

Leave of Absence

Friday, November 23, 1990

HOUSE OF REPRESENTATIVES

Friday, November 23, 1990

The House met at 1.36 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: The hon. Prime Minister is excused from today's sitting.

PAPERS LAID

1. Annual Reports of the Registrar of Trade Unions in respect of the years 1988 and 1989. [*The Minister of Labour, Employment and Manpower Resources (Hon. Dr. Albert Richards)*]
2. Twenty-Second Report of the Salaries Review Commission of the Republic of Trinidad and Tobago. [*The Minister of Industry, Enterprise and Tourism (Hon. Dr. Bhoendradatt Tewarie)*]
3. Annual Report of the Public Utilities Commission for the year ended December 31, 1989. [*Hon. B. Tewarie*]

**CREDIT FACILITIES
(LEGISLATION)**

Mr. Trevor Sudama (*Oropouche*): Mr Speaker, I beg to move the following motion:

Whereas this House acknowledges that many members of the public are not aware of the full implications of the terms and conditions under which credit facilities are advanced to them by the commercial banks and other lending agencies in this country; and

Whereas in the absence of such full knowledge of terms and conditions, members of the public are induced to make decisions to enter into loan agreements to which they would not have otherwise contracted; and

Whereas the entering into such loan contracts with limited disclosure of the obligations imposed on them has occasioned severe, unanticipated hardship on many borrowers;

Credit Facilities (Legislation)
[MR. SUDAMA]

Friday, November 23, 1990

Be it Resolved that this House call upon the Government to institute truth in lending legislation in Trinidad and Tobago as expeditiously as possible.

I consider this motion to be a very important and significant one in the interest of the large majority of the population of Trinidad and Tobago. I am however, not surprised to see such depletion on the benches of the Government, simply because they are not interested in the welfare of the people of Trinidad and Tobago.

Mr. Smart: I would like you to know that I am here.

Mr. Sudama: Well you are here but you are really not here.

First of all, I want to start by making reference to a report in one of our daily newspapers which states that this motion was to be moved by Mr. Kelvin Ramnath, the Member for Oropouche, and it just goes to show you the kind of ignorance and misinformation displayed in the press and for which in fact they receive awards.

Mr. Speaker, the terms of this motion have applicability not only to the commercial banks but to other institutions such as finance houses, trust and mortgage companies, credit unions, friendly societies, insurance companies and other organizations that extend or arrange for the extension of credit to borrowers.

While legislation of this type has generally focused on consumer credit transactions—and perhaps that might be a starting point for legislation to be introduced—I want to discuss the question of the non-disclosure of information by financial institutions in a wider context, and the ignorance on the part of the borrower of the ramifications of those transactions upon which he has agreed.

Mr. Speaker, the reason for bringing this motion to the House, and why I believe the necessity for this kind of legislation exists, stems from a number of concerns—on my part and on the part of Members of the front benches of the Opposition. First of all, this motion is intended to strike a blow for the small man in Trinidad and Tobago. The small man who seems to be so pointedly ignored by the policies, programmes and operations of this Government. The ordinary borrower—what you may call the grassroots man of Trinidad and Tobago—who is so frequently ignorant of the complexities of the banking and the financial system, its procedures and its processes and when the small man confronts the bank and other credit institutions it is really a meeting of unequals.

1.40 p.m.

On one hand, you have financial institutions which have knowledge at their command; they have experience of the ways of the system; they have intimate contact with authority; they have legal expertise available—the best paid legal expertise—and they have financial power on their side. On the other hand the average customer has limited knowledge of what is involved in the loan contract. He has little information and is frequently intimidated by the awesome authoritative image of these institutions and he is also intimidated by the attitude of many of their staff. He is also disadvantaged by the urgency which forced him to go to these credit institutions in the first place and, therefore, the relationship between the provider of credit and the average borrower is really not an ordinary contractual relationship between the seller and the buyer of credit services because of these very unequal relationships about which I have spoken. Therefore, the doctrine of *caveat emptor* really has limited applicability in such a situation—a doctrine of buyer beware or, in this case borrower beware. Therefore, the onus is placed on the borrower in order to seek his own interest.

It is my view that there is need for some protection for the borrower by placing the onus for full disclosure on those institutions which provide him with credit. Not only that, the obligation for full disclosure of the terms of credit, the terms on which loan transactions are negotiated is really an attempt to enforce the right to know. If the customer makes the decision to borrow and there is full disclosure, then of course he will do so on the full knowledge of the terms and conditions which surround his loan contract. Having that knowledge, he will be in a position to compare choices and options available to him and would be in a position for more rational decision-making. We all would like to see the whole population involved in making more rational decisions to improve the quality of their lives on a day-to-day basis. Therefore, the truth in lending legislation, in my view, would put you in a better position to do so.

Now as you are aware, Mr. Speaker, there is generally a clause which is appended to legal documents—and not only ordinary legal documents, but legal documents of a complex nature—where it is stated that the terms and conditions, the full contents of that document have been read to the person signing and that in fact he states that it is understood by him. Therefore, when such a clause is appended in an ordinary legal document it places the onus on that person, negotiating the transaction, to explain the full ramifications of that contract.

Credit Facilities (Legislation)
[MR. SUDAMA]

Friday, November 23, 1990

My own view is that in all these credit transactions, in loan contracts, such a clause should be appended in order to put the onus on the lenders to explain the full ramifications of the loan agreements to the borrower and in fact, that the borrower has signified his understanding of those terms and conditions.

Once such a clause is included in these loan transaction documents which express a loan or credit transaction, you will induce a more responsible behaviour on the part of lenders. It will also enhance the principle of accountability because accountability really is not something that should be confined to the public sphere. The principle of accountability should be enshrined throughout the whole society. An attempt should be made to adhere to that principle—a situation then where the lender would be accountable to the borrower by the kind of transactions into which the induced borrower is to get into.

Now Mr. Speaker, ignorance of the full implications of terms of credit has caused severe hardship on the small man in this country. Because of his inability to question figures which have been thrown at him he very often finds himself saddled with the onerous burden of indebtedness. Many times his property or his home is at risk without his knowing the full implications of what he has gotten into. So that without a full knowledge of his obligations, a small man may contract himself into a form of economic slavery. He finds himself working for the credit institutions and many a time he seems unable to pay off his debt.

1.55 p.m.

I have had instances brought to my attention where the interest that is paid on a loan is sometimes three and four times the principal which has been borrowed, if indeed there is some minor defaulting on the part of the borrower. Therefore he is constantly under threat. In order to meet his commitments many times he has to deprive his family and this is because a greater and greater portion of his income is earmarked for the repayment of a debt, the full implications of which he was not aware. And so, he finds himself under severe hardship. This has caused a lot of distress not only among small people but even among small businesses. A great deal of distress, hardship and financial insecurity is being brought to bear in the day to day lives of a number of our citizens.

Another reason for bringing this motion to the House is the knowledge that we really cannot leave it to the financial institutions to regulate themselves and to behave in a responsible manner. We have to induce them to behave in an upright

Credit Facilities (Legislation)
[MR. SUDAMA]

Friday, November 23, 1990

and fair manner towards their clients and their customers. We just cannot leave it to them.

There is one view that perhaps we should seek to persuade the banks to deal above board with their customers through moral suasion. I am not so sure that in that hard-hearted world of finance inhabited by what one person called "the gnomes of finance", that moral suasion by itself is a principle which would have any beneficial consequences. I want to just remind this House of my contribution to the 1987 budget debate in the Senate on January 27, 1987 when I sought to appeal to the banks on these very grounds so that they can use their discretionary powers to alleviate some of the hardships which borrowers had been facing at that time and which they continue to face. If I am permitted to quote what I said on that occasion. Merely to inform this House that the whole question of a relationship between the banks and the borrowers has been uppermost in my mind. Being a new government, we had just come into power, we had to be somewhat conciliatory in our approach to the banks and the financial institutions and this is what I said on that occasion:

"As has been mentioned elsewhere, particular attention will be directed to encouraging the highest possible level of savings in the country. Also of vital importance to the national economy is the adequacy and orientation of the mechanism through which such savings are made available for investment so that there is a proper matching of availability of funds with demand.

In facilitating this process, the financial institutions and particularly the commercial banks have a key role to play, moreso in a country such as ours. The importance of the financial institutions (bank and non-bank) can be gauged by the fact that as at the end of September, 1986, they controlled the allocation of \$9,419 million of short-term and long-term loans. It is this flow of funds that provides the lubrication for most of the economy to function.

In this period of reduced economic activity and lower incomes, the banks and other financial institutions should, in the national interest, operate with a new resilience in order to minimize the effects of the crisis and allow a breathing space for hard-pressed borrowers who are making a genuine effort to come to terms with the situation. The adjustment of debt repayment schedules and rates of interest cannot be seen as gratuitous concessions but as necessary assistance to the business and national community in the interest of economic recovery. While it may be claimed that this is being done to some degree, I daresay more needs to be done."

Credit Facilities (Legislation)
[MR. SUDAMA]

Friday, November 23, 1990

—by the banks and other financial institutions. Subsumed in that appeal was the question of a greater willingness on the part of the banks to come clean, to make full disclosure to the borrowers of the obligation into which they have entered.

I also wish to tell this House that later during the course of that year I made recommendations in writing to the Minister of Finance for the enactment of such legislation through some lending legislation. I am afraid that such a plea, as so many of my pleas in that very frustrating first year of office, fell on deaf ears. So today, three years after we were dismissed from office, there is still no initiative to bring truth in lending legislation to this Parliament for its approval.

2.05 p.m.

We were told and we had promised the electorate, in the manifesto of 1986, that the Government would establish as soon as possible on its assumption of office, a banking and finance committee which would draw its membership from both Houses. I recall that in those days in the first year of office, the Member for Couva South was Leader of Government Business in the House, and he was pilloried for not making moves to establish a Banking and Finance Committee of this House from which such legislation could have emanated. And yet after his dismissal, and after the lapse of almost three years, still no Banking and Finance Committee. That gives you an idea of how this Government operates.

Another reason, Mr. Speaker, to institute legislation for full disclosure is because of the inability of the Central Bank to effectively exercise its regulatory function; inability, a gross dereliction of duty on the part of the Central Bank when it comes to the monitoring of the operations of the financial institutions. The fiasco which attended the closure of four or five finance companies had to do not only with a downturn in the economy, but also with bad management of their loan portfolio, which the Central Bank should have been monitoring. That is what has happened.

Therefore, Mr. Speaker, it cannot be left to the discretion of the Central Bank to impel the commercial banks and other credit institutions to put these kinds of regulations into effect simply because we have seen no indication that they are willing to do so. Hence, the need to put specific legislation on the statute books. The manner of the operations of the commercial banks and the other credit institutions is such that the need and the necessity for this legislation becomes rather urgent.

What we are faced with in Trinidad and Tobago with respect to the banking system, the credit system, the financial system, is the existence of a financial oligarchy—

Mr. Panday: Sustained by them.

Mr. Sudama: —in which a few control the entire operation of the system, deny any moves for a more competitive environment and proceed by way of cartel arrangements. So that in effect there is very little competition, if any, existing in that system. And it is not as if you can go from one institution to another because they have certain information between them.

This Government had promised the institution of a Monopolies Commission to deal with such a situation. To date, of course, no such commission is even spoken about, and I know why, and I shall elaborate later on why we cannot have such a thing established by the Government of this country.

These institutions, Mr. Speaker, are committed to total secrecy with respect to their operations and with respect to their relationship with the borrowers of this country. Very often customers, borrowers, are unable to obtain information from the officials of these credit institutions. You do not even know where you are with respect to your loan. Sometimes charges appear on the statements to borrowers completely without explanation. You get a statement; a charge is made; you do not know what on earth it is for, and then you go to find out.

Very often, these bank officials themselves are ignorant of what is taking place, and they will tell you, “well, look here, you know it is a computer that has put that in, and the computer does no wrong.” So here you are as a customer having to face a computer for explanations, and this is permitted. This is permitted by the Government.

Various charges, including interest charges, are varied at the will of the bank or the other credit institutions. So you receive a bank statement which says that your interest has gone up. And very few borrowers are advised, at the time of entering into a transaction, that in fact the bank has this power. They do not even know that the bank can hike up their interest rate at anytime at their whim and fancy.

There is lack of knowledge on the part of the borrowers. And the banks take advantage of this lack of knowledge and, in fact, make it a business to disclose as little as possible to the borrowers.

Credit Facilities (Legislation)
[MR. SUDAMA]

Friday, November 23, 1990

Now, the variations in the rate of interest—I mean, I myself from time to time take credit from the bank, and I have always found that when they adjust the rate of interest it is always upwards, never downwards, always upwards. That is the experience of most borrowers, in fact of all the borrowers to whom I have spoken. That is the practice of the banks, that is the way they behave, totally unaccountable to anybody, knowing, of course, that the Government is on their side.

So that, Mr. Speaker, while this afternoon I am dealing with credit institutions generally, I want to focus perhaps more attention on the operation of the commercial banks of this country. The way some of them operate, one is at a loss to define their behaviour, whether their behaviour constitutes sharp practice, whether their behaviour constitutes unfair business practice, or whether in fact it constitutes immoral practice.

2.15 p.m.

The first issue I want to deal with is the non-disclosure of the true or effective rate of interest charged particularly on instalment loans. The effect, Mr. Speaker, is that approximately 50 per cent of the interest charged on these loans remains undisclosed to the borrower.

Secondly, the effective interest rate that is charged, quite apart from the quoted rate, is almost twice as much as the quoted or the advertised rate, and the borrower is none the wiser. The total of the undisclosed interest figure for the whole loan, in fact, rises in direct proportion to the quantum of the principal. Then they attempt to hoodwink and misrepresent the transaction to the borrower in order to induce him to get into it.

If you have a savings or a deposit account at the bank, the first thing they will ask you for security is that you assign the savings or the deposit account balance to them. They will tell you, "Look here, when you do that you are in fact paying a net reduced rate of interest, because if you receive five or six per cent on your deposit account and three or four per cent on your savings account and you have to pay a rate of 12 per cent, then the difference is really what you are paying as an interest charge, the difference say between five per cent and 12 per cent." When you assign to them your deposit balance they say that you are saving money.

When they approached me with this proposition and they said, "You know, if you assign your deposit balance to us we can lend you money, say at 12 per cent and you are getting five per cent on your deposit so you are only paying 7 per

cent, I said, "Look here, if I have a deposit or savings balance and I needed money I would save myself 12 per cent by using my deposit or savings balance. Why do I need to charge that to you and to tie up my balance and to have it mortgaged to you?" That is a way of trying to hoodwink the borrower into taking a loan. They do not really tell you that when you take the effective rate of interest that is being charged on that loan, and you take away what you are receiving as a rate of interest on your savings and deposit then your rate of borrowing charge is much greater than they tell you on the basis of the rate quoted.

There is another matter which the banks fail to disclose to their customers, and that is whether the transactions into which they are inviting them involve the compounding of interest. Very often you will find loan transactions of such a nature that the interest is compounded, in fact added to the capital and what the customer is forced to do is pay interest on interest.

Mr. Speaker, you probably are aware that the compounding of interest is illegal under the Money Lenders Act. This Act is not applicable to the commercial banks in this country so that they have the option and the facility to compound interest as they so wish, much to the disadvantage of the borrower. I want to give this House a few examples of how loan disclosure operates—the differential between the quoted rate of interest and the effective rate of interest. May I just elaborate to this House how this comes about.

When you enter into an instalment loan transaction with a commercial bank what happens is that they charge you interest on the principal amount for the full term of the loan, but as you know the principal amount of the loan is reduced on an instalment basis, so every instalment you pay your principal is reduced and, therefore, your loan interest should be reduced accordingly. But that kind of computation is never made by the banks and, therefore, what they do is misrepresent to the general public by their secrecy and inability to make full disclosure.

On a principal loan amount of \$12,000—of course, as I say, I am speaking on behalf of the small man; his access to credit is small figures—the repayment over three years amounts to \$16,311.24. The total interest therefore that has been charged is \$4,311.24. What happens is that you are told by the bank to pay 36 equal instalments over three years at \$453.09 each. The flat rate of interest, the bank official tells you, is 12 per cent. "We are giving you a loan at 12 per cent which is a good rate; you cannot get such a rate anywhere else." However, when you take into account the reducing balance of the principal amount you find

Credit Facilities (Legislation)
[MR. SUDAMA]

Friday, November 23, 1990

that the effective rate of interest on a reducing balance basis is 21.1 per cent. That is the rate of interest that the borrower is actually paying, of which he is unaware because he is not skilled in accounting and mathematics to work that out.

On a principal loan of \$15,000—and this one is taken over two years—you have to pay a total of \$18,433.68, which means that over two years you pay a total interest amount of \$3,433.68. You pay 24 instalments at \$768.07. The flat rate, the bank tells you, is 11.5 per cent. When you work out the effective rate, the real rate of interest that you are paying is 20.6 per cent.

There is another case in which on a principal loan amount of \$3 million—this is a small size business operation—the repayment over five years turns out to be \$4,200,000. The total interest charged was \$1,200,000 at 60 instalments of \$70,000 each. The bank told the borrower, "Look here, we are charging you only eight per cent, a very good rate." Of course, when you work out the effective rate it turns out to be 14.1 per cent.

The questions then for the borrower if he had known what is the effective rate of interest before he entered into a loan transaction are: (1), Would he have entered into that transaction in the first place? And (2), Would he have attempted to look at other alternatives and options open to him?

Mr. Speaker, these are some examples of what happens when you have computations made with respect to an instalment loan and interest charged on the original principal amount for the full term of the loan.

2.25 p.m.

Mr. Speaker, what the banks and other credit institutions also fail to do is to tell the borrower, fully and frankly, the terms of the loan agreement and the consequences of default on any one condition of that agreement. What is hidden in the fine print, if there is a fine print, is that the whole amount of the loan becomes repayable merely on default of a minor term or condition or warranty of that loan. The question we have to ask ourselves is: How widely is this fact known by the average consumer?

Then, of course, you have the clause or the understanding when you get into a loan agreement, that the loan is repayable on demand. Why do people borrow money? They borrow money so that they will be able to utilize it and repay that amount of money over a period of time. But it is at the whim and fancy of the bank and the bank official that the loan can be recalled at anytime.

When that loan is recalled at anytime—and let us just assume it is recalled in the early years of the loan; the money has already been expended; security has been attached to the loan, what happens? The first thing the bank looks to do is to take hold of the security; sell off the man's property; his assets. The average person in Trinidad and Tobago does not have the resources to go to the courts. Even if he went to the courts, the issue is dealt with as a matter of strict legality.

How many homes, properties and assets have been sold off in this very high-handed manner by the institutions of this country? There is also very often a clause which is signed, perhaps without the borrower's attention being drawn fully to it, that a waiver of section 41 of the Conveyancing and Law of Property Ordinance, which in fact does give a kind of grace to the borrower. But once that provision is waived, the banks then can get to the borrower merely by serving a notice upon him, giving him little time in order to put his house in order. This section, if I might quote it, says:

" A mortgagee shall not exercise the power of sale conferred by this Ordinance..."

That is, where property has been mortgaged to the bank or other credit institution as security for a loan, a mortgagee, that is the lender, shall not exercise the power of sale conferred by this Ordinance unless and until—

"(a) notice requiring payment of money has been served on the mortgagor or one or two or more mortgagors, and default has been made in payment of the mortgage money, or part thereof, for three months after such service; or"

So that here the law prescribes a period of grace, three months—

"(b) some interest under the mortgage is in arrears and unpaid for two months after becoming due."

So here again there is a prescription in the law of a period of grace for the payment of arrears of interest.

"(c) there has been a breach of some provision contained in the mortgage deed or in this Ordinance and on the part of the mortgagor, or of some person concurring in making the mortgage, to be observed or performed, other than and besides a covenant for payment of the mortgage money or interest thereon."

Credit Facilities (Legislation)
[MR. SUDAMA]

Friday, November 23, 1990

The effect of putting a waiver in a contract between borrower and lender is to deprive him of the grace period given to him by this clause in the Conveyancing and Law of Property Ordinance. How many borrowers in fact are aware of the bank's power, or the credit institution's power under this loan agreement? Should a specific point be made of getting these lending institutions to make that disclosure emphatic to the borrower?

The misrepresentation and the manipulation practised by some of the banks in this country is legend. You hear stories of borrowers, who have had their properties taken away, who have had to face the courts. Let me emphasize again that while there is the facility to face the courts if you have a dispute with a bank or a lending institution, how many people—the average person in Trinidad and Tobago, the common man—have the resources to take the bank to court? Of course, when they go to court, there is no guarantee that they will receive relief.

I want to just draw the attention of the House to one such instance in which the bank held a debenture over the assets of a certain borrower and that debenture was assigned on December 5, 1988 to another person who took over the obligations of the lender. This new lender demanded payment by letter dated the December 7, 1988. So that the assignment took place on the 5 and the new lender demanded payment on the 7th. On December 9, two days later, he received a letter of appointment and in fact he applied immediately after to put the borrowing company into receivership.

One questions whether in this particular transaction there was manipulation on the part of the banks, because all they are concerned with is getting their money. All they are concerned with is their profit and loss accounts, getting the debt assigned to someone else, perhaps with the full knowledge that this someone else will immediately put the borrowing company into receivership and deny it of any opportunity of trying to come to terms with its indebtedness in order to save the business. No such consideration ever comes into the thinking of the banks. But they have people whom they may favour.

If, for example, your company has a contact with the board of directors of one of the banks from which you may have credit, then you can get a remission; you can get a discretion on the repayment; alleviation of the terms and conditions of the loan. Who really has that kind of contact? It is only one group in this country who has contact with the directorate and senior officials of the banking system. It is a group that also has direct line to the Government of Trinidad and Tobago. If you have that kind of contact you would be treated differently. But if, of course,

you do not have that kind of contact, then the banks are willing to put you into receivership at the drop of a hat, regardless of the consequences for yourself; regardless of the consequences for the business; regardless of the consequences for employment in the country and regardless of the consequences for the economy. All they are concerned with is their own profit positions and balance sheet.

2.35 p.m.

There is also the other problem with the banks which affects a large majority of home owners in this country who have gotten into trouble with the banks; and that is, in addition to putting up your homes for sale, the banks also go to court to get a judgment against you. Not satisfied with having deprived you of your property—and your inability to pay may not have been due to your own fault—without any concern for the borrowers' welfare, they get a court judgment against you. You have no other assets, your only asset may have been your home. They have taken your home away, you have no other assets, but what you have is a judgment pending against you, hanging over you like a sword of Damocles. Perhaps the credit institutions do not understand how much anxiety that creates for the average borrower, the person with limited means in Trinidad and Tobago.

Mr. Speaker, it is this kind of hard-heartedness on the part of the banking system, a concern with dollars and cents which has also been expressed by the present Government, that we feel should be addressed in the interest of the average borrowers, the small man in Trinidad and Tobago. We on this side are not proposing, by any means, that the banks operate in such a way that their profit position comes into jeopardy or that they face bankruptcy, we are suggesting that the banks be fair to the consumers, and the borrowers. We feel that the bank has a duty to be fair, and while it is fair to consumers and borrowers, at the same time its profit position ought not to be jeopardized.

I want to speak about the effect of such legislation on the profit position of the banks. I want to ask the question: Will the effect of such legislation have a debilitating effect on the profit position of the banks? In other words, will the profits of banks be reduced as a result of the enactment of such legislation? If the answer is yes, that would happen, then it would seem to me that the profitability of the banking system and other financial institutions is boosted by a practice which is not above board. If we have full disclosure of the terms and conditions of loans and that will tend to reduce the profit margins of the bank—and this is an argument for not introducing truth in lending legislation—then all I can say is that

Credit Facilities (Legislation)
[MR. SUDAMA]

Friday, November 23, 1990

the profit position of the banks is boosted by what we might call "sharp or unfair business practice". This is all at the expense of the consumer, the customer and the small man in Trinidad and Tobago.

There are other things which the banks do which show that they do not care to give the consumer full information with respect to transactions with the banks. Let us take the question of payment of interest on a savings account. The banks have instituted as a rule to pay interest on a savings account which is low anyway, to pay interest on the minimum quarterly balance. Why can it not be the quarterly average balance? So you have a situation where, if you have \$10,000 as a quarterly balance for the quarter—89 days—and on one day in that quarter your bank balance is reduced to \$1.00, then you will be paid interest only on the \$1.00. The fact that you have had \$10,000 on a savings account as a balance for 89 days is completely ignored by the banks. Is this fair to the depositor? How many depositors in Trinidad and Tobago are aware that interest paid on a savings account is paid on the minimum quarterly balance? Mr. Speaker, do you know when they become aware? They become aware after the interest is credited to their accounts. Then they go to the bank and say: "Why is it that only this small amount of interest is credited to my account?" The bank will state: "Do you not know that we pay interest depending on the minimum quarterly balance?" Mr. Speaker, that is another instance of inability to make full disclosure to the customer.

The interest paid on savings accounts at the commercial banks is generally low, so low, it is as if depositors are giving money away to the banks when they could have considered other avenues of investment instead of making deposits of their money. What is the experience today? The experience today is that the effective interest paid on deposit accounts is really a negative interest when you take into account the rate of inflation. If you are getting three or four per cent on your savings and the rate of inflation is 10 per cent, then you are receiving, in effect, a negative rate of interest on your savings account. The question you have to ask yourselves is whether the banks and other credit institutions could afford to pay more, but more importantly, whether they fully disclose the rate of interest payable to depositors.

The other provision they have which people seldom know about deals with fixed deposits. You may open a fixed deposit. Let us assume you have a fixed deposit for six months in the year. For five and a half months you have that fixed deposit and you decide, because of some urgency, to break that fixed deposit,

the banks would not want to pay you interest because they say that you have broken the terms of the contract. They do not want to pay you interest for the five and a half months. Mr Speaker, do you see how all these conditions militate against the interest of the small man?

2.45 p.m.

What has been happening to the banking system over the last few years? I recall in 1987, there was this great propaganda that the banking system was on the brink of a collapse and there was a move to ask the banks to reduce the interest on mortgage loans in this country and they replied by saying that if that was ever done, their profit position would be so badly affected that the whole system would collapse.

Mr. Speaker: You have 10 minutes.

Mr. Sudama: Let me say that the spread of the commercial banks is quite a handsome spread when you compare that spread to what obtains in other countries. The difference is between the weighted average on their loan rate—that is the money they lend to their customers and the weighted average on the deposit rate—that is what they pay on the deposits. In 1987 that spread was 7.4 per cent; in 1988 it dropped to six per cent; in 1989 it rose to 53 per cent and in early 1990 it remained at that level—6.3 per cent. That is not an insignificant spread. Why then is it we have this hue and cry that if they make disclosure and if that disclosure results in the lowering of interest rates, that their profitability position would be adversely affected?

While this economy has been declining and we have been experiencing a negative growth, we have noticed that from 1988 the profit positions of the banks have been increasing. The economy is in decline, there is negative growth yet the banks' profit position is increasing.

With the limited amount of time at my disposal, I wish to give an indication of the banks' position. Between 1988 and 1989 the National Commercial Bank increased its pre-tax profits by \$5,552,000 million or by 37 per cent over its profit for 1988. Republic Bank increased its profits by \$21,800 million for the year ending December 30, 1989 which was 165 per cent more than the profits for 1988; the Bank of Nova Scotia made a profit for the year ending October 21, 1989 of \$35,360 million, a decline of only 3.9 per cent. Yet, the profits attributable to stock holders increased by 7 per cent, from 16 million to 17.1 million for that year. The Bank of Commerce's profit position increased from

Credit Facilities (Legislation)
[MR. SUDAMA]

Friday, November 23, 1990

1988 to 1989 by half a million dollars. I am saying that the profit position of the banks and any claims that they make that full disclosure will affect their profit position cannot be justified.

I wish to indicate—and this is something I will elaborate on later—some of the specifics which I feel should go into the proposed legislation which I am recommending here through this motion this afternoon. It may be that the proposed legislation at this point in time addresses itself to consumers' transactions—that may be the major focus upon it. If that is the case, I would like to see incorporated in the legislation, provisions for the full disclosure of charges other than interest charges. For example, the service or the carrying fee—what is that figure? The loan fee or the finders fee, the fees for investigations or for credit reports; the charge for a guarantee or insurance creditor protection; the premium on the lives of accident victims, on insurance or the borrowers. All these things should be put in detail and disclosed to the borrower, but most importantly, the method of computation of interest. It must force the lender to disclose the method of computation of interest on the reducing principal of the loan over the period of repayment. It must also state for each instalment the amount which is applied to reduction of principal and the amount which is charged as interest so that the borrower is aware of how his payments are being applied.

There are other disclosures which the banks and other credit institutions should be forced to make—the instalment amount of the loan; the amount that is required as down payment; the number of instalments which are required to be paid and the repayment period for the loans. All these must be specifically stated, explained to the borrower, put in writing and must be enforced by the terms of this truth-in-lending legislation, however you wish to call it, ought to be incorporated in such legislation.

The role of the Central Bank must be clearly defined in this legislation: whether the Central Bank will have the power to establish regulation for the implementation of such legislation, what are those powers; whether they would have power with respect to the supervision and monitoring of the operations of the banks and other credit institutions in this country. That must be specifically defined and delineated in the bill, so that we may know where responsibility lies when there occurs a dereliction of duty.

Why has such legislation not been brought before the House? When I was the Minister in the Ministry of Finance in 1987, I had recommended that such legislation be brought before this House which would be of enormous benefit to a

large section of the population, particularly the small man in this country. In those days you could rest assured that the Minister of Finance only listened to certain views and any views which related to bringing some relief to the average man in Trinidad and Tobago, to the poor downtrodden small man facing severe hardship was continually ignored by the Minister of Finance in those days.

There is also another reason. There is a cozy and cordial relationship between the banks and the Government. Here we have certain class interests being served by the manner in which this Government has been functioning. This is why they will not take action which will serve to put the banks on notice, that they must behave in an upright manner and make full disclosures with respect to their transactions to borrowers. Only some time ago, the chairman of the Republic Bank Merchant and Finance Company was boasting how they were able to raise \$500 million for the Government within the course of one year.

2.55 p.m.

What happens when this Government needs money? It rushes to the banks and particularly one bank—the Republic Bank—and they say, "look here we need money, will you do us the favour of mobilizing these finances for us? Will you raise these finances?" Of course, when they go to the banks and they establish such a relationship—which is not an arms length relationship—then the banks must expect favours in return. Therefore, we have no such arms length dealings. The relationship between the banks and the Government is very cordial and, therefore, in such a situation you cannot enforce discipline.

Mr. Speaker, I beg to move that this motion before us be given the full support of this House and I am sure the Members present will see the need for introducing such legislation in the House.

Thank you.

Seconded by Mr. B. Panday.

Question proposed.

The Minister in the Ministry of Justice and National Security (Hon. Joseph Toney): *[Interruption]* Mr. Speaker, I do not know why I am able to invoke all this response this afternoon. I am merely rising to make my contribution on a very important motion before this House.

Mr. Speaker, first of all, let me congratulate the hon. Member for Oropouche for presenting this motion before this honourable House. It is indeed a very

Credit Facilities (Legislation)
[HON. J. TONEY]

Friday, November 23, 1990

important matter, but I do not know if it has anything to do with the recent selection of the senators in his party. I am told that he wants to move a mountain in his party. I do not know if the moving of this motion has anything to do with that, because I am told that the recent selection of senators in his party, is a matter about which he is not at all too happy.

The motion before us more than deserves our most rapt attention and a very thorough discussion, because as the hon. Member for Oropouche said, "it is indeed a matter of national importance". I do not think that there is anyone who will deny that members of the public are in most instances, not aware of the full terms and conditions and, therefore, the implications of credit facilities extended to them. The question that one has to ask is, why is this so? Is it because of ignorance on the part of the borrowing public or is it a case of—as my friend from Oropouche puts it—a lack of disclosure on the part of the commercial banks, the credit unions, the finance houses and so on? I want to make it absolutely clear that I hold absolutely no brief for the commercial banks, the financial houses or the credit unions, but I did notice during my friend's contribution that he was making the point that we should put the entire onus on the commercial banks for full disclosure. I would come to that point later on to say that even if you do that and if you have legislation about that, would that in any way assist the customer, the small man, as he puts it?

Let us deal with the whole question of ignorance on the part of the person who goes to the bank to obtain a loan. In some instances you have what I would refer to as willful ignorance. That is where an individual who is able to understand, is literate and yet he becomes a party to a transaction with a banking institution, even though he has had before him the knowledge to make some kind of assessment as to what is being proposed. Could my good friend from Oropouche, Mr. Speaker, through you, tell me if truth in lending will assist these individuals who practise this willful ignorance in spite of all that may be put before them, in spite of the onus that he is saying should be placed on the commercial banks? I hope that when he is winding up he will give me some sort of guidance on the matter. Because whether you have legislation or not, if there are any hardships to suffer as a result of the transaction that the person has entered into, he will suffer those hardships because of his own conscious negligence as he enters into the transaction.

There are many of us who are not at all *au courant* with all the sophisticated financial terms that are bandied about by bankers and clerks at financial institutions. Sometimes to our amazement, they speak quite comfortably about

long term versus short term financing, nominal versus effective interest rates, compound versus simple interest rates, and when a poor fisherman from Toco goes to a bank and he hears all these terms, I am sure that he gets totally confused. In a way, I am sure these individuals—and I am sure that they make up the majority of the people who need some sort of protection—would benefit from truth in lending legislation.

One has to ask oneself if the majority of these people, whom I think the accountants refer to as rate takers—have any choice in the matter really. It is something that my friend from Oropouche—I hope I am not burdening him in his response. These are some of the queries that came to my mind as I jotted down some notes for this debate. What choice do they really have when they interface with a financial institution on an individual basis? That person is usually so glad that he has been granted an interview, to be told that he or she is being looked at favourably to get a loan; that the loan facility would be made available to him in the shortest possible time; that in most instances all he tells the banker is, "look just show me where to sign and I will sign". He would probably ask: "How would you get the money to repay? He would say, "I will deal with that down the road, just show me where to sign."

3.05 p.m.

I am not for one moment questioning the intentions of the hon. Member, but I wonder whether persons who are in, what I refer to as, "disadvantaged positions"—he spoke about the inequality of the bargaining positions of the two individuals, the banker and the customer. I am now speaking about the customer who is not willfully ignorant but is just naturally ignorant. I am wondering Mr. Speaker, if this whole question of—as you want to put it—"throwing that onus on the banker for total and full disclosure" would not just be an academic exercise; that the banker will tell you that the rates are going to be this, the monthly instalments are going to be this, the compound interest rates are going to be this, the nominal interest rates are going to be this or that. Sometimes I myself do not know what they are talking about. I wonder if it is not going to be an entire academic exercise.

Mr. Sudama: You see how helpful this legislation is.

Mr. Toney: Let us look at a practical situation. The facts having been made bare to the borrower, will the borrower be then in a position to say, "no I am not taking this loan under these conditions?" Would the borrower—I hope that I am not in any way offending anyone by the use of the terms, it is meant to be of no

disrespect to anyone. I am merely using the terms to explain the positions in which customers find themselves. Would the borrower have any leverage in the situation? Can he shop around, go from bank to bank and find what are the most favourable conditions to him before he decides to take the loan? Would he be in that position or does he not find himself in a situation where he says, "I need these moneys, I need them at all costs; just show me where to sign"?

I am just throwing out these matters, not in a manner to belittle the motion; understand me very clearly, Mr. Speaker. I am just throwing out these questions to have a greater understanding of where this legislation would put the whole transaction between banker and customer.

Mr. Speaker, should there be this legislation, and should the banker have carried out his task of full disclosure, if litigation arises, would you not come to the conclusion that the hand of the banker would have been strengthened? This is so because he is now able to come and say "I have carried out my responsibilities under the Act, the borrower has understood everything, and has gone through the exercise", which I would consider to be an academic exercise, because as the Member for Oropouche so correctly pointed out, there are unequal terms. Will he not say: "I have carried out my task and you cannot now say that you did not know?"

I would be grateful for some clarification and for some responses because what I am seeing at the end of it all is that whereas the motion and the proposed legislation, as suggested by my friend, seeks to protect the public at large, there is the very distinct possibility that it can end up really protecting the persons who least need the protection. Again, I hope I am not offending anyone but I am just using terms that can assist me in my discussion. There are persons who enter into the transaction knowing full well that the terms are not in their favour—those are persons who are sophisticated with the financial terms and persons who have leverage in the society and who can thus shop around. As I mentioned to you, what would be the most horrible situation, is one where we find that the hand of the banker is instead strengthened.

I have to admit that the exercise, as I have said earlier on, may well be an academic one. However, it needs to be said that every customer needs to know what he or she is buying, even if he has no choice in the matter because there are some people who go to banks and really, they have little choices, very little options, as the hon. Member pointed out in his contribution, but they are so desperately in need.

Mr. Sudama: Some may have options.

Mr. Toney: Well, would the legislation protect those who have options? This is the issue. Would the legislation protect those who have options and who still enter into the transactions with the bank? That customer still needs to have all the facts before him or her to be in a position to choose one way or the other, even if he or she does so reluctantly.

3.15 p.m.

I would accept truth in lending legislation, I have no problems whatsoever with it but as I said, I have raised certain matters which have befuddled me. So that although the borrower—I am just speaking about the person who is in the position where he just has to get his money to get on with his business—is in this disadvantaged position, really not having a choice in the matter, at least he would know up front what he is getting into. But I was wondering why my friend from Oropouche did not go further in the matter. Why, for example, did he not propose legislation for the proper disclosure of the activities of finance houses for the benefit of the public at large, especially when these activities are connected to directors and/or shareholders?

Mr. Sudama. The Member probably was not listening, and if he was, then it appears he is trying to mislead this House. I said specifically in introducing the motion, that the applicability of such legislation would not only be confined to commercial banks but to other institutions such as finance houses, trust and mortgage companies, credit unions, friendly societies, insurance companies and other organizations which extend or arrange for the extension of credit.

Mr. Toney: I thank him kindly, Mr. Speaker. I was referring to a specific point. He made a general statement in his opening remark and I accept that, but I referred specifically to the activities that are connected to directors and shareholders. I wondered as I listened to him—and I saw the very astute manner in which he shifted from finance houses—if he was trying to protect anyone. I merely wondered, because in today's financial world, who is more at risk, the borrower or depositor? I am told that he is of sound economic mind. I am sure that he would answer me. I have no doubt, and the evidence is there for all and sundry in Trinidad and Tobago to see, that financial institutions can take care of themselves. The persons who really need protection are the small investors, the depositors. These depositors are the ones who should know who are the directors,

Credit Facilities (Legislation)
[HON. J. TONEY]

Friday, November 23, 1990

what are the activities of the financial institution with its directors and what are the loan rates to these directors and or shareholders.

In my friend's presentation, he made the point that people lost money, in some instances, because of the bad management of loan portfolios of certain finance houses. My experience tells me that it is not a question of bad management, it was a question of no management at all. What has been discovered is that in very many of these finance houses, it was a case of himself lending to himself, with himself wearing different caps as he makes his approaches to the loan portfolios of the various finance houses.

The hon. Member just has to make his examination of what led to the collapse of ITL, SWAIT, Trade Confirmers, Southern Finance and the one with which I am sure he is closest, Summit Finance, to see the manner in which the money of the small man, money of the people who collected their pensions, money belonging to sugar workers, cleaners, and labourers had dissipated. *[Interruption]* He tells me he is very close to his constituency. He should find out how many of his constituents had deposits at Summit Finance; how many constituents of St. Augustine had deposits at Summit Finance. Let him check how many constituents of Couva North lost everything.

He comes here this afternoon to talk about taking action for the small man. It is simply unbelievable, fantastic to note that while the depositors have lost everything, millions of dollars—I am told that it is in the vicinity of \$40 million—the main movers behind these financial institutions—I am not calling any names, because when we call names they say we abuse parliamentary privilege—drive their Rolls Royces all over the country and even though they are legislators in Trinidad and Tobago their main business concern is in Miami. That is the respect they have for Trinidad and Tobago. So that perhaps, Mr. Speaker, we have to ask ourselves, “Who stands to lose?” My own feeling is that it is the depositor.

3.25 p.m.

Whilst I agree with the spirit of the motion as put forward by my friend from Oropouche, what we could look forward to from the hon. Member for Oropouche when he comes to wind up his motion is to see a suggestion that is more potent in terms of its protection to the public. What we have to really seriously consider is legislation to protect depositors from the actions of unscrupulous and greedy financial houses. That is what I expected the hon.

Member for Oropouche to suggest, but I am sure he is going to suggest that in his winding up.

Not only that, Mr. Speaker, what we should also wish to consider in this House is legislation to ensure that the directors and officers of such finance houses which have been brought to bankruptcy are banned from holding public office, so that the country as a whole would be saved much embarrassment, especially in this honourable House. Thank you kindly.

Mr. Basdeo Panday (*Couva North*): Mr. Speaker, first of all, I feel there can hardly be any objection to this motion. Its objectives are clear. I want to assure the hon. Member from Toco/Manzanilla that I too am with him. If he wishes to extend it further—the mover of the motion did speak of it—he will get no objection from our side. Therefore, I am sure this House is going to support this motion, amend it as it thinks is necessary, because the objectives of this motion are clear. The mischief it seeks to avoid is well known to all. The argument has been reasoned and compelling.

I wish to congratulate the hon. Member for Oropouche, first of all, on his selection of the topic, as well as the force of his presentation. He is a worthy representative of the constituency of Oropouche, and I am sure that anyone who ventures to challenge him in that position will meet with certain defeat.

The fact that the party has chosen as its first subject for debate in this new session, the issue of truth in lending by banks and other financial institutions, is an indication of where the UNC stands and an indication of the direction in which the UNC intends to go. First of all the motion talks about truth in legislation. I want to assure the Members of the other side that this is not meant as any attack on the Member for Tobago East when we speak of truth on this side. Not only is the UNC, this party and this Opposition, concerned with truth when you are engaged in lending money, in dealing in financial matters to hapless and desperate people, but we believe in truth in everything.

Mr. Speaker, this motion is one in defence of all people who for one reason or another want to or have to borrow money; businessmen, big and small; homeowners, farmers, consumers. But most of all its legislation, as my learned colleague has said, for the protection of small people. Big business can always hire lawyers and consultants to look after their interests. It is the poor people, the small people who are without the kind of resources to protect themselves. Hence, the need for legislation.

Credit Facilities (Legislation)
[MR. PANDAY]

Friday, November 23, 1990

At one time the lending of money for interest was regarded, I believe even in early Christian times, as sinful and immoral, and it is frowned upon even in some modern day societies. Mr. Speaker, one can well understand why the use of money as a commodity for making money was seen as not adding to the physical capital and the physical assets of the society and, therefore, it is regarded as immoral, as it is usually called.

3.35 p.m.

Secondly, when people are desperate for money they are very vulnerable and they are prepared to borrow at unconscionable rates of interest or to borrow without thorough examination of the consequences of borrowing, hence the prevalence of loan sharks even in many developed societies of the day.

Thirdly, such transactions make the owners and controllers of money extremely powerful. The banks and other financial institutions in Trinidad and Tobago today can actually determine who goes into business. They can determine who stays in business. They can determine who will be liquidated, who will be saved. In fact, they have the power of economic life and death over large sections of the community. They can, if they wish, promote sectoral interest or they can promote an oligarchy in business and for the purpose of economic control, because who controls finance can ensure that certain groups in the society never get a foothold in business. I think that is an extremely important matter for us to decide. That is, the Government must make statements about people who were never getting in business.

I hold no brief for the PNM. I think they raped the country and they did more bad than good, but by saying that also implies that they did some good, and that not all they have done was bad. One of the things that they did that was good was the establishment of the National Commercial Bank because the National Commercial Bank was intended to provide funds for non-traditional business people so that they could break into the monopolistic power of that oligarchy that controls financial institutions and, therefore, controls who go into business. That was the purpose of the National Commercial Bank, so that small people, people whom they deride and whom they say have no head for business—totally false and totally untrue—people who are willfully denied an opportunity to go into business.

The privatization of the National Commercial Bank by this Government is regarded by many as being among the vilest act of betrayal of thousands of people upon whose backs it rolled to power—the National Commercial Bank.

Dr. Tewarie: Mr. Speaker, may I ask the hon. Member, when the divestment of NCB took place who got the shares?

Mr. Panday: It is who is in control. It is whom you put in control; as you have done with the Workers' Bank.

Dr. Tewarie: Who is in control?

Hon. Member: Not the Government.

Dr. Tewarie: Who is controlling?

Mr. Panday: You know very well. You have put it in the hands of the oligarchy. That is an act of betrayal for which they will pay very dearly.

Mr. Sudama: You know, Sydney Knox is on the board of the National Commercial Bank.

Mr. Panday: They have expanded the interlocking directorate.

Dr. Tewarie: Mr. Speaker, I thank the hon. Member for giving way. I just want, for the record of this House, to indicate that in the specific cases of the National Commercial Bank and Trinidad Cement Limited, the determination of how the shares were to be distributed on divestment was in fact designated by Cabinet, and shares were specifically designated for the workers in those particular industries and also for the Unit Trust. That is a fact which can be checked objectively by anyone.

Mr. Panday: My good friend is not going to make me digress at all from what I am going to say here this afternoon.

Mr. Sudama: How did Sydney Knox get on the board of the National Commercial Bank?

Mr. Panday: He has not answered that question.

I wish to make it absolutely clear that the issue of privatization is not for me, or the UNC, an ideological question. Whether or not an enterprise should be state-owned or whether it should be privately owned, or both, depends on what is the best economic arrangement for facilitating the optimum societal benefits to be gained from the use of our scarce resources. I want to make it absolutely clear that I am not going to get involved in any ideological argument about privatization or nationalization because I do not think that it is an ideological question at all.

Credit Facilities (Legislation)
[MR. PANDAY]

Friday, November 23, 1990

It is believed that one of the greatest constraints to our economic development in Trinidad and Tobago is the oligarchical control of our financial institutions. That is the point the Member for Oropuche was making. That is what we meant when we said that you put it into the control of an oligarchy—the interlocking directorate of the banks, the insurance companies, the finance houses and the conglomerates.

Hon. Member: The Trust Company

Mr. Smart: Parasitic oligarchy.

Mr. Panday: Yes, you are right. It is a parasitic oligarchy which we talked about in the NAR manifesto. Did you not read it?

Hon. Member: NAR is opposed to it, you know. You check it and see.

Mr. Sudama: He does not know about it. Where was he when this document was being done?

Mr. Panday: It is that interlocking directorate of the financial institutions, and the conglomerates which this Government supports that are seen as the mechanisms for squeezing out certain people from the business community and for maintaining inefficient operators in the area of finance. That is a question, I am afraid, this Government is very reluctant to tackle because this Government has found itself in the back pocket of the conglomerates in this country, and having found itself there it had to abandon the manifesto. All the talk about the parasitic oligarchy and so on, they now mock it.

We do not intend only to criticize but also to offer solutions. What is required is the freeing up of the system. What we have got to do in Trinidad and Tobago, if we are to advance economically, is to break the monopolistic control that is strangling development. As a matter of fact, my friend from Chaguanas is the one who would never tire of speaking about legislation against monopoly. He is strangely silent these days on breaking the monopolistic control of that parasitic oligarchy that strangles the rest of the society. I hear nothing about him. When he was sitting on this side, I am sure everybody would remember how he stood up like a man and faced these things, but for the love of office he has lost his fortitude. He no longer has the courage and the guts to stand up and say the things he believes. It is a pity, an absolute pity. He is now a mere shadow of the man he used to be. So that the UNC stands for freeing up the system.

They keep saying, "What is your policy? You have no policy." We do not expect the newspapers to print anything that is favourable to us. We are being ignored these days, and I notice that it is only the PNM and the NAR—once they do not have anything nasty to print about the UNC they print nothing, but that is all right.

3.45 p.m.

We have a policy, and we on this side advocate the very opposite of what they are doing. We advocate the freeing up of the system. We believe that Trinidad and Tobago must be converted into an international financial centre in the Caribbean and Latin America, if not in the western hemisphere. We must become the Singapore of the western Atlantic region, which includes the United States, Canada, Mexico, the Caribbean, Central and South America. We must consider the feasibility of offshore banking, whether it is a good thing for our country or not, whether we should open up the whole banking system instead of keeping it a closed shop as it is at the moment. We must examine those possibilities.

Dr. Tewarie: Mr. Speaker, I am missing the logic somewhere. How can the hon. Member be opposed to the divestment of shares in NCB and talk about monopolistic control and so on, then almost in the same paragraph be arguing for the opening up of the financial system and the possibility of offshore banking and so on? It does not make sense to me.

Mr. Panday: Nothing will make sense to him. All he knows is how to get people in trouble.

Mr. Speaker, I also think that we should consider the question and we should look at the eventual removal of foreign exchange controls in the country. We should look at the systematic removal of the negative list, but we must do that in conjunction—that is the difference between us; we do not wait—with arrangements with our trading partners for the free movement of labour, capital and goods in the region. That is the part you missed.

Dr. Tewarie: We are doing all of that.

Mr. Panday: Of course you are doing all of that. The problem is you do not do it.

Many people in this country ignore the fact that Trinidad and Tobago is the nearest country to West Africa on this side of the Atlantic. We are at the front door of Latin America and we are an economic stone's throw from the United

Credit Facilities (Legislation)
[MR. PANDAY]

Friday, November 23, 1990

States and Mexico. We enjoy an enviable geo-political and geo-physical advantage which the UNC feels should be used to make us the financial centre in this region.

The Leader of Government Business at one time had moved a motion on interest rates deduction in this House. We heard—that is all that we can say—that the moment they made some private arrangement with him and they used his interest rates, he forgot the entire motion, and he was finished with that.

Dr. Tewarie: Mr. Speaker, I have to object. I did raise a motion here in this House. I sat as the Member for Caroni East right there, and on the basis of that motion work was done by the Minister and the ministries involved. They involved two ministries, the Ministry of Finance and the Ministry of Settlements. The end result of that was that legislation was in fact introduced in this Parliament to lower mortgage rates down to nine per cent in one instance, eight and a half in another and eight per cent in another. I want to say, since the Member for Couva North became personal about it, when he was Leader of the House sitting right here, he tried to prevent me from pursuing the motion in the House.

Mr. Panday: Would the hon. Member be so kind as to indicate to this House what I did, and bring his proof, to prevent him from moving that motion? Because this looks to me like the beginning of another Guptar matter.

Dr. Tewarie: Mr. Speaker, I was General Secretary of the party—he called me and told me that the Prime Minister did not like the motion that I was putting forward and he would advise me to withdraw it. I told him I am not withdrawing any motion and I will speak to the Prime Minister about it. The Prime Minister had no such objection.

Mr. Panday: It seems to me that my friend has learnt well from his master. That is to say, he does not know the difference between truth and falsehood. But my friend, I know you have said that you would do anything to retain power. You have sunk to the lowest possible level that is humanly possible. I do not think you can go further. I shall continue with my motion. *[Interruption]* Do not interfere with you? You interfere with people all the time. *[Interruption]* I took Guptar to the Prime Minister's house? You took Guptar there. I did not do it.

Mr. Speaker, what I find almost amusing, if not annoying, is the arrogance with which the Government now speaks. These were the people who, when they wanted to ride on people's backs, talked about the poor, the dispossessed and the powerless. Now they are in office and they sit on that side, I was sickened and

saddened to hear the Member for Toco Manzanilla talking down to people about willful ignorance.

Mr. Toney: With the greatest respect, I think that my friend from Couva North is deliberately misinterpreting what I said in the House earlier on. Let me explain what I said. I said there were two categories of persons who go to banks; those who enter into transactions where they read everything and who, in spite of whatever they read, get themselves into difficulty. I said they were referred to as willfully ignorant of what they were getting themselves into. The other category of people are those who just did not know what they were getting into simply because they were not naturally equipped to understand what they were getting themselves into. Two categories of persons—he is talking about arrogance. Sometimes I just do not understand—

Mr. Panday: The second category were those who were naturally ignorant. So we had this Minister who is talking about the willfully ignorant. They talk down to people now that they have attained office. Those who are willfully ignorant are the borrowers who know what is being proposed but ignore it. He said, "what are you talking about truth in lending legislation for? That is not going to help the willfully ignorant." He said, "I do not know if it will help the naturally ignorant as well." They are all ignorant now. When you wanted to ride on their backs in order to get into office they were not willfully ignorant nor were they naturally ignorant. But now they are ignorant.

So that legislation would benefit the poor and the simple—the fellow from Toco. Those who are naturally ignorant are the ones who say, "just show me where to sign." You see, they have brought the country to a state of such poverty; people are in such need, in such suffering, that when they become desperate and they need money, of course they say, "show me where to sign." Those are the people whose backs they rode and whom they betrayed. You do not talk down to them now. That is the arrogance that people find so disgusting and so distasteful.

I was surprised to learn that the member of the noble profession, as they call it, thinks that such legislation would help the banker and that it is therefore, I imagine, an argument for not introducing such legislation.

3.55 p.m.

Mr. Speaker, I want to tell the hon. Member that such legislation exists in the United States, Canada and other parts of the world. In fact, our Law Reform Commission had advised that such legislation be brought to the House. My

Credit Facilities (Legislation)
[MR. PANDAY]

Friday, November 23, 1990

learned colleague has just passed to me legislation which has, in fact, already been drafted in this country, but because of the attitude of this Government they will not introduce it. In order to maintain that little oligarchy and so on, they use all kinds of spurious arguments; we are not introducing it because it may help the bankers instead of the people. In fact, I am told that legislation which was introduced in this country was based upon the United States model, and there is a Consumer Protection Act which this Government knows about but never brought to the Parliament. I am extremely happy that my friend from Oropouche has brought this motion before the House because it gives us an opportunity to tell the country exactly where this Government stands and exactly where it intends to lead us. It intends to lead us into the back pockets and the control and grip of conglomerates of this country.

I was amazed when the Member for Toco/Manzanilla tried to make fun of a citizen of this country who had business abroad. McEneaney and Neal and Massy also have businesses abroad. How come that does not offend him? What is the difference between McEneaney and Neal and Massy who have businesses abroad and whom they encourage to have businesses abroad? Why does it seem to offend him when somebody else who does not belong to the clique of conglomerates has business abroad? He may want to tell this country why that particular person offends him. We should not prevent our people from having businesses abroad, we should encourage our people to invest.

We quarrelled about the multinationals, people who invest all over the world and bring income into the country. What is wrong when our own citizens do that? It has to do with the closed circle into which the Government has found its mind-set, that this country must belong to that parasitic oligarchy of whom they have become the slaves, the servants and/or agents. The NAR Government is that and no more now and it is going to run this country into the ground in order to satisfy the greed of that parasitic oligarchy of which we used to speak on the platform. All of us used to speak about that. I see my friend on the other side is shaking his head, he also recognized when we speak about economic turnaround. The economic turnaround is reflected only in the fact that a certain group in the society continues to make profits. But while that group is making profits, and while the national figures may be looking brighter, the masses continue to suffer and employment grows.

They are embarking upon a course of development similar to that in Brazil and Mexico in which, while the national figures are improving the masses

continue to suffer more and more—those who suffer begin to get larger and grow. That is the kind of development which is a betrayal of what we stood for in the manifesto. As a matter of fact, we fought against that kind of development. Development in this society can only be measured by the well-being of the masses of the people. Are they getting happier? Are their standard of living increasing? Unless that is happening, what is the point of your turnaround? They do not understand the difference between economic growth and economic development. My friend from Chaguanas used to speak about that all the time. It is amazing how he has suddenly forgotten all about that.

I was shocked the other day when I asked him: "I thought we used to talk about expansion of the economy, giving the people jobs and so on, how come you are now supporting a programme that is contracting?" He shamefacedly told me that you must contract before you expand. He said that in this House. That is the level to which he has to be reduced intellectually in order to justify what he is doing. We understand where he is coming from. We know why it hurts that a certain person has business in Miami. But if Neal and Massy and McEneaney have that it is fine, because they are the agents of the conglomerates.

Mr. Speaker, legislation which was drafted in this House and which the Government refuses to bring to this House consists of legislation based on the Consