is to protect and conserve the female adult leatherback turtle offshore on foraging grounds and on nesting beaches on the north-east coast of Trinidad, and to ensure successful recruitment of hatchlings.

The project is divided into three activities:

1 Relocation of leatherback turtle nests on the Grande Riviere Beach on the north coast of Trinidad, and the release of hatchlings;

2 To investigate the use of monofilament gill nets as demersal/sinking nets in the daytime by conducting fishing trials with the Toco fishermen on north-east coast of Trinidad, with a view to reducing sea turtle incidental capture and mortality, and promoting sustainable livelihoods; and

3 To determine the feasibility of switching from gill net fishing to a-la-vive fishing in Grande Riviere on the north coast of Trinidad, with the aim of reducing incidental capture and mortality of sea turtles and promoting sustainable livelihoods of Grande Riviere fishermen. Total grant, $588,960; disbursement to date, $427,074.

The San Fernando City Corporation—San City Green Expo 2013. Description—the impetus behind this Expo is to provide an avenue for the dissemination of environmental education and opportunity, by creating linkages between major environmental stakeholders and the community:

1 To provide a forum for eco-friendly businesses, NGOs, CBOs and educational providers to showcase their products and services, or provide information to the general public.

2 To sensitize and educate the public on environmental products, services, projects and education.

3 To foster a greater awareness for the importance of environmental sustainability.

4 To showcase and invite public opinion on upcoming green projects by the SFCC.

5 To engage the community in an environmental movement to shape greater environmental responsibility. Total grant, $1,064,003; disbursement to date, $798,003.

The Turtle Village Trust—National Sea Turtle Conservation Project. This proposal reinforces the Sea Turtle Recovery Action Plan 2011 recommendation, with respect to the national monitoring programme. The main outputs of the programme will be:

1. The protection and monitoring of our marine turtle nesting populations on our index beaches and high nesting beaches, and gather information about our population of nesting leatherbacks, hawksbills and greens, and strengthen the National Sea Turtle Database which will inform management policy and legislative decisions.

2. A comprehensive survey will be conducted to identify conclusively those beaches that support the most sea turtles nesting, and provide the most accurate assessment of the nesting population size and, eventually, population status for Trinidad's leatherbacks, hawksbills and greens that will inform management decisions.

3. Information will be gathered about the resident population of hawksbills and greens foraging on the reefs and seagrass beds around Tobago that will inform management decisions.

4. The capacity of the community organizations will be developed to continue the conservation of sea turtles.

5. Public awareness.

The total grant is $29,711,765; disbursement to date, $10,130,684.

11.00 a.m.

The University of the West Indies: the provision of baseline biological data for the management of the Aripo Savannas environmentally sensitive areas. The main project objectives are to provide an inventory of all plants and mammals within the Aripo Savannas Environmentally Sensitive Area to implement *in situ* and *ex situ* conservation strategies for those species which are rare or endangered, or have a mandate for their protection. In addition, the status of endemic species will be clarified. Health issues affecting squatting communities will also be highlighted. Total grant: $5,336,813; disbursement to date: $1,867,885.

St. Andrews Golf Club: engineering surveying services within that portion of the Maraval River falling within the boundaries of the St. Andrews Golf Club.

Sen. Robinson-Regis: St. Andrews Golf Club?

Sen. The Hon. G. Singh: Yeah. The St. Andrews Golf Club is in the process of undertaking remedial works to mitigate the problem of perennial flooding and erosion along the Maraval River. It has partnered with the Drainage Division, Ministry of the Environment and Water Resources. which will be providing technical guidance and supervision for this process. As a precursor to any developmental works, an engineering survey and hydrological remodelling is required to provide data and information to inform the analysis and design of best management practices/solutions for flood and erosion alleviation.

The survey is, therefore, the first phase of this project. To effect the survey, the St. Andrews Golf Club is applying for funding from the GORTT via the Green Fund since the Drainage Division does not have the funds to undertake this

activity in their allocation for the current financial year. At the end of the survey, the survey results and report will be forwarded to the Drainage Division, Ministry of the Environment and Water Resources.

Thereafter, the Drainage Division will undertake to develop engineering designs and an analysis for flood mitigation works. Total grant, $82,173; disbursement to date, $57,521.

The Environmental Management Authority: National Beverage Containers Clean-Up Project. This is a national clean-up of beverage containers aimed at the removal of all waste beverage containers over an eight-month period prior to the enactment of the Beverage Containers Bill, 2012. The Environmental Management Authority will undertake the activities in collaboration with other stakeholder agencies, namely CEPEP and the Solid Waste Management Company and the Institute of Marine Affairs. Implementation of a general clean-up of beverage containers in the country together with an aggressive public education and awareness will play a key role. Total grant, $62,328,755; disbursement to date, $56,662,505.

Institute of Marine Affairs: control of the management of the invasive lionfish in Trinidad and Tobago. This crosses over to the next question, so I will leave that—the content of the certified activity for that question. Total grant, $3,929,466; disbursement to date, $2,500,000.

The Basel Convention Regional Centre for Training and Technology Transfer for Trinidad and Tobago: the development of a waste oil management system for Trinidad and Tobago. This too goes onto the next question. The total grant, $3,509,860; disbursement to date, $1,228,451.

The Water and Sewerage Authority: expansion of the Adopt A River Programme. This, too, will move on to the next question, 71. Total grant, $34,206,433.00; disbursement to date, zero.

The Environmental Management Authority: Recyclable Solid Waste Collection Project. This, too, is with respect to the certified activity content—question 71. The total grant, $107,754,431; disbursement to date, zero.

Part (f) of the question asked—has any of the certified activities identified at (e) above been terminated or suspended, and if so why?

The memorandum of agreement with respect to the Realize Road Environmental Club certified activity, greening the plastic planet, expired on June 30, 2014, prior to the completion of the activities. One disbursement of $293,900

was made. By mutual agreement the memorandum of agreement was not extended due to difficulties encountered by the organization in the procurement of goods and services and implementation of the certified activity. All assets procured were returned to the Ministry and subsequently allocated to interested parties to be used in a similar manner to that for which they were procured.

Sen. Vieira: Thank you, Minister, for your very fulsome and comprehensive answers. Just one supplemental. Is the fund in a separate account or is it part of the Consolidated Fund?

Sen. The Hon. G. Singh: Thank you, Madam President. The Comptroller of Accounts keeps separate accounts for the Green Fund. Okay. But it is— [*Interruption*]

Sen. Dr. Mahabir: Further supplemental. Hon. Minister, with respect to the investments of the funds, you indicated that the fund is generating some returns. Do you have any information as to the rules which guide the investments of this particular fund? Thank you.

Sen. The Hon. G. Singh: Thank you, Madam President. Well, the legislation did not provide any kind of rules with respect to the investment. It is clear that these funds are in an account in the Central Bank, and therefore, it has generated at a minimal rate when you look at the interest that is gleaned. Therefore, there is no speculation or any kind of risk taking with the fund currently.

Sen. Vieira: Madam President, I do not know how we are for time, but can we do question 71 on the Order Paper?

Green Fund
(Details of Projects/Certified Activities)

71. Sen. Anthony Vieira asked the hon. Minister of the Environment and Water Resources:

In relation to the Green Fund, could the Minister inform the Senate:

a) what projects/certified activities (if any) have been slated for financial assistance under the Green Fund for fiscal 2014 to 2015; particularising as far as practicable:

i. the name of the project;

ii. when the activity started; or is expected to begin;

iii. the amount of financing projected for disbursement;

b) who presently comprises the current Green Fund Executing Unit and The Green Fund Advisory Committee and whether the Unit adequately resourced;

c) what is the average process cycle time for submitted projects; and

d) whether the Honourable Minister is satisfied that the objectives of the Fund are generally being met and if there exists any proposed strategies for accelerating its use?

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you very much, Madam President; and certainly. The question by the hon. Independent Sen. Vieira asks, what projects, certified activities, if any, have been slated for financial assistance from the Green Fund for fiscal 2014 to 2015; particularizing as far as possible the name of the project, when activity started or is expected to begin, the amount of financing projected for this disbursement?

As I indicated in the previous answer when I did the whole period, but I will now read the certified activity. The certified activity for the Institute of Marine Affairs, control and management of the invasive lionfish in Trinidad and Tobago: This is an island-wide intervention with special focus on coastal areas to effectively control and manage the recent alien lionfish invasion in Trinidad and Tobago's waters. While the project cannot prevent the occurrence of lionfish in the waters of Trinidad and Tobago, the measures can be taken to reduce the socioeconomic impact and the health impacts of lionfish invasion.

Lionfish culling from the reef environment will reduce the threat facing reef fish populations, especially Keystone Herbivores which are critical in updating algae coral shift common on the disturbed reefs and, by extension, maintaining reef health. The invasion of the lionfish will be monitored and controlled during the duration of the project, based on the ongoing threat that the lionfish poses. A long-term solution will be put in place to manage the invasion. Greater number of lionfish will result in a reduction of the abundance of biodiversity and the number of fish, as well as threaten the health of reef system.

As I indicated before, the approved grant is $3,929,466; disbursement to date, $2.5 million. They are pretty far advanced. I have a whole list of activities that they have implemented from linking up with restaurants and so on.

The Basel Convention Regional Centre for Training Technology and Transfer for the Caribbean: the development of a waste oil management system for Trinidad and Tobago. The BCRC Caribbean proposes to coordinate and execute a project to develop a waste oil management system for Trinidad and Tobago which can be used as a model for further implementation as a regional project.

This project seeks to resolve the critical environmental issues associated with the inappropriate disposal of used oils here in Trinidad and Tobago through the identification and development of appropriate strategies and facilities to improve the current status quo with waste oil management nationally with specific emphasis on lubricating oils. The approved grant $3,509,860. The first tranche of $1,228,000 was disbursed last week; June 01 is the expected start-up date.

The expansion of Adopt A River Programme: Over the years increases in water demand and pollution of our watercourses have threatened our natural resources. Anthropogenic activities such as inadequate sewerage treatment, oil treatment, oil pollution, domestic and industrial effluent releases and agricultural run-off have been indentified as the major sources of water pollution. Therefore, the citizens of Trinidad and Tobago must take individual and collective responsibility to address these issues through education, through changed behaviour, perceptions and attitudes.

To address these a holistic framework was developed through the National Integrated Water Resources Management Policy document in 2005. This policy was developed to support the socioeconomic development of the country through the integrated management of water resources and the water environment.

In support of this growth, the Water and Sewerage Authority embarked on an Adopt A River Programme. The first phase of the AARP was initiated in 2012 within the Guanapo Watershed. It was on this model, the AARP evolved into the present structure, one of stakeholder collaboration in watershed management and monitoring. The approved grant is $34 million. It is currently engaged in the project. Projected start-up date is June 01. No disbursement to date, as I indicated.

The EMA Recyclable Solid Waste Collection Project. The primary objective of the recyclable Solid Waste Collection Project is to prepare the country for the passage of the solid waste rules and other relevant legislation with respect to a deposit/refund system. The project will provide pilot drop-off collection sites at schools and other public places for recyclable solid waste. This will include tyres and e-waste from the public thus reducing the number of tyres and e-waste entering the environment creating physical and health hazards.

This initiative is in line with the National Environmental Policy 2006 where the environment is managed to protect human health and yield the optimum sustainable benefits for existing and future generations through the management of waste material. Entities such as CEPEP, the Ministries, regional corporations

and non-governmental groups will be engaged to promote cross-institutional learning through consultation and execution of project activities. As indicated before, this is in its start-up stage and, therefore, no disbursements to date.

Part (b): who presently comprises the Green Fund Executing unit and the Green Fund Advisory Committee? There is one programme coordinator and an internal audit specialist, a senior project accountant, project accountant, project officer, three project officers, three community liaison officers, an executive administrative assistant, a secretary, a clerical officer and a driver/courier.

The question asked, is it adequately resourced? We are processing— well—15 applications a year. In the context of 15 applications a year, I think it is appropriately resourced because you do not want to have a bloated administrative system and, therefore, it will place a call on the Green Fund itself. However, there are plans to increase the capacity and resources of the Green Fund unit.

The Green Fund Advisory Committee comprises: Mr. Inshan Meahjohn, Mr. Vishnu Moonansingh, Ms. Falon Attai, Dr. Elton Bobb, Mr. Andrew Cross, Mr. Noel Foderingham, Ms. Marina Narinesingh, Mr. Samuel Ragbir, Mr. Rajiv Rickhi.

The question then: What is the average process cycle time for submitted projects? I will go through the process. First application to final application.

Process	Responsibility	Average Process Time
First Application to Finalized Application	Green Fund Executing Unit (GFEU), MEWR	4 months
Finalized Application to Green Fund Advisory Committee	Green Fund Executing Unit (GFEU), MEWR	1 day

Evaluation and Recommendation to Minister on certification	Green Fund Advisory Committee (GFEU), MEWR	1 month
Certification by Minister	Minister, MEWR	1 month
	through Permanent Secretary (PS), MEWR	
Execution of Memorandum of Agreement (MOA)	Organization and Minister, MEWR (coordinated by GFEU)	3 months
Request for Warrant for 1st disbursement	Minister, PS – MEWR (coordinated by GFEU)	2 weeks
Issue of Warrant and Release	Minister, PS – Ministry of Finance and the Economy (MFE)	3 weeks
Authorization for payment	PS, MEWR	3 days
Payment into Certified Activity Bank	Accounts Unit, MEWR	2 weeks
Total Average Process Time		11 months

11.15 a.m.

Part (d) of the question asked whether the hon. Minister is satisfied that the objectives of the fund are generally being met and if there exists any proposed strategies for accelerating its use. Public awareness of the fund—Madam President, it is my view that public awareness of the fund, its purpose and access to it is not satisfactory particularly among community-based organizations.

Secondly, due to a legal matter brought against the Ministry by the Tobago House of Assembly delivery of the fund to eligible organizations based in Tobago has been suspended.

Thirdly, the Green Fund Execution Unit has developed a Communication and Outreach Strategy which is being implemented in collaboration with the Ministry's Corporate Communication Unit. There has to be a much more aggressive outreach into the communities.

Sen. Vieira: Thank you, hon. Minister.

Madam President: Hon. Senator, in light of the time I will allow for one supplemental question. You may proceed.

Sen. Robinson-Regis: Thank you, Madam President. Minister, I wanted to find out with regard to the time it takes to get the approval finalized, is there a project monitoring officer? I do not recall if you mentioned an officer of that nature, so that after there is some monitoring of how the fund is being used and if, in fact, it is being used appropriately for the project that has been approved.

Sen. The Hon. G. Singh: Thank you, Madam President. I want to just thank the hon. Member for the question. Throughout the process there is monitoring, and one of the complaints we have is that the Green Fund Unit is too intrusive in this monitoring. So that throughout the process you have the monitoring and there is a reporting mechanism that is done all the time or constant monitoring that is taking place.

Sen. Robinson-Regis: Thank you. Thank you, Madam President.

STATEMENT BY MINISTER

Malabar Wastewater Treatment Plant

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you very much, Madam President. I am grateful for the opportunity to apprise this honourable House of the commencement of major construction works at the Malabar Wastewater Treatment Plant. This project is only one component or Phase I of the Multi-Phase Wastewater Rehabilitation Programme being undertaken by the Water and Sewerage Authority with financing by the Inter-American Development Bank. This loan, which was signed on January 19, 2013, is a multi-phased loan and has a total value US $546.5 million and has an overall time frame of eight years.

Phase I of the loan is valued at US $246.5 million, and is expected to be completed in three years. In fact, this is the largest hemispheric loan ever granted by the IDB to any country. Therefore, it speaks volumes of the confidence in the capacity of this Partnership administration to achieve its objectives.

Madam President, having made tremendous strides in achieving the level of potable water services over the last five years from 18 per cent of the population receiving a 24/7 supply to 73 per cent to date, this Multi-Phase Wastewater Rehabilitation Programme marks a true milestone in the wastewater sector in Trinidad and Tobago, as it is the largest and most comprehensive development to be undertaken in this sector since the construction of the wastewater treatment plant and collection systems in Port of Spain, Arima and San Fernando in the 1960s.

To say that the sector has been neglected, underfunded and in crisis for far too long is not an exaggeration but a fact. In fact, the sector was adrift with no end in sight as to where it wanted to go or where it wanted to be in the future, with no single vision and no idea how to get there. In 1995, investment in the sector was negligible, amounting to 3 per cent of the total combined allocation for water and wastewater. Only 30 per cent of the population was served by centralized public and private wastewater systems—20 per cent WASA and 10 per cent non-WASA. Indeed, the sector was best characterized by the following:

One, a highly degraded wastewater system, including poorly functioning or inoperable treatment plants, pumping stations and collection systems;

Secondly, serious capital under investment;

Thirdly, extensive institutional fragmentation and duplication of responsibilities;

Fourthly, environmental degradation and public health risk; and

Fifthly, a subservient role assigned to wastewater in relation to the water supply sector.

During the period 1999 to 2000, the then Ministry of Public Utilities, for the first time committed approximately $279 million to upgrade and refurbish the existing system. This was almost 10 times more than had been invested during the period 1987—1998 when only $29 million had been invested. This amount included funding for the Beetham Wastewater Treatment Facility and the Beetham Force Main, both of which are now completed and functioning;

rehabilitation for treatment plants at Trincity, Santa Rosa, Piarco, Lange Park, Penco and Techier and the rehabilitation of lift stations at Trincity and El Rancho. It also included projects for the adoption of some of the 148 privately owned and operated plants which had ceased to function.

Under the tenure of the previous administration, 2002 to 2010, the sector was returned to a state of hibernation and stagnation with the single initiative being the move to split WASA into two separate entities with little regard to the financial and economic feasibility of such a separation. Indeed, not one additional wastewater customer was served in that entire period. The lack of attention to wastewater had reached proportions that were difficult to justify. It has thus fallen to this administration to ensure that the proper sanitation and sanitation services are realized.

Thus, given the central importance of a properly functioning wastewater sector as articulated in this Government's "Framework for Sustainable Development—Initiatives for a Secure, prosperous and Sustainable Nation", this Government commenced an aggressive programme geared towards improving performance and ensuring delivery to customers in the sector. The programme combined the development of a national plan, which prioritized geographical areas for development based on technical, environmental, economic and social considerations, with low cost loans from international multilateral lending agencies for the execution of works.

Work done in the development of the national plan demonstrated that Trinidad and Tobago can be divided into 30 natural wastewater catchments; 25 in Trinidad and five in Tobago. WASA proposes to develop regional wastewater systems over the next 10 years with a view to having regional wastewater treatment plants within these catchments. This initiative will allow WASA to integrate existing wastewater networks and de-commission smaller stand-alone treatment plants, where possible, in order to maximise economies of scale.

WASA has identified the following catchments as priority towards achieving the goal of increased wastewater coverage:

- Port of Spain (rehabilitation of the sewerage system);
- The East-West Corridor (Bamboo, Trincity, Maloney, Malabar,
- Wallerfield and Sangre Grande);
- San Fernando;

- Chaguanas;
- Couva;
- South West Tobago; and
- Scarborough, Tobago.

It is anticipated that upon completion of the works in these areas, sewerage coverage will move from the current 30 per cent of the population of Trinidad and Tobago to 60 per cent with access to a centralized wastewater system. Indeed, upon completion of works at the Malabar and San Fernando Wastewater Plants approximately 66,900 citizens in the Malabar catchment area and 90,200 citizens within the San Fernando catchment area will be provided with centralized wastewater and collection and treatment systems.

The Malabar project alone will benefit citizens in the constituencies of Arima, D'Abadie/O'Meara and La Horquetta/Talparo. A works contract has been awarded for the San Fernando wastewater system and works for Maloney are to be tendered out shortly utilizing funding from the IDB. Funds have been secured from the Caribbean Regional Wastewater Fund of the IDB, known as CReW, for the rehabilitation of the Scarborough wastewater facility, construction of property connections and the procurement process is ongoing.

I wish to emphasize that as the executing agency, WASA has satisfied all the IDB conditions in record time for the first phase leading up to the award of these works contracts. The contract for the construction of the Malabar Wastewater Treatment Plant and Collection System was awarded to the Sinohydro Corporation Limited of China at a total cost of TT $620 million. The contract for the San Fernando Wastewater Treatment Plant and Collection System was awarded to the joint venture company AAA Wastewater Treatment Plant Limited with Acciona Agua SAU as the lead partner from Spain and Atlatec SA of Mexico at a total cost of $654 million. Madam President, one must note that these procurements of these contractors were done in keeping with IDB rules.

In order to achieve lasting and significant changes, it is essential for Government to demonstrate a strong political commitment, create an adequate and proper legal and institutional framework and promote a high degree of technical skills in that sector. In fact, in the absence of a change in the institutional framework and the incentive system, efforts to improve the sector may not succeed. Indeed, a shift in thinking to bring forward the creative solutions needed for complex problems and to deliver lasting change is paramount in creating a resilient water and wastewater sector.

Madam President, the ultimate aim of these initiatives is to position the Authority to better serve the citizens of Trinidad and Tobago. For too long the wastewater sector has been the illegitimate sibling of the water supply sector. It too must take its place centre stage with improved access to citizens and WASA is poised to achieve that goal.

Madam President, I thank you. [*Desk thumping*]

INSURANCE BILL, 2015

Order for second reading read.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you, Madam President, 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.

Madam President, as you know many countries are still reeling from the 2008 financial crisis which spiralled into an economic recession, and which had as its core inadequate risk management systems and weak regulation of financial institutions and financial products. While Trinidad and Tobago is a dominant player in the financial sector in the Caribbean, it is worth noting that our legislative framework is woefully deficient in many respects, and lags behind many of our regional counterparts. Given Trinidad and Tobago's role as a leading financial centre of the region, it is vital that we upgrade our financial legislation so that we can play the role that is expected of us. Against this background, two pieces of legislation were enacted in the recent past, and these include the Financial Institutions Act and the Securities Act. Further to those, the Credit Union Bill, 2014 was introduced in the Senate on November 18, 2014. This significant overhaul of the Insurance Act which we are looking at today, which was enacted in 1980, but which effectively dates back to 1966— because the 1980 represented certain amendments to the 1966 Act—is a critical pillar in our legislative reform efforts.

As you know, the insurance sector is a major contributor to domestic economic activity. I am told that there are 35 insurance companies of which 20 are life and 15 are general, and their assets account for approximately 27 per cent of GDP as at the end of last year. The sector is a major repository for private savings, and by covering risks and unexpected events, it facilitates private and public sector activity. In other words, the industry is one of enormous economic and social value, and is critical to the country's development.

Sen. Robinson-Regis: Sorry, sorry, would you give way a minute?

Sen. The Hon. L. Howai: Sure.

Sen. Robinson-Regis: Could you repeat the—did you say something about the GDP, could you repeat that?

Sen. The Hon. L. Howai: Twenty-seven.

Sen. Robinson-Regis: Twenty-seven. Okay, thank you.

Sen. The Hon. L. Howai: Madam President, efforts have been underway for some time now to update the existing Insurance Act. The reform process began in 2001, and since that time the Central Bank of Trinidad and Tobago has engaged in extensive consultation with stakeholders in the insurance industry.

This close collaboration with the industry has served to enhance the quality of the Bill that is being debated today. In addition, a Joint Select Committee appointed by Parliament reviewed the Bill commencing in November 2013, and filed its report in July of 2014. However, because we came to the end of the Session, this particular matter could not have been carried forward further at that time.

11.30 a.m.

The Bill was revised to include several recommendations made by the Joint Select Committee to enhance policyholder protection primarily by imposing greater accountability by the Central Bank on boards of insurance companies, insurers, intermediaries, external auditors and liquidators and by introducing market conduct regulation.

I would like, Madam President, to thank the members of that Joint Select Committee, which comprised of members from all sides of both the House and the Senate and which had deliberated for an extensive period of time in coming up with the recommendations which we had at the end. The work of the committee was supported by the Central Bank, by the Chief Parliamentary Counsel, by the Ministry of Finance and the Economy, and very importantly involved local insurance consultants, both on the life and general side. We obtained the support of an international insurance consultant with an extensive background and experience, both in consulting with the industry as well as in leading companies and in executive positions in the insurance industry. We also had a legal consultant in the form of eminent Senior Counsel who advised us on many of the legal ramifications of the issues which were in the Bill.

The proposed amendments which are in the Bill were largely informed by the insurance core principles developed by the International Association of Insurance Supervisors which are minimum standards for effective insurance supervision. The Bill was also informed by practices and emerging issues in the local insurance sector and the wider financial system, and also by the findings of the IMF-World Bank Financial Sector Assessment Programme Missions in 2005 and 2010.

As I said, Madam President, this is a matter that has been under consideration since 2001, so literally for the past 14 years this Bill has been under some form of consideration. It is interesting to note that notwithstanding that extensive degree of consultation, we have had continuing interactions with the industry and with the Central Bank regarding amendments to the legislation. In fact, up to even five days ago I got another letter suggesting certain other changes, again, which the industry thinks ought to be made if, in fact, the Bill is to be properly implementable and which I would suggest for consideration at the committee stage.

Madam President, the Bill overwrites certain rights to property and the quiet enjoyment of property which are sacrosanct in our Constitution, and therefore this Bill requires a special majority.

This Bill seeks to significantly improve the oversight of insurance companies and I should say, strengthens prudential requirements, introduces more stringent corporate governance, provides the Central Bank with effective regulatory authority over financial groups, improves public disclosure, introduces market conduct regulation and a requirement for continuous education and provides the Central Bank with a range of preventive and corrective measures which can be taken, what we referred to in our discussions, as a ladder of intervention measures which can be introduced, which can be utilized by the Central Bank to improve the overall management and control and regulation of the industry.

Madam President, following the close of the deliberations of the committee as had been discussed by the committee, I provided copies of the final documents and a report to the industry as well as to the Central Bank, and this is the report of the Joint Select Committee which we had laid here in the Parliament. In the subsequent period these two bodies drew several matters to my attention and asked that these matters be revisited. In the interest of getting this as right as we possibly can and to ensure that we had as rigorous a Bill as possible, the changes that I felt had merit were included and highlighted in the Bill which was circulated to Parliament.

So, Madam President, we circulated a document which had the marked-up changes coming from the Joint Select Committee which I asked the CPC to provide and these were highlighted in red, and then we had a separate set of amendments which amendments were highlighted in green or blue, depending on how you see the colour, I think it is green. So these were—[*Interruption*]

Sen. Robinson-Regis: The safer thinking is blue.

Sen. The Hon. L. Howai: Blue, okay. I defer to someone who is probably better colour-coordinated than I am. So the thing is that these amendments were the amendments which were submitted by the industry, by members, as well as by the Central Bank after the Joint Select Committee had completed its recommendations and we enclosed those and highlighted them for the information of Parliament so that Members would be aware of what the changes were and, of course, for ease of identification and to facilitate discussion at the committee stage.

We recognize the hard work which had gone into the preparation of the Bill by the committee and, of course, we remain flexible in terms of the adoption of the amendments which we have included in the blue colours as suggested by the industry and by the Central Bank.

So, Madam President, we have made changes to a number of areas and the ones that are highlighted in blue, I just want to, perhaps, just refer to them a moment because we did not have an opportunity to discuss them in the Joint Select Committee and I would like the opportunity to just refer to them and, of course, once we get to the committee stage we will be prepared to discuss these changes in further details.

The first set of changes that were suggested were in the definitional section to address some of the terms that were introduced in other parts of the Bill, such as, "continuing professional development" and the institute of brokers. The Brokers Association of Trinidad and Tobago was very strong on that particular matter and they asked that Parliament give consideration and strong consideration to the inclusion of this particular requirement as far as professional development is concerned.

We also dealt with things like exempted incidental insurance which needed to be covered as it is related to the insurance cover that is provided to holders of credit cards which have not been subjected to regulatory overview prior to this. So, for example, if you are travelling oversees there is incidental coverage that you get, that we wanted to look at. Foreign policy and the definition, the

definition of participating accounts and policies and policyholders and the definition of security interest which refers to mortgages and other types of liens, so those were some changes that we made in the definitional section.

In clause 6 there were some changes relating to control and to connected persons and to clarify what these were and to make it a little bit clearer to the reader and those we are again suggesting to the Senate.

Clauses 44, 45 and 46 were also amended and to introduce title arrangements for the Catastrophe Reserve Fund and to require further information where the inspector deems it necessary. And there were some slight changes to the wording there and we have included those.

Clause 52(3) requires a controlling shareholder to transmit written information to the Central Bank as and when required, and we thought again that was important in terms of strengthening the regulatory ambit of the Central Bank itself.

Clause 67 was also another major change, major in the sense that it was one of the changes highlighted in blue, and it relates to the duties imposed on directors of companies requiring a director to notify the Central Bank of any development that they are aware of which pose a material risk to the company. Now, previously we had done it with respect to auditors, for example, and we thought it was important that requirement be also placed on the directors of the companies themselves.

In clause 85, we clarify the definition of assets which are deemed to be assets in Trinidad and Tobago and some of them may originate in other countries in the region and we needed therefore to be clear on the definition that we were including as part of the arrangement.

Clause 87(7) was changed, where the Central Bank has the power now to approve the holding or require the disposal of shares in an entity, and that was just tightened up and clarified, and clause 92 which also deals with guarantees and security arrangements.

So, Madam President, there were a few others, clause 101 which relates to the suspension of operations. Clause 107(2) which sets out more clearly the application of assets in a liquidation with priority being for the policyholders. Clause 109 which provides a measure of protection for liquidators and receiver managers and it balances out with the requirement we have put in place which also calls the liquidator or receiver to task, should they be taking an extended period of time to implement, to carry out the liquidation. Because the concern that

we had, Madam President, was that the liquidator could be the only potential beneficiary by the time they take two or three or four of five years to liquidate a company, and they add their fees in, and they take fees for five years we could find ourselves in a situation where the only person that gets anything out of it is the liquidator. And therefore we have tightened up that part of it but we also recognized that we had to put a measure of protection for them. So it sort of balances the two out in the legislation and makes it a little bit more even handed.

In clause 139 we have also emphasized the importance of the audit of the accounts of the agencies and brokerages, apart from just the insurance companies. And clause 158, we have sought to define more clearly what the policy liabilities and other actuarial liabilities include. We then had two other major areas which was clause 160, which has had a significant change as far as the distribution of the surplus to shareholders are concerned and I think that is important for us to go through with Members and clause 215 which relates to actuarial reports.

So, we had in total, Madam President, I believe we are dealing with about 282 or 284 clauses in the Bill and we have made changes to about 15 or 18 of those clauses, major changes. There were small changes made to one or two others which I did not pick up but which are outlined and highlighted in the document itself.

So, Madam President, returning to the substantive Bill, having dealt with some of those areas where we have had changes which we are proposing for the consideration of the Senate, this Bill, as I said, contains 13 parts with 282 clauses—I hope I said 282 and not 284, right, and I do not— yeah, it is 282, and I do not propose to deal with all of the clauses in detail. As the debate goes on we will get a lot of background on various aspects of what is in there and certainly when we get to the committee stage we have more than ample opportunity to make changes and to go through in detail some of the changes that have been highlighted as part of the presentation which we are making.

Madam President, Part II of the Bill—Part I would just be preliminary clauses and so on, and Part II of the Bill deals with some of the more administrative requirements of the Bill. In this part the primary objective of the Central Bank as it relates to participants is really, what we are trying to do here is focus on confidence and promoting the soundness and stability of the financial system. So this part deals with the powers and duties of the inspector, and in this regard the inspector will be able to examine and enquire into the affairs or the business of all the registrants of financial holding companies with a view to ensuring that they carry out the provisions of the Act and are in a sound financial condition.

11.45 a.m.

In so doing, the Inspector can assess any risk to which the registrant may be exposed. If upon examination it is found that a business is being conducted in an unlawful or unsound manner, the Inspector can require the registrant, or financial holding company, to take all such necessary measures to rectify the situation.

What we have done is, we have, as I said, provided a ladder of different types of interventions at different stages of the status of the company so that at any point of time we could minimize the possibility of us getting to a point where we are dealing with liquidation, and I will come to some of those at a later point in time in terms of my own presentation. An important element in this part of the Bill is the ability of the Inspector to obtain information for the purpose of determining whether certain office holders, namely directors, are fit and proper for holding such positions.

Madam President, a big part of this Bill deals with risk management. In fact, I think, perhaps, the core of the Bill deals with risk management and it starts from Part III of the Bill. This part contains nine subdivisions dealing with things such as registration of insurers, maintenance by them of separate accounts, the Catastrophe Reserve Fund, the ownership of insurers, transfers and amalgamations, corporate governance, prudential requirements, restrictions and prohibitions, judicial management, suspension and winding-up. So what we have done here is deal with a big part of the day-to-day operations of the company itself and how the company looks in terms of overall risk management.

At clause 22, the company carrying on insurance business must maintain a stated capital of at least $15 million. And we have chosen this, and we have equalized it with what happens in the Financial Institutions Act, but we recognize, however, that some insurance companies would not be up to the $15 million immediately and we have allowed for a transition period of up to five years for companies to achieve that particular goal. There are some companies, of course, which carry on both types of business and those, we have asked that they must maintain a minimum capital of $22,500,000.

So if you have a combination, you will be required to carry more capital, and these will be minimum capital requirements. And on top of that, we do layer the risk capital requirements for the industry because of the fact that we are doing away with the Statutory Reserve Fund and in its place what we are putting is a risk-based capital adequacy arrangement which will ensure that companies have the kind of capital base that will be required to support the extent of the operations that they have.

One of the things we would have noted in the case of the CL Financial group is that they were a $100 billion company with about $3 million of paid-up capital and it was significantly over-leveraged to the extent that when the challenges occurred, what happened in CLF was that, of course, they were not able to weather the storms that arose therefrom. So what we want to do in the case of our insurance companies is to ensure that they have a strong capital base which would allow them to be able to weather the storms of any contagion that may occur as a result of problems in the wider, global community, or even in the wider, local economy.

Madam President, clause 44 of the Bill provides for insurers carrying on property insurance business, and a business such as this would require to maintain, at all times, in respect of catastrophe risks, a Catastrophe Reserve Fund, and appropriations are to be made from the retained earnings in an amount not less than 25 per cent of its net written premium income on its property insurance business for that year. However, an appropriation will not apply where the Catastrophe Reserve Fund exceeds, or is equal to, the net written premium income on the insurer's property insurance business for that year.

Another aspect of risk management relates to the enhancement of corporate governance or the arrangements which we have for corporate governance in the Bill. One of the major factors considered the world over to be responsible for the failing of finance institutions is the lack of an effective corporate governance framework. In this context, it is important that directors and management take seriously their fiduciary obligations to protect depositors' and policyholders' funds.

Consequently, there are a range of additional proposals in the Bill at clauses 65 to 81 which are intended to strengthen corporate governance in these companies. Also, the Bill makes mandatory an audit committee and the majority of the directors on this committee must be independent. I raise that because we have received, from the industry and from the Central Bank, certain further comments with respect to how we define the independence of directors and, particularly directors who serve on the audit committee. And we, therefore, would be proposing for the consideration of the Senate, some further amendments to take those particular points into concern.

Other requirements would include annual reporting by directors and senior management, the prescribing of additional responsibilities for auditors and actuaries and an improved ability to ensure that key functionaries are fit and proper. In the Bill, it is a criminal offence for an external auditor who knowingly

or recklessly gives an unqualified opinion on financial statements that do not fairly present the financial position of the insurer. This provision has set a precedent in Trinidad and Tobago in placing more accountability and a higher duty of care on the external auditor. This is in keeping with the general direction of the regulatory agencies to demand more of auditors and others who provide statements on which the users of these accounts rely.

So the Bill makes provision for the Central Bank, policyholder or other creditor, or contributory, to make an application to the court to take appropriate action where necessary; also, in the case where, as I said before, we have a liquidator who is acting with unreasonable delay. And, again, I had mentioned that just now. So we have put some requirements on both the external auditor as well as on the liquidator.

Madam President, we have also included some, what we call prudential requirements, which are intended there for the protection of the policyholder and which therefore increases the capital that is required to be maintained by persons who wish to conduct the business of insurance. As I indicated previously, there are companies who are only required to hold between $1 million and $3 million of capital, and we have now significantly—we have now increased that and on top of that increase, we are layering in the requirement for a risk-based capital regime.

This regime would ensure that insurance companies that want to take on greater risk must put up higher levels of capital to cover those risks. Under this new regime, insurance companies would therefore need to hold significant amounts of additional capital. This represents a significant departure from the past, and certainly increases the safety of insurers. In this regard, at clause 82, an insurer or financial holding company shall, on an individual and consolidated basis, maintain adequate capital and adequate and appropriate forms of liquidity. And, again, liquidity is also an important part of continuing to ensure that insurers are able to meet their requirements. You could be in a situation where you are, in a sense, asset rich but cash poor, and unable to meet your requirements. So it is very important that, again, the assets which insurance companies hold have also a liquidity profile that allows them to be able to meet the requirements as they come up.

One of the key things that the Joint Select Committee wanted to address was the question of, at what point should the Central Bank make an intervention into a company. To a large extent, the first draft of the Bill, which had been laid, basically left quite a significant amount of discretion to the regulator, and to some extent we have allowed some level of that to continue, but the Joint Select

Committee, particularly, was very concerned to ensure that there was a mandatory trigger set; that it was very transparent; that everyone knew what that trigger was; that the Central Bank itself could not come under pressure from individuals who would seek to defer the action of Central Bank in terms of an intervention. There is a possibility that persons could bring pressure to bear to get the Central Bank to hold its hands, and the committee thought it was very important that we establish a mandatory trigger, and this mandatory trigger has been set at 70 per cent, which is considered to be adequate to cover all policyholders' liabilities, but certainly indicates that there are issues that need to be attended to.

The mandatory intervention action comprises of giving the insurer 60 days to remedy the situation, failing which the Central Bank can suspend the company or can apply to the court for a judicial manager or for winding up the company, depending on how things progress as far as the initial intervention is concerned. In addition to which, Madam President, we have also looked at the actuarial standards for the insurance companies. Right now we have no prescribed actuarial standards and what happens as a result is that—and as you know, Madam President, or as Members would know—the point is that these actuarial valuations are all based on assumptions and one has to take these assumptions into account in determining to what extent the valuation adequately covers the risks that are in the portfolio. And it is very possible that, depending on the valuations, one person can say the valuation is adequate and another could say it is not.

So what we have tried to do is to avoid, particularly, underestimation of liabilities and reserves and to make it easy to conduct intercompany comparisons of the reserves. So the legislation, therefore, before us, seeks to introduce a standardized actuarial valuation methodology consistent with international best practice to ensure that insurance companies hold adequate reserves to protect their policyholders.

It is noteworthy that the IMF is currently funding a project to introduce a similar actuarial methodology across the region. Furthermore, a separate account reporting regime would require an insurer to maintain separate accounts for each type of insurance business and a separate account for shareholders. This, coupled with the establishment of a new mechanism to assign priority to all policyholders on wind-up and restructuring of an insurer are significant policyholder protection measures.

Another significant development with this new legislation is the introduction of prudential limits for credit exposures. Previously, credit exposures were mainly defined in relation to banks and other similar financial companies, but it is

recognized that insurers will have portfolios that are similar in nature to the portfolios of banks. Therefore, what we have sought to do is limit the amount of credit to a single borrower to 25 per cent of an insurer's capital and, in the case of a single connected party, to 10 per cent of an insurer's capital. Both these requirements are located at clauses 89 and 90 of the Bill.

Madam President, I turn now to the areas that deal with the intermediaries within the industry itself, and these are covered at Part IV of the Bill. Part IV of the Bill makes provision for the regulation of intermediaries such as an agent, agency, broker, brokerage sales, sales representative and adjuster. Each person operating under this part must be registered to carry on business, and intermediaries would be personally liable, where they are individuals, to a policyholder on all contracts of insurance made under certain circumstances, and we have defined those in the Bill.

The Bill also provides that each brokerage maintain professional indemnity insurance of at least $10 million with a maximum deductible of $50,000 or 10 per cent of stated capital, whichever is greater.

12.00 noon

Madam President, of significance is the requirement for continuous education which we have also prescribed in Schedule 11 for persons under this part. A failure to comply will result in their registration not being renewed.

In the vein of proper reporting and monitoring, clause 136 provides for every agency and brokerage to submit to the Inspector, audited financial statements prepared in accordance with the reporting standards within 60 days after the end of the financial year, or as requested by the Inspector. So the Inspector can make certain kinds of interventions as he or she sees fit in light of whatever the situation is that they perceived as far as the agent or the broker is concerned. In addition, clause 139 provides for the auditor of an agency or a brokerage to include in its opinion to the financial statements whether or not the agency or brokerage has satisfied the requirements of among other things, whether the brokerage established and is maintaining a consumer trust account for the receipt and payment of consumer funds.

This new legislation also at Part V includes amendments that will improve the oversight of financial groups, and more effectively protect insurers from group contagion risk. We propose, therefore, to separate the financial and non-financial activities of a group where necessary and to broaden the Central Bank's powers to conduct consolidated supervision by giving it the ability to inspect subsidiaries

and offshore operations of insurers. This is a very important part of the legislation, Madam President, because it relates to some of the experience we had with the CL Financial group and with Clico as part of that group, but it also relates to the activities of a number of institutions, a number of insurance companies which are already part of wider corporate groups and from which is important to ensure that we build in the right kinds of protection to ensure that there is not perhaps preference given to funding and channelling of funds to related members, related parties within a group. So this particular area is an important part of the Bill as far as our Central Bank is concerned.

The Bill also requires the Central Bank to publish the annual statutory returns filed by insurance companies and to give notice to the public of its intervention action when the insurer fails to increase its regulatory capital over the mandatory trigger level of 70 per cent. This is something that is entirely new, Madam President, where the regulator is actually giving notice to the public of its intervention action. The Central Bank intends also—and again this is new—to publish a supervisory ladder of intervention which shows how Central Bank intends to identify varying levels of regulatory concern and what early intervention action it is likely to take in each instance.

So, for the first time again, we will have this intervention ladder which will be made available to all individuals, all operating companies within the country as well as to the public at large who will be able to see what kind of intervention the Central Bank can make, and they can themselves make informed decisions about the action that they see the Central Bank taking. So, the Central Bank will now assume greater responsibility to regulate market conduct of insurers and other registrants.

To this end, Schedule 12 lists a number of standards that insurers are expected to follow in their sales and marketing materials, in addressing consumers' needs, in maintaining confidentiality of consumer records, in agent training and in post-sale communication. So, Madam President, you can see it is quite an extensive amount of regulation that will be taking place of these companies to ensure we do not revisit a situation as had occurred in the past as far as the Clico debacle was concerned.

Part VI deals with Compliance Directions and Injunctive Relief, and again this is part of that supervisory ladder which has been introduced and this gives the Central Bank the authority to promote compliance by widening the range of corrective measures the bank can employ as enforcement tools. For example, if the Inspector reasonably believes that any person is committing an act or course

of conduct that is unsafe or unsound practice, or that would directly or indirectly be prejudicial to the interest of policyholders, the Inspector may issue a compliance directive for the person to cease the act or conduct.

The Inspector may also direct performance of such acts which are reasonably necessary to remedy the situation or to minimize the prejudice. These measures include the introduction of penalties for breaches of certain provisions of the legislation and the introduction of administrative fines. It is also proposed that the Central Bank be given the authority to require timely corrective action and to impose sanctions including administrative fines when these are deemed appropriate. And, Madam President, clause 260 of Schedule 6 of the Bill treats with the administrative fines and the related offences.

Parts VII and VIII of the Bill deal with the reporting requirements of Long-Term Insurance Business and General Insurance. Again, it enhances the extent of the reporting requirements that are in place/will be put in place by the inspector as far as the operations of these businesses are concerned to ensure that the Inspector is all times apprised of what the condition is of that particular business. We have also included in this Bill, we have retained the sections which relate to pension funds.

Eventually, Madam President, it is our intention to develop legislation that will deal specifically with pension funds and pension plans. In fact, there is ongoing exercise at the Ministry of Finance and the Economy at the moment which has been going on for some time now relating to the introduction of a comprehensive universal minimum pension plan across the board throughout Trinidad and Tobago and, of course, the introduction of new pension legislation will be integral to the introduction of that entire new regime. But for the time being, we thought it prudent to simply maintain the clauses which had been included in the Bill as far as the pension funds are concerned, and we have made no further changes to this section of the Bill from what the Joint Select Committee had provided to us.

In Part X of the Bill, we deal with the issue of underwriters and the association of underwriters and these are dealt with in clauses 230 to 249. As is common with the general theme of the Bill, this association of persons will fall under the regulatory ambit of the Central Bank and, as such, there is a requirement for them to be registered with the institution. However, before any such registration can occur, there is a requirement for an association to deposit with the Central Bank 20 per cent of the stated capital required for a person carrying on such business, plus an amount equivalent to cover all policyholder liabilities. So again, what we are doing is putting in place arrangements to ensure that at all levels all the

associations, all the stakeholders, all the parties which are part of this insurance sector, the regime that we have for managing the insurance business, that we have in place a proper and mandatory regulatory regime that will cover the activities of all of these members.

In Parts XI, XII and XIII of the Bill, Madam President, I suppose we can treat with these together because they deal with the jurisdiction of courts, appeals and offences. There are two areas under this part that perhaps I should mention, and the first is the provisions that cater for fraud, and the second is the ability of the Central Bank under clause 260 to issue a notice offering persons the opportunity to discharge any liability to conviction in respect of an offence by the payment of an administrative fine under Schedule 6.

Madam President, in relation to the penalties, in many respects an attempt was made to harmonize these penalties with those under the Financial Institutions Act and the Securities Act. In other respects, due to the potential for serious loss by clients or persons falling under the new Act and an attempt to discourage actions that may result in such laws, the penalties have exceeded those under the other pieces of legislation in certain cases. So, by and large, Madam President, I think this was one of the areas where the Joint Select Committee was very, very comprehensive in doing a special exercise which related simply to looking at the penalties that apply to the different offences that are found in the Act. What the Committee sought to do was to ensure that there was some logic, some streamlining of these penalties among the various pieces of legislation, and this is something that we paid particular attention to.

This is also an area where we received the comments of the industry which were particularly helpful because the industry had identified for us that, you know, perhaps it would be preferable that where these penalties apply because of the stringent nature of these penalties, that certainly they apply where persons are reckless and certainly grossly negligent so that one does not find oneself in a situation where someone who may have inadvertently created a cause or may have gone in breach of something, is suddenly subject to a very aggressive and very stringent penalty. So what we sought to do was to find that right balance inside of the legislation to protect the rights of individuals, to protect persons from perhaps what might be an innocent error, to protect those individuals as opposed to individuals who, on the face of it and based on the evidence, would have been grossly irresponsible in terms of their actions.

Madam President, Part XII deals with Facilitations of Transfers and Undertakings and provides for transfers of insurance business and business of a financial nature carried on by a person under the Act, and one of the things we sought to do—is that we know there are some companies which will need to register locally and we

recognized that there are some international companies and foreign-based companies which may want to register locally here in Trinidad and Tobago as a result—is to seek to provide a basis where this could be done in a relatively cost effective manner.

Part XIII of the Bill is the Miscellaneous part and in this part a fundamental consumer protection feature is found at clause 266 which requires registrants and insurance consultants to adhere to market conduct which is prescribed in Schedule 12. The principles surrounding this conduct require that insurers ensure that their sales and marketing materials and procedures do not mislead consumers. They should also be legally responsible for all statements made in marketing and sales materials that they produce related to their products.

All marketing and sales materials should be easily readable and understandable by the general public. And again, Madam President, this was an area that the Joint Select Committee identified as something that was of particular concern to the Committee. In fact, throughout all of this—I omitted to make this point at the start and I should have—the Committee was very much concerned that while we wanted to ensure proper regulation of the industry, that we had the right kind of capital base, that we had the right kind of disclosures, that we had these disclosures being made on a timely basis.

12.15 p.m.

In addition to the regulatory requirements, we thought it was very important that we deal with the consumer, the rights of the consumer and what the consumer can expect and how we can protect the consumer as we go forward. Of course, regulation and the strength of the company protects the consumer as far as their ability to collect their payments when they are due to ensure that the company is able to meet its liabilities to consumers.

But over and above that, there are a number of areas where we thought it was important that we address some of these matters and they relate to things like disclosure of, in terms of marketing materials, in terms of sales materials, in terms of their products and so on. That all of these things are explained properly to the consumer so that the consumer understands properly what it is they are buying, and they know exactly what they can expect when the policy matures or in the case of a general coverage, what the type of coverage is that they are getting.

Madam President, one other matter under this part is that the Central Bank is empowered to issue guidelines in order to facilitate compliance with the new Insurance Act and contravention of the guidelines will not preclude the Inspector from issuing compliance directions.

Madam President, we have included in the Bill, 13 Schedules which complement the sections in the new Act, and make for effective administration of the legislation. These Schedules deal with things such as forms, fees, transitional capital ratios, registration requirements, determination of credit exposures and so on, and there are 11 pieces of regulations which provide for matters such as capital adequacy, pension fund plan investments and things such as approved security.

So, what we have sought to do is to introduce a Bill that is fairly comprehensive. A lot of work has gone into it, a lot of feedback from the industry, a lot of participation by stakeholders, a lot of time and effort by the regulators, to get to the point where we think we have a fairly comprehensive piece of legislation—legislation which includes all of the related regulations and schedules that will help us to understand the Bill in the way that it should.

As I had mentioned at the beginning of my presentation, the exercise on this reform process began since 2001. In order to—I suppose, and I know that over the years, there has been a lot of criticism of the length of time that this process has taken. It has, indeed, taken a long time and we have gotten to the stage where I think we have before us a document—and a set of documents and a piece of legislation that is fairly comprehensive, and will ensure that we have the foundation and the framework for laying—and one that provides a solid basis for Trinidad and Tobago to emerge as an international financial centre in the region. Once approved, we would no longer have to work with outdated legislation and it certainly brings us into the forefront as far as international best practice is concerned.

In closing, the introduction of the risk-based capital regime, standardized actuarial valuation methodology and prudential limits on credit exposures and enhanced corporate governance requirements seek to correct the fundamental deficiencies in the current legislation and will no doubt significantly increase policyholder protection.

One of the issues, of course, that arises because of the change that we have introduced with the introduction of the statutory fund is the—oh, sorry, not the introduction but the removal of the statutory fund and the introduction of the capital adequacy requirements—is that the taxation arrangements underpinning this particular piece of legislation will need to change.

We see that particular exercise as taking some additional time and what we propose to do is that we have already engaged consultants as well as the industry in developing that particular regime, and we shall introduce as part of the 2016 budget, specific taxation arrangements which would be transitional arrangements that will allow us to move from the current position to the one that we would want

to get to a little bit further down the line as far as the development of a more comprehensive taxation arrangement is concerned. I expect, my own estimate, and this is just following some very preliminary discussions, is that this could take up to two years to put this taxation arrangement in place so that we will proceed with a transitional arrangement for the time being until that particular arrangement has been developed.

As I had indicated, several amendments were introduced, based on the intervention of major stakeholders such as ATTIC, such as IBATT, such as the Central Bank, including consumers, including—you know, we listened to representations also made by trade unions. We accepted comments from a wide range of actors in the insurance marketplace with a view to ensuring that we had the full understanding of all of the issues as we proceeded with our deliberations to bring us to this point.

We recognized that some of the changes which we had made subsequent to the work of the Joint Select Committee did not have the oversight of the committee, and certainly did not have the ability of the committee to comment on those, and which is why we have identified those and highlighted those specifically which we are looking to address as part of the committee stage of this Bill.

So that at the end of the day, at the end of the entire exercise, we will see that we have a piece of legislation that is very robust and which meets all the requirements of the industry and which certainly gives the Inspector of Financial Institutions the wherewithal to ensure that we have a rigorous and well-developed insurance marketplace here in Trinidad and Tobago, which meets the needs of all our consumers and which sets the stage—which makes it also a sector that will continue into the long term to provide employment, to provide income and to provide returns on investments—investment vehicles as well as returns on investments for persons throughout Trinidad and Tobago, and indeed, in the region because we see Trinidad and Tobago as a place where persons from other parts of the region will be investing their funds.

We see the insurance companies also as playing a major role in capital market development and, again, insurance companies do invest a substantial part of their funds in long-term assets, fixed income assets as well as in equities. We look to this industry continuing to play a very vibrant role in the development of the capital markets here in Trinidad and Tobago. So, we think, Madam President, in putting this legislation forward that what we are doing is laying the groundwork for the substantial growth and development of our financial services sector.

With these few words, I beg to move. [*Desk thumping*]

Madam President: Hon. Senators, it is now 12.23 p.m., we will take the break for lunch and resume at 1.23 p.m. This sitting is now suspended until 1.23 p.m. [*Discussion with Clerk*]

Hon. Senators, I just wish to withdraw that statement and instead to propose the question for debate.

Question proposed.

Madam President: The time being now 12.24 p.m., I will propose that we take the lunch break and resume at 1.24 p.m. The sitting is now suspended until 1.24 p.m.

12.24 p.m.: *Sitting suspended*.

1.24 p.m.: *Sitting resumed*.

Madam President: Hon. Senators, before we suspended, we had proposed the question for debate. Senators wishing to join the debate may do so at this time.

1.25 p.m.

Sen. Faris Al-Rawi: Thank you, Madam President, and my fellow colleagues for that thunderous welcome in this Parliament so shortly after the lunch break. Perhaps it is fitting that we are the beneficiaries of some very well prepared food so that we can have our tempers measured, having been the beneficiaries of good food, to put it lightly.

Madam President, it gives me great pleasure to stand to lend contribution on this very, very important piece of legislation. We have before us a Bill tabled recently, which proposes the repeal and replacement of the insurance legislation, Chap. 84:01, the Insurance Act, which was an Act of Parliament, Act No. 6 of 1980.

This particular piece of law deals with, touches and affects, all of us. Everything, from the policies of insurance, which cover our cars; those which allow us to comply with the Motor Vehicles and Road Traffic Act; that which allows to take coverage for medical insurance for the care of our loved ones; that which allows us life insurance coverage, which can be used not only to cover life as precious as it is, but collateral for mortgages and loans, et cetera.

It is, as the hon. Minister says, something which affects nearly 27 per cent of our GDP. That is a big number. And, perhaps, it is indicative of why it has taken Trinidad and Tobago 35 years, since 1980, to begin to catch up to where we ought to be in terms of the laws that regulate insurances. After all, when one compares

the experience, legislative as it is, in Barbados, a Commonwealth Caribbean country, you would note that there is a disparity in our laws. Indeed, the hon. Minister told us that we are dealing with laws which have been in gestation for another particular period of time in the period 2001 to date—again, 14 years of gestation.

We have passed through the World Bank consultation, the IMF consultation and we are aware that the law articulates with very critical pieces of coordinate legislation. This articulates with the corporation laws of Trinidad and Tobago, the Companies Act. It articulates with the Corporation Tax Act. It articulates with the Central Bank Act. It articulates with the recently introduced bankruptcy and insolvency legislation. It articulates with the Securities Act. It articulates with the Financial Intelligence Unit Act. It articulates with the Proceeds of Crime Act. It articulates with the Exchequer and Audit Act. It is something which is involved across the plate in our laws in Trinidad and Tobago.

Now, Madam President, I had the great pleasure of serving as a Member of the Joint Select Committee of Parliament, which was created to look into these laws. We were the beneficiaries of that creation, via the laying of this Bill on November19, 2013, the original Insurance Act put on November 19, 2013 and, indeed, the committee went to work in the period November 2013 to July 2014.

The committee had the benefit of excellent work. I notice the hon. Minister was very cautious not to be too effusive in his sentiments towards the members of the committee that cooperated in looking at the laws of Trinidad and Tobago, but I will be. I will say that the members of the committee did excellent work. I will say that we were significantly assisted by the very hard-working persons from the Central Bank of Trinidad and Tobago, starting with the Inspector of Financial Institutions, the Deputy Inspector of Financial Institutions—that is, Mr. Hiralal and Miss Ho Sing—with their team of persons who came forward to assist us, all of them from their legal end and their administrative end.

We had the benefit of very experienced Chief Parliamentary Counsel in several personas. Indeed, Miss Lorraine John did quite a significant amount of work, as did Mr. Mc Intyre, and I wish to give them public acknowledgement of gratitude for the kind of work that they lent to the committee. [*Desk thumping*] We were very, very blessed to have all of the industry players—ATTIC, the Bankers Association, the Trinidad and Tobago Manufacturers' Association. We had very, very good input from some of the insurance companies. Indeed, Mr. Ed Fitzgerald, coming from the Maritime Group lent yeoman service to analyzing the issue of excessive criminalization of the laws which we were presented for

consideration. We had as well very, very useful and excellent advice given to us by Mr. Henry, by Dr. Claude Denbow, by Mr. John Gonsalves and by Mr. Hugh Mazley and permit me this opportunity to thank them very publicly for the yeoman service offered to Trinidad and Tobago. [*Desk thumping*]

Madam President, we as a committee sat on 13 occasions and we considered the Bill then, that is the November 2013 Bill, clause by clause. And on the ending of the session then, that is the Fourth Session of the Tenth Republican Parliament, a report was produced, which is Senate Paper No. 4 of 2014, and the report was the report of the Joint Select Committee on the Insurance Bill No. 2, 2013, and that report is dated July18, 2014 and the report says:

> "The committee wishes to report that the clause by clause analysis of the Bill has been completed. However, the Committee has not yet been able to properly review its recommended amendments and to prepare a thorough list and revised Bill. Given the imminent prorogation of the Fourth Session of the Tenth Parliament, the committee, in accordance with Standing Order 75(1) of the Senate and Standing Order 82(1) of the House of Representatives, wishes to report that it will not be able to complete its work. Recommendations:
>
> 4.1: The committee recommends that the Parliament note the extensive progress made by the Committee towards the completion of its mandate, and utilize the records of the Committee in the consideration of any similar Bill in the next session."

That is the recommendation dated July 18, 2014, under the hand of the Chairman, Mr. Larry Howai.

Madam President, Minister Howai, I am sure will be able to attest to the fact that I have personally run him down at every opportunity possible to express to him the sentiments of the Opposition in relation to this Bill. And the sentiments of the Opposition come in the context of the facts which our Opposition, the People's National Movement, has been able to demonstrate. We as an Opposition have supported now 96 per cent of the legislation in this Tenth Republican Parliament and we have done so even when the Independent Bench may have had issues and in fact voted against certain legislation coming forward. That is what we have done as an Opposition. Minister Howai, I am sure, will be able to testify to the truth of my constant agitations to him as to when we were going to complete the work of the Joint Select Committee.

And I say this because the hon. Minister was invited. I reminded him last week that whilst we had Bill tabled in the Parliament, coming on for debate, what we did not have in circulation—amongst the parliamentarians, who are given the

privilege of making law—what we did not have in circulation was a marked up, track-changed document, which would identify what the changes between the November Bill and the new Bill would be, as anchored against where the submissions came from, what was to be said yes to, what was no to, from a policy perspective. And the hon. Minister did in fact pick up the phone then and there in front of me, called his assistants and instruct for the dissemination of what has hit our table and I thank him for that.

It is a version of the Bill before us, which uses three colours: black for original text of this new Bill, red for the propositions supposedly emanating from the Joint Select Committee and green for recommendations coming from elsewhere, including the Central Bank and industry.

But, when one compares the report of the Joint Select Committee against the Bill before us in the Parliament, the first thing that we observe is we are, as a Parliament, required to certify, on a three-fifths majority basis, as we are now affecting rights of property, rights against self-incrimination, rights which involve equality of treatment, rights which involve due process considerations. And, in factoring the section 13 certification from a constitutional law perspective, that this Bill is reasonable in a democracy such as ours to be passed with three-fifths vote of the Parliament, what we are required to do is to certify that we have read, understood and approved the laws put before us for consideration.

This Bill is 282 clauses long, 229 pages long. It includes 13 parts and 13 Schedules and when you do a comparison between the report of the Joint Select Committee on the November Bill versus the Bill that is now before us, useful measure is to be had from comparing the clause by clause analysis, which is set out as annexes for each meeting of the Joint Select Committee.

Madam President, the first thing that I can certify is that you cannot correlate a vast number of the amendments from the Joint Select Committee's report into the new Bill. [*Desk thumping*]. It starts off regrettably by the fact that there is no table of contents in the new Bill. So, therefore, tracking the initial considerations clause by clause is cumbersome at best. How one is capable of finding the provisions that relate to reinsurance, demutualization, positional aspects, requires you to be familiar with the Bill in its entirety and also the comments of the committee. But what I can tell you is that the committee report, starting from clause 1 of the November Bill, going down forward, has four columns: clause, issue, response and decision. And if you were to do what is required of you as a Senator and to read this report and put it side by side with the new Bill, then you

would realize that there is a vast chasm between the Bill now before us on the Parliament's table, and the Bill which is the November Bill which we debated and went to the Joint Select Committee.

What you would also notice, Madam President, is that under the decision column you would see, for instance, as I look at page 74 of the report of the Joint Select Committee:

> "CPC"—meaning Chief Parliamentary Counsel—"to look at and offer new definition.
>
> "Need to look at how Part X of the Companies Act may be related to this."—page 75.
>
> "To be revisited to address issues of incorporation"—page 76.
>
> "To be revised…
>
> CPC to look at tidying up drafting to reference 20 days previously mentioned"—page 76.

Right across the considerations, you would realize that what this committee was operating upon was something that is not stated in the report but which I will now put on the table.

The committee was given the absolute assurance that we would sit as a committee and we would consider all responses coming back which resulted in a new draft of the Bill, as amended by the CPC, after they had received the instructions as to policy from the Government, the directions and involvement of the Central Bank of Trinidad and Tobago, the industry players and the experts who were brought to assist the committee, as I have listed them. [*Desk thumping*] But, Madam President, what I can tell you is that that has not happened.

1.40 p.m.

Madam President, I am an attorney-at-law, who has had the privilege of sitting both as a legislator and as a practitioner. I have practised in the corporate commercial arena. I have practised in the heart of deep litigation involving parties including the Central Bank. What I can say, Madam President, is, this is not simple law. And, very, very, very often, it dawns upon me as we are now 19 days away from five years of this Government's tenure, [*Desk thumping*] what it dawns upon me is, that very rare in life is the opportunity given to someone to both make the law and practise the law. It is from that perspective that I draw inspiration to do homework, and to make sure that what I am considering on behalf of those

who sent me here, meaning the people that support the People's National Movement, that the work that is done is solid and sincere. [*Desk thumping*] From that perspective, Madam President, I wish to express the fact, that as much as I would love to give the hon. Minister of Finance and the Economy heartfelt support for this legislation, I am not presently qualified to do that. I am not presently qualified to do that because of the following reasons.

Firstly, if it took the committee 13 sessions at least every day long, all day long, to consider a clause by clause analysis, how on earth are we intended to do this Bill in the Senate efficiently? Secondly, if it is that the undertaking given to the committee was that we would come back as a committee and see the work produced by the Chief Parliamentary Counsel, then why has that not happened? Thirdly, when you factor that we ended the Fourth Session of the Parliament at the end of July 2014, you would note that we are now 10 months away from that date. The Government has a majority, a three-fifths majority in the House Representatives, but it does not have one in the Senate.

Madam President, when you factor that 10 months of time has passed since the report of the Joint Select Committee, Minutes and all, clause by clause has been produced, I want to say most respectfully to my learned colleague, Sen. Howai, that he has not done his best. I am sure that this is not he, himself. I appreciate that there are circumstances beyond the control of any one human being.

Minister Howai, like the other Members of the committee, did hard work in the committee, but the fact is, Madam President, we have an obligation to act efficiently. What should have been done at the very least, hon. Minister, if this Bill was not yet presented, at the very least, the old Bill, that is the November Bill, could have been laid in the Parliament, at the opening of Parliament, which I remind the country was in August 2014.

In the vacation period of the House of Representatives, we were moved with urgency to consider necessary constitutional amendments, to introduce the run-off provisions and rights of recall for the country, August required us to do that. It could have been laid at the same time—the November Bill, and then the report of the committee could have suggested a marked up amended version of the Bill, and it would have allowed both Members of the House of Representatives and the Senate to sit in joint select committee, having the benefit of being able to interrogate the advice given to us, the recommendations given to us, and the text and ramifications of the law. But, Madam President, that has not been our luck; no such luck have we. No such luck have we in relation to when this Parliament

will end, or how long it will continue for. No such luck have we as to when the budget of Trinidad and Tobago will be read in the new financial year. There is uncertainty in Trinidad and Tobago, and yet we are being invited to pass laws which affect 27 per cent of our GDP as a nation. [*Desk thumping*]

Madam President, the one thing that I do know is that when the country gets the law wrong in the Parliament, the parliamentarians all take that blame. I think that we have a track record that we can proudly point to as an Opposition which says we are prepared to do the work and we are prepared to give support to laws of Trinidad and Tobago. Our track record, as I have said before, is 96 per cent. So, Madam President, is it as simple as the hon. Minister makes it out to be? Is it as simple as saying, well, you know, those matters in green, we could not look at, and the matters in red came from the JSC? Well, let us look at that.

The Joint Select Committee, by way of example raised issues and specific recommendations, which do not now find themselves in this Bill. My question is, why? Why is it that as a committee, we made specific recommendations in the presence of the CPC, in the presence of the Central Bank, in the presence of the experts, and why do they not now find themselves in the Bill? Let me just give you an example of that.

Let us turn quickly to clause 169 of the Bill. Clause 169 of the Bill, which is to be found under—permit me to find the page—it deals with insurable interest on life; 141. So, clause 169 of the Bill tells us—forgive me, 123. Sorry, 169, 140. Forgive me, I am actually looking at the old Bill. Forgive me. So we are looking at page 140, clause 169:

> "An insurer shall only enter into a contract of insurance with the insured person or a person who has an insurable interest in the insured person."

Then it goes on to list out:

> "a parent"—degrees of:
>
> "(i) consanguinity;
>
> (ii) affinity;
>
> (iii) reason of a cohabitational relationship;"—et cetera, et cetera.

And it goes down the line.

Madam President, when we look to the Minutes of the Joint Select Committee, and we see, for instance at page 114 of the Minutes, and we dealt with that particular provision, the Minutes speak to what was then in the November Bill, the provision which dealt with this particular new 169 law. It says here, at page 114 of the Minutes:

> "The definition of 'relative' is too broad. It goes beyond the present law.
>
> This clause is a relic of old law which should be seriously considered.
>
> This was intended to deal with abuse, therefore is not applicable in this instance.
>
> Life insurance contracts are negotiable instruments. The ambit of the definition should be specific to direct insurable interest.
>
> Are same sex marriages covered, under the old definition?
>
> What will be the definition of insurable interest?"
>
> We say in the recommendations column:
>
> "To amend to reflect"—the—"provisions of the old law at section 124 by deleting (a) to (f) and deleting 193(3)."

What I can tell you, Madam President, is that the new clause 169, which was clause 197 of the November 2013 Bill, which was section 124 of the old existing law, does not do what the committee recommended. We now have the ability to put in insurable interests onto persons who run afoul on the basic context of the law as it is evolved over hundreds of years.

So are we now to say that this Bill is a product of the Joint Select Committee? It cannot be. It cannot be because the Joint Select Committee has never seen this Bill. Secondly, by way of example on one clause alone, that cannot be the case. Let us look further, Madam President. In relation—let me start at the beginning, as opposed to jumping around which could be easy to do.

Under the definitional section, clause 4 of the Bill, when you look to the definitions in the Minutes as we considered them, what I can tell you, Madam President, hon. Senators all, do not dare to compare the Minutes against the Bill, because you are comparing Minutes which refer to the November Bill. They do not refer to the Bill before us in the Parliament, and there is a mismatch of the numbering. What would have been clause 197 in the old November Bill is now clause 167 of the new Bill. What would be clause 87 is now clause 60-something. So, the Minutes are useless when it comes to trying to track what is before us. We

do not even have a table of contents, Madam President, to be able to look to the definitional aspects. When we look to the definition section in the report of the Joint Select Committee, the vast majority of them say that we require Chief Parliamentary Counsel's reversion to the committee, to give explanation to terms, and that has not happened.

Madam President, let us look to clause 67 of the Bill. Clause 67 in my version of the Bill should be found at page 64. Page 64 of the Bill deals with duties of directors. The new Bill before us on the Parliament Table, which is meant to be the same one, is actually page 72. So, the version circulated to me, it is at page 64. The version on the Table is at page 72, but let us look to clause 67. Clause 67 deals with duties of directors. What does it say, Madam President? What it does—let me take a step back. Let me explain this. Directors of companies have duties to the company, and in principle they deal with policy issues, not management issues, and they are required also to deal with shareholder consideration.

The new clause 67, which is largely in green print, or blue as Sen. Camille Robinson-Regis' version looks, this green section is not a joint select committee recommendation. It was recommended by the Joint Select Committee that we leave the law as it was, because the law in relation to directors' responsibilities, is largely to be factored against the Companies Act, in particular section 99 of the Companies Act. Now, what we have, Madam President, is a grafting on to section 99, by way of constructive interpretation of the Companies Act. This new insurance law proposes to add on a layer of responsibility where we are now legislating, hon. Minister, that the directors must have the policyholders' issues as paramount.

Let me draw an example as to how this makes no sense, in light of section 99 of the Companies Act. Hon. Minister, picture this, we go to court, there is an accident—an insurance policy is a contract of insurance for money. You are guaranteeing the payment in the event of an event, and the obligation of the insurance company, as Sen. Hadeed will know well, is to pay when it is required to pay.

The directors' responsibilities as now cast here, say you must have the policyholders' issues paramount. What happens if you deny liability under the claim? Where is your responsibility to the policyholder versus the shareholder? How do those two things meet? That is the simplest of examples to be given. There are much more complicated examples, but I am very mindful that the population is looking on. They could have been—there are serious circumstances, hon. Minister, suffice it to say, where it is incongruous to put an obligation to meet and measure policyholders in priority to shareholders.

1.55 p.m.

What I think is useful, if I catch the logic behind this amendment, is to make it paramount for the policyholders' interest to be factored in decisions, but not by way of a positive obligation, but by way of regard to, because in that example of the accident, whose instructions do you take? Is it the shareholders' representative who says that is a fraud claim, do not do it, or the policyholder who says: "I bought a policy of insurance from you, you are obliged to put it into effect and I would sue you if you do not do it"? It does not make sense, hon. Minister.

Let us look to another provision. Let us look to clause 68 of the Bill. Clause 68 of the Bill deals with independent directors. We make an exception in clause 68(5)(c)(ii) of the Bill, which is on page 66 of my Bill—page 66 of my Bill is where I have clause 68(5)(c)(ii). It is the definition of—

"an 'independent director' means a director who—

is not a current officer or director of the insurer or of a connected party of the insurer;"

Now, the hon. Minister flagged this, that there may be potential amendments, and I thank him for flagging it, but it is the explanation that is required.

The hon. Minister did speak with me aside, and I will put it on the record. It involves the adequacy of independent directors; it involves avoiding a conflict of interest which can arise in the vertical association of directorships or the horizontal association of directorships. Whether there is a vertical parent company, subsidiary company approach, there could be a conflict between a director at a subsidiary level being required to pay a dividend policy upwards to shareholder, whereas there may not be a similar conflict for directors in a horizontal position across a group of companies, for instance. So, do we allow for amendments to include horizontal directorships without conflict as opposed to vertical? Do we not allow it at all? Do we have adequacy in that point?

In dealing with clause 67 of the Bill and the directors' responsibilities: where are we going to find directors who will not find themselves conflicted out once they appreciate obligation to policyholder versus obligation to company shareholder? Where do we now find in clause 68 independent directors for audit committees which are in essential the heart and soul of risk management to deal with this where we have group of company associations or knowledge of industry factors?

Let us look, Madam President, to clauses 101, 108 which are on pages 88 and 89 of the Minutes and which deal with liquidator issues. Clause 101, in my Bill, Madam President, is to be found at page 87, moving straight up to clause 108 which is at page 92. How do we factor the introduction of the insolvency and bankruptcy laws into Trinidad and Tobago as we have now? Clearly, good work was done in factoring the need to introduce the insolvency arrangements into this Insurance Bill, because it is a critical leg of support given to the insurance industry. Unfortunately, what we do not have here, if you look to the red text in clause 101 versus the green text in clause 101—red text existing supposedly as joint select committee work; clause 101(1), (2), (3), and then green text from clauses 4, 5, 6, 7, 9, 10, 11 and 12, what is the rationale behind this and have we got it right?

Madam President, let us look at clause 110 of the Bill. Clause 110 of the Bill, which is to be found at page 94 of my Bill, is under Part IV which deals with "Intermediaries". Clause 110 says that you have the concept of—look at this, clause 110(9):

> "An individual who contravenes subsection (2) or (3) commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars and to imprisonment for ten years.
>
> (2) Except as otherwise provided"—no person—"shall"—engage in—"any class and type of insurance...
>
> (3) Except as"—provided—"no person shall, in respect of any class"—shall—"carry on business as an insurance consultant unless he is registered under this Part."

Well, the definition of "insurance consultant" includes an attorney-at-law, but the specification of inclusion—the degree of consultancy required before you get into that realm—is problematic. If one attorney were to enter to advise in relation to litigation aspects or on contract of insurance aspects to a client who is an insurance entity and not to a policyholder, it is a different realm of consideration when you give it only to a policyholder. So, do we make this liability as strong as that when there is a vague understanding of what an insurance consultant can be?

Madam President, let us look to clause 131(b) of the Bill. Clause 131(b) which is to be found at page 104 of my Bill says:

> "An agent, agency, broker, brokerage or a sales representative shall not—" Look at this one:
>
> "cause a policyholder to discontinue an insurance policy without first discussing the advantages and disadvantages of the discontinuance of the policy;"

What does that mean? What is the standard of proof required there? I can see a logic borrowed from the requirement for independent legal advice or caution, but how do we pin liability on to the insurance practitioner who just rises up and says: "Well, I discussed it with the person." Well, was there a form? It is not in the Schedule. It says you shall discuss, it does not say you must sign; you shall discuss. Discussions are oral. It does not require an independent legal advice certification. It does not require a form for certification. I do not know because I have not seen regulations, and that is an important factor, Madam President.

Let us look at clause 139(3). Clause 139 deals with audit of accounts of agencies and brokerage. Clause 139(3) says:

> "Where the Inspector has made a report under subsection (2) in good faith, the Inspector shall not be subject to any action, claim or demand by, or any liability to, any person in respect of which the report was made."

So that is an exculpation clause to the Inspector and the staff of the Central Bank, not uncommon. It finds itself in many other pieces of law including the Central Bank Act itself under section 44 as amended. What does it mean?

> "Where the Inspector has reasonable grounds to believe that the auditor of an agency…
>
> (a) has failed to perform…
>
> (b) has been a party to the preparation…
>
> (c) is incompetent or is accused of professional misconduct the Inspector…shall deliver a written report to the agency or brokerage and as appropriate ICATT or such other professional association that may in the opinion of the Inspector be relevant."

You can obviously see that the contemplation of damage to business and reputation is factored here. But is this clause sufficiently tiered in its approach to ensure that due process considerations of the right to be heard by the person who is labelled to have been under difficulty—be it by way of incompetence or some other act—is there a due process consideration here?

It would not matter if we pass this Bill, because section 13 of the Constitution allows us on a three-fifths majority in proportional circumstances of legislative consideration to pass law. But, I have a concern about clause 139 and the due process and the right to be heard before you run off and make a report to ICATT or a professional body. I am very concerned about that.

Madam President, let us look to sections 183 and 192 of the Bill—and forgive me for saying sections, I mean to say clause. Clauses 183 to 192—183 to be found on page 129 of the Bill which I have, deals with designation of beneficiaries in general. It deals at 184 with irrevocable designations of beneficiaries, et cetera, et cetera. What we do know, Madam President, when we turn to the Minutes at page 116—when we look to the Minutes of the Joint Select Committee at 116—what do we see?

In the Minutes we have the law that exists in its current fashion was considered. We looked in particular to the conflict with the Marriage Act, and what we said is that we should look at the provisions which can be inserted to ensure purchasers are made aware of obligations, and that there should be a specific need to consider the suggestion that section 11 of the Married Persons Act be repealed. What does that mean? This law proposes a radical change from the existing law.

Section 11 of the Married Persons Act is in conflict with the new law which we proposed. Do we want to leave it to judicial interpretation on the basis of a constructive amendment of existing law—subsequent law changing old law—or do we want to be clear as Parliament must be in its intentions that we affect all of the corollary pieces of law that need to be amended consequentially as we do in the Schedule to the Bill? In the Schedule to the Bill, we amend the FIU Act, we amend the Proceeds of Crime Act, and we do not amend the Married Persons Act.

And, Madam President, very importantly, on an issue that the hon. Minister flagged in a couple seconds only, we do not factor the amendments required to the Corporation Tax Act as it relates to insurance companies. Now, why do I raise this? Madam President, 27 per cent of our GDP comes from the insurance industry—27 per cent of all that Trinidad and Tobago earns in a circumstance where Moody's has downgraded us. It has said we have failed to diversify; we have no medium-term and short-term macroeconomic factors; we have no data to rely upon; 27 per cent. That is why Sen. Camille Robinson-Regis asked the hon. Minister—that is his figure, not mine. So, it is an important factor in terms of diversification and contribution to GDP.

But, what are we looking at here? What we see is that the industry players have great concerns as to how their life and general insurance business is going to be taxed.

Am I out of time there, Madam President?

Madam President: You have 3 minutes remaining.

Sen. F. Al-Rawi: Thank you. I thought you were rising, forgive me.

So, Madam President, what I can say is that I became aware of submissions by ATTIC, which is the Association of Trinidad and Tobago Insurance Companies, by way of letter dated March 19, 2015 to Mr. Philip Marshall, Director Strategic Management Office, at the Ministry of Finance and the Economy. The issue of taxation of insurance companies was raised, and in that specifically the fact that in moving from a statutory fund regime from the old law into a capital adequacy relationship in the new law, that taxes on the statutory fund would no longer apply and, therefore, how a life insurance company or a general insurance company is to be taxed becomes a real concern because, understand this, insurance is selling risk. Look at whom I am speaking to, Madam President! I know in another capacity that you have great experience, but what I am saying is—[*Interruption*]

Sen. G. Singh: And you are not talking about Mr. Hadeed is here.

Sen. F. Al-Rawi: Yes. Well, of course, I respect Mr. Hadeed's father [*Laughter*] as we called him "Pipeman Hadeed" for the generations of excellent service that his company has given to Trinidad and Tobago and, certainly, there are members of his family that work very hard as well, he too, I am sure in his company as well. [*Crosstalk*]

Sen. Hadeed: "Not [*Inaudible*] and CIB Bank ah buss it."

Sen. F. Al-Rawi: Well, we could talk about "bussing" of companies and who Central Bank has written to recently or not, but we would not go down there right [*Desk thumping*] because if you want me to bring all of those letters forward, know which fire you are starting.

Sen. Hadeed: Do that.

2.10 p.m.

Sen. F. Al-Rawi: Madam President, I am focusing on the law, right. You may notice a concerted effort on my part in my contributions to focus on the task at hand, which is the law of Trinidad and Tobago. Right? So, Madam President, let us look at the issue of corporation tax catastrophe reserve funding and see that ATTIC has concerns as to the certainty of business, because until you know how much tax you are paying on your products the pricing of your products becomes difficult, how you sell it—[*Interruption*]

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

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Hon. G. Singh*]

Question put and agreed to.

Madam President: Hon. Senator, please continue. [*Desk thumping*]

Sen. F. Al-Rawi: Thank you, Madam President. Yes, Madam President, consequential amendments to the Corporation Tax Act to give a degree of certainty in relation to the pricing of products and the continuation of business which affects employment, which affects contribution to GDP, all of those factors have to be considered now, because we do not know, even though there is a period within which companies need to come up with capital adequacy, et cetera, we do not know when proclamation is to be had.

And I do not think that there is so much comfort to be gleaned by the fact that, well, we will get around to it when we lay the 2016 budget. I can tell you, the PNM is not aware what it will put in the next 2016 budget yet, when it pilots that in September or October of this year. [*Desk thumping*] So, I do not have the same certainty that the hon. Minister does yet, but we may get there. We may get there.

Sen. Hadeed, my learned friend once, Sen. Hinds, used to have this expression, "sip yuh porridge cool. Take yuh time, we are on the business of the people of Trinidad and Tobago. The platform, yuh could give whatever picong yuh want, the Parliament is to do the laws of Trinidad and Tobago", [*Desk thumping*] and we may have a little picong trading back and forth. Sen. Hadeed knows I have great like for him. I do not mean to be pejorative towards him, but we are talking about serious laws that I know he is equally impassioned about as a serious player in the insurance industry. [*Interruption*]

Sen. Hadeed: Was.

Sen. F. Al-Rawi: I do not take that, or—[*Interruption*]

Sen. Hadeed: Was.

Sen. F. Al-Rawi:—having been and spent a long part of your life in there, Sen. Hadeed. I know you would follow the laws, [*Crosstalk*] but "sip yuh porridge cool, nah. Sip yuh porridge cool".

So, Madam President, corporation taxes and consequential amendments to 10D of the Corporation Tax Act, or (5) and (6), subsections of 10D of the Corporation Tax Act, I would like to know a lot more about that now as I affect the business of insurance companies, particularly bearing in mind that with the move away from statutory funds to corporation insurance companies having

capital adequacy ratios considered that we must factor the ability for companies to get there and stay alive. After all, with adequacy ratios of $15 million, or capital adequacy of $15 million and $25.5 million, et cetera, it is serious money we are talking about, and the likelihood of a move towards a monopolistic or oligarchy type of environment in the insurance sector is a real one. We do not want to know that competitors are driven out, not only by capital adequacy issues, but also by the profitability of insurance companies as it relates to the methodology for taxation. That is something that the business community would be very interested in hearing about.

Madam President, what will be the forecasted impact, ATTIC asked, of this particular Bill on the national Treasury and the economy? What is going to be the process to give companies certainty over nature and tax treatment of particular assets? What is the taxation impact on life insurance and revenue impact to the BIR estimated modelled under proposed system? What are the recommendations for treating with legacy issues?—deferral challenges by the BIR, et cetera. These are ATTIC's concerns. I share these concerns.

Madam President, I notice in the Bill, in clause 12 of the Bill—if it is that I am correct—Part XII of the Bill, which is to be found at page 160 of the Bill that I have. Under Part XII, "FACILITATION OF TRANSFERS AND UNDERTAKINGS", it is in red text. My Bill is differently numbered from yours. This is the one that was circulated to me earlier. Forgive me for not having your page number, Madam President. So I am dealing with Part XII, which is clause 262 of the Bill. Clause 262 deals with a very important concept, facilitation of transfers and undertakings. Now, the theory behind this particular law is branches, et cetera, have to find themselves as subsidiary corporations to a parent company. It requires, therefore, that individual entities existing on the outside find themselves in a corporate structural arrangement with another company. That means shareholders agreements for sale, that means asset-sale agreements, that means severance and retrenchment benefit issues, and legacy issues going to affect the parent company, because, as the hon. Vice-President, I am sure, would tell us, successorship in the industrial relations environment is a serious one. You are taking on, perhaps, 25 years of severance and retrenchment benefits in moving from one company to another, unless you have a break of service and a golden handshake.

So, here we have Part XII of the Bill, which legitimately introduces a feature which the financial legislation has and which allows us to allow the Minister to have vesting orders, so that you can have this corporate marriage from a

subsidiary entity, which was once a branch, not subsidiary in terms of the companies law meaning attached to it, but a subsidiary in terms of doing branch business. You are putting it into the corporation—sure, you could have a vesting of those assets. Sure, the Minister now is proposed to have a consideration for stamp duty exceptions. This clause was not a joint select committee recommendation. It should not be in red. It is not the work of the Joint Select Committee. However, it is something that I am sure the Joint Select Committee would agree to, because it is a serious industry concern, but it falls short, Madam President. How?—severance and retrenchment liability benefits, golden handshakes, cauterizing the flow back of financial liabilities, which stand on your balance sheet and flow from the subsidiary entity into the parent entity. Now, this is a deep concept of law to appreciate. You understand it when you have to dip in your pocket and pay for it and you feel the pains of your clients when you represent them in court on these issues, but they are not factored here, Madam President.

Madam President, what about clauses 234 up to 243? That is to be found at page 149 of my Bill. Page 149 of my Bill deals with important issues to deal with maturity of assets, release of deposit upon revocation, release of deposit where an insurer is still a going concern, Central Bank may release deposit to liquidator; these were not considered in detail by the Joint Select Committee. How these appear in red text, I am not sure. What I can tell you, they must be considered because, in the course of the sitting of the JSC, the Insurance Committee must factor, if it is to do its work properly, the introduction of the banking and the insolvency rules and legislation in Trinidad and Tobago, bankruptcy and insolvency. It must be factored. It was missing on the landscape of our laws for a long time and it is much needed and has to be factored here, but I think we need to have a second look at this, Madam President.

Madam President, let us look at clause 255(2)(d), which is to be found on page 157 of my Bill, 255 is the clause number, clause 255 deals with "Financial fraud on policyholders", subclause (2)(d):

> "Any director or officer of an insurer, financial holding company, brokerage or agency who—
>
> does anything which is in contravention of this Act, Regulations made thereunder and which leads to a loss to policyholders, perpetrates a financial fraud on policyholders."

Let me stop and say, "Wow!" That is serious law of a very draconian effect which is in contradiction to the ladder and graduated approach of penalties and offences. And, hon. Minister, the Committee did very well to take administrative and then summary and then indictable offences approach to the laws. This law has good architecture to be followed in any complex piece of laws where we have a schedule that says, "Look, this is summary offences, here is what the fine is, indictable offences, fine and imprisonment and administrative offences, here is what you are facing". It makes the law user friendly, but an introduction into clause 255(2)(d) is just in contradiction with everything, because it creates a removal of protection and expectation.

It is in green, so, possibly, Central Bank introduced it, or industry introduced it, I do not know. I do not know what the rationale is, I do not know what the safeguard is, I do not know what the perspective to be gleaned in terms of legislative caution is, Madam President, and that is the problem I have with this Bill. I just do not know enough about it, because this Bill is not the Bill laid in the Parliament in November, 2013, and this Bill is not the work of a joint select committee only. The Joint Select Committee has not completed its work, and I do not want to be a contributor to laws just to tick the box [*Desk thumping*] for a Prime Minister to stand up and say, "We did that", because, Madam President, scrutiny is critical.

We have the Central Statistical Office which has not produced results for years, and I am being kind when I put it that way. We had Sen. Dr. Tewarie tell us on the census that fertility rates are down, that live births are down. We are producing roughly 20,000 children live births a year. The detail and the need for caution is drawn by way of this example, let us look to the baby care grant, just as an example. The baby care grant is a laudable subsidy to people in need. The United Nations has done statistical survey. We have had the United Nations Development Assistance Framework 2013—2015, Biennial rolling plan, says 14.8 per cent to 16.7 per cent of 20,000 children born per year are underprivileged children.

One can assume that that is worthy of support, but when you have 20,000 children born every year in the whole of Trinidad and Tobago and you have a baby care grant of $500 per month, equal to $6,000 per year, per child, you understand it is not all 20,000 you are targeting. It is 14 to 16 per cent, and when you do the mathematics 14 to 16 per cent of underprivileged births at 20,000 children, in total, being given, you are looking at a dollar figure which is meant to feed 3,000 to 3,400 babies, times $6,000 per year, you get a figure of $18 million

to $20.4 million. This Government has approved and is giving out $120 million this year, when, at highest, the figure is $20.4 million. And my point there, laudable intention, good legislative aim, transfers and subsidies to people that need the subsidy support, but without scrutiny to the details of it, $20 million goes to $120 million.

Laws require attention, policy requires scrutiny; the Executive is to be held in check—any Executive, not this Executive alone—by the Parliament. We have to have the ability to do it. Madam President, I am very, very privileged to be able to walk San Fernando West as the named representative so far for the PNM, but I could tell you, whilst I am privileged to do that, the blinding poverty that I see existing in my constituency bothers me, because if we had better targeting of the most needy citizens we can give them the relief, not from the back of a car trunk or on a campaign trail, but, Madam President, by targeting.

So, Madam President, there is a lot to be said in relation to this Bill. I would love to be able to give the honourable hard-working Minister my support. All members of the Committee worked very hard in trying to get us there, but I regret that this particular product requires interrogation. I would be pleased to sit in a Committee that completed the work of this Committee, a joint select committee of both Houses of Parliament, so that we can finally pass the Insurance Act that is required for this country to go forward. Thank you, Madam President. [*Desk thumping*]

2.25 p.m.

Sen. Helen Drayton: Thank you, Madam President, for the opportunity to make a few remarks on the Bill—and it will be a few remarks on the Bill—to regulate the insurance industry. It has been long outstanding; long in the making, going back to 2001.

The current Insurance Act of 1980 has remained fundamentally unchanged for 35 years, notwithstanding significant changes in the industry over time with respect to product diversification, namely short-term flexible instruments and technology, just to mention two significant changes impacting the industry.

The hon. Minister of Finance and the Economy advised the Senate that subsequent to the work of the Joint Select Committee re-appointed in the 2014 Session of Parliament, substantial changes were made to the Bill emanating from discussions with the industry and the Central Bank. Let me say that given these changes, it cannot be said that this is the work of the Joint Select Committee of which I was a member.

I have considered what the hon. Minister has said with respect to time. I appreciate very much his conscientiousness and wanting to get this important piece of legislation through Parliament and implemented. I think this is in the interest of the industry and all of its stakeholders.

Madam President, frankly speaking, it is a disconcerting situation. The work of the Joint Select Committee was saved for the next session, which is this session, and the Joint Select Committee should have been reconvened, or a new committee established, to discuss the reasons for the substantial changes. This is as we did for the procurement legislation and also the securites legislation, which covered two or three sessions of Parliament.

As said, the reality is that the Bill is not the work of the committee. There was a departure from the procedure with respect to joint select committees. Let me say here that one could say much about Parliament in terms of its weaknesses and the way we do business. There are strengths, there are weaknesses. One of the strongest points about Parliament is the ability of Members across the divide to get together, put their heads together in the interest of coming up with good legislation.

So whether intentionally or unintentionally—and this is unintentional; I think that the Government meant well here—we cannot be seen to undermine the good procedures of this place. Consequently, I will not mince words and take up a lot of time. Suffice it to say I will not support the Bill. [*Desk thumping*]

My major concern is the precedent that is being set. We are saying, in effect, that the work of a joint select committee can be changed overnight and a Bill brought to the House, we debate it and we pass it.

Let me say that while it is okay to say that we can deal with these changes at the committee stage, it is not the same. At the level of the Joint Select Committee, we have the privilege and the opportunity to engage technical consultants to ensure that when we have completed our work, we are bringing a Bill that has had the input of the various sectors of an industry. It has been well scrutinized and, therefore, we can feel very comfortable with what is before us.

A lot of good work has gone into this Bill. Let me just cite one example. I will not go into all the issues I have with the additional clauses. I think Sen. Al-Rawi has covered those issues well, and it is no point repeating them. But if we look at the Minutes of the meeting held on July 16, 2014, page 16, it was agreed that amendments to regulations would be subject to affirmative resolution and not negative resolution of Parliament. That was changed.

I turn to one other clause. Why was the definition of "credit exposure" changed? In this Bill it was revised to read that it means:

> "the exposure to risk net of specific provisions to a counterparty arising through the making of investments, giving of guarantees, making…commitments, securitization…"—et cetera.

I have tried, in the short time that I had to do research on these additional clauses, to find a precedent for this clause. And my question is: Why "net of specific provisions"? First, it is contradictory to the definition in the Financial Institutions Act. The Financial Institutions Act makes no reference to net of provisions wherever used.

I understand that one may wish to treat the insurance industry in certain situations different from the rest of the financial community, let us say banks for instance. I appreciate that. But in this particular section, "credit exposure", if we are to apply this definition to insurers, I fail to understand why it should not be applied to banks and other financial institutions and credit unions.

We have spent a lot of time trying to harmonize the various financial laws, so why the deviation in this instance? If it is indeed desirable, it should be applicable to the entire financial services industry. But generally speaking, the definition does not seem to make sense and may allow players to get around provisions in the law, designed to lessen risk and protect the insured. I think the opposite intent was what this clause probably tried to capture. Maybe I am reading it wrong, and that is why it ought to have gone back to a joint select committee, so that we can distil these things and understand the reasons for the additional provisions.

Was it perhaps included to avoid double provisioning? Would it potentially reduce the asset base? The reality is, an insurer must hold adequate assets to support liabilities to policyholders, so why net of anything, why this exception?

As I said, there is no need for me to elaborate on the substantial changes. That has been dealt with. I am satisfied with the thoroughness of the work that was done by the committee, which was in the interest of protecting investors, the insured and the industry as a whole. We need to update our insurance laws as a matter of priority, and that is why this situation is so regrettable.

In the wake of the debacle on Clico, accusations were flying helter and skelter, and there was a strong school of thought that among those who should have been held accountable was, in fact, the regulator. But the regulator had claimed they were not adequately empowered by law to take action against the company's maverick practices, and that is debatable, and many would have been sceptical on that decision, on that position.

This is why I am glad to see that the whole purpose of this legislation was to empower the regulator, which it does. We have done excellent, excellent work on this Insurance Act. In response to corporate failures and loss of billions of investors' dollars, successive governments have responded with expensive commissions of enquiry, which largely told us exactly what we knew and what the regulator knew all along.

Whatever we did not know beforehand mattered little, because I have yet to see concrete action arising from any commission of enquiry which sanctions those responsible in a way proportionate to the harm caused to the economy, and more so public trust.

Over the years we have witnessed several corporate failures due in large part to poor governance, both at the level of companies and the regulator. These were Winsure, Summit Insurance, International Trust and several others. Successive governments have been woefully short in passing legislation to protect savers, depositors and investors, and ineffectively to oversee its own house. We have been spectators to abuse, to greed, to unethical behaviour for which taxpayers carry the burden with no consequences to anyone.

So I want to just bring into this contribution the issue of law enforcement, and that hangs huge. Where is the report on the Commission of Enquiry into Clico? The fact that we may recover some of this money is beside the point. There was wrongdoing. On many occasions Clico had failed to meet statutory requirements of the Central Bank in its reporting. The Central Bank, the directors of Clico and its relevant arms, its auditors, all behaved like the three monkeys: we did not see, we did not hear, we did not know, we did not have adequate legislation.

No one gave a hoot about the investors. No one gave a care about clients. And today, we have a very sad situation, where the Government and the Central Bank pat themselves on the back for their good work, but have failed to initiate action for the losses incurred against the taxpayer to date. Money has a price, so regardless of what is recuperated, we will still fall far short of the country's losses.

And what about HCU? Just the bad cheques they had issued alone had consequences for its executive management, far more the misappropriation of depositors' and investors' moneys. So I ask, in terms of law enforcement—we could bring all these beautiful laws—where is the report on First Citizens? [*Desk thumping*] What is shameful about that matter is the fact that we had passed comprehensive laws governing the securities industry, which were further updated

only the last year. What the public can expect to hear is this: We have sent the report to the DPP, which is a metaphor for "You will never see the report". [*Desk thumping*]

Of course, it is not a Madoff situation at all, because Madoff was defrauding his investors since 1960, so that is years of investigations. Alan Stanford was years; the First Citizens mere months, six for the most.

2.40 p.m.

So, Madam President, the bottom line is, we can continue to pass laws upon laws, but unless there is the will on the part of the agencies involved and the Government to hold people accountable, we are wasting time, we are wasting money and we are insulting citizens.

In speaking about law enforcement—I do not want to stray but it is in the vein of law enforcement—it is necessary to demonstrate the dire situation we are in. I cannot help but reflect on the first anniversary of one of the worst crimes in recent times which is the assassination of Dana Seetahal. Her family has every right to be pessimistic about not only the police, but national security as a whole to deliver justice. This is not just a police matter. It has been said and bandied about with "the police, the police, the police". This is a national security matter. [*Desk thumping*] This is a matter where a state prosecutor was assassinated, with implications for the entire judicial system. We could get on political platforms and talk about all sorts of things. Yes—baby grants, and the burning situations that are in our face that are affecting our country, that are affecting confidence, not only citizens, but yes—Moody's, and Moody's is right.

So, Madam President, let me just repeat that this is not the work, or only the work, of the Joint Select Committee. I appreciate the eagerness to get the insurance law. I think it is necessary. We need to do it quickly. We need to send this Bill back to the Joint Select Committee. This Bill has far-reaching consequences affecting every citizen, and that is why we must do what is right in principle to complete the work of the committee, the excellent work that has been done not only two years, but done over 15 years.

So, let me close by commending all those who have been involved in the work of the committee, the advisors, the technical consultants, all who contributed to the Bill that the Joint Select Committee worked on, not what is in front of us. I thank you, Madam President. [*Desk thumping*]

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you, Madam President. Just some guidance. I respond or go to this?

Hon. Senator: Respond.

Sen. The Hon. L. Howai: Okay. Yeah. Thank you. My apologies, Madam President.

Yeah. Well I want to thank first of all, thank Senators for their contributions, their statements which were made. I have to say, the hon. Sen. Al-Rawi, certainly from his contribution—I mean, he started off by saying he was confused by everything, but from his contribution he actually clarified a lot of things, and I thought he actually understood it better than most persons who were sitting here. In fact, perhaps we do not need the Joint Select Committee. We just need Sen. Al-Rawi to deal with it for us. But I want to thank everyone for their contributions which were made. I do not want to, in any way, trivialize. I was very conscious in hearing the comments that were made, conscious of the fact that perhaps by laying this particular Bill before the Senate, that Senators may have thought that in some way we may have trivialized the work of the Joint Select Committee. I want to underline the fact that, of course, I myself was a member of that Joint Select Committee, and that I do endorse the fact that the work that was done by that committee was exceptional. There were many long meetings over an extended period of time and, in fact, the work of the experts that were part of the development of the Bill was certainly without par, I think, or without par in a number of—if I were to compare that with even work done on a number of other Bills.

I would want to say that the changes that were made were changes that were made recognizing the fact that coming out of the Joint Select Committee, certainly the stakeholders and the major stakeholders that are going to work with this going forward, the insurance companies and the Central Bank and the regulators certainly would have—are the ones that we need—whose concerns we also need to take into account in finalizing the Bill. That is what I sought to do in putting this particular Bill before the House—before the Senate.

I have heard some of the comments that have been made, and I am sure that when we get into a joint select committee we would be in a position to address all of those issues so that the clarifications that are required to deal with the questions that Sen. Al-Rawi raised, as well as Sen. Drayton, can be properly addressed during the presentation.

The Bill certainly empowers the regulator and brings the regulator to a position where we can avoid the problems that occurred with respect to Clico and with respect to other financial debacles that we have had in the recent past. So that coming out of this we expect that a matter such as Clico will be a thing of the past. I know that the Coleman report is still being completed and the expectation

is that certainly when that becomes available, perhaps one can see a lot of work taking place with respect to some of the issues that Sen. Drayton raised in terms of accelerating some of the follow-up that needs to occur once that information becomes available. I know that the report is still to be complete.

I know that some of these things take long. The HCU report which is before the Commissioner of Police is also an issue which, I know, has been of some concern. But again, we have the independent bodies such as, again, the SEC which is dealing with the First Citizens Bank investigation. Again, it is certainly the politicians, the people who are involved in political life, have to be careful about ensuring that we do not become involved in the work of these—[*Crosstalk*] yeah—independent bodies which Parliament has set up to be independent, to ensure that we do not compromise the work, and in fact, compromise the ability of these bodies to take appropriate legal action. It is something that I know is of concern to the public at large and it is something that we need to address, but need to ensure that we address it in a way that does not compromise the ability to effectively implement the type of corrective action that needs to be taken.

There was an issue which Sen. Drayton had raised about credit exposure, and another issue with respect to the affirmative resolution or with respect to certain changes in the Bill. I think what we can do is perhaps we could deal with those when we get to the committee stage of the Bill. There were some other things which have come forward from the industry which have been recently laid, and again, those things we can take at the committee stage of the Bill. So I do not think we need to detain ourselves here this afternoon. I think we can perhaps move the Bill to the next stage which will ensure that we address all of the issues which have been raised.

The one issue which was raised—well, the baby grant came in, but I do not know how that got into the debate on the Insurance Bill, 2015. But just to correct the record though, I mean, there is an allocation of $100 million based on the fact that there are about 17,000 babies born per annum of which the allocation was 500 by 12 months which is 6,000 by the 17,000 would give you about $102 million. But I think the understanding is that, based on the refinement of the criteria, that entire allocation will not be spent on the baby grant and certainly the actual figure that is likely to be spent will be closer to the $20 million that Sen. Al-Rawi had identified.

But apart from that, Madam President, I think the rest of issues which had been raised could be dealt with in the Joint Select Committee. I would want to recommend to the honourable Senate that we move to the—[*Crosstalk*] Yeah.

Okay. Right. So, I will ask, Madam President, that we will eventually move or that we will move to putting a joint select committee in place as requested by the Opposition and the Independent Benches to ensure that this Bill gets the attention that it deserves, and is certainly addressed in the way that we all want it to be, which is to ensure that we make good law. With these few words, Madam President, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

The Minister of Finance and Economy (Sen. The Hon. Larry Howai): Madam President, 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 referred to a joint select committee comprising an equal number of Members of the Senate and the House of Representatives, and that this committee be empowered to discuss the general merits of the Bill along with its details and be mandated to report by May 21, 2015. [*Interruptio*n] Yeah. Sorry.

I further beg to move that, should the House of Representatives concur, that the following Senators be appointed to the committee: Mr. Larry Howai, Dr. Bhoendradatt Tewarie, Mr. Vasant Bharath, Mrs. Helen Drayton, Dr. Dhanayshar Mahabir and Mr. Faris Al-Rawi.

Question put and agreed to.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Madam President. Madam President, I beg to move that this Senate do now adjourn to Tuesday, May 12, at 10.30 a.m. when we will continue the debate on the Motor Vehicles Authority.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 2.53 p.m.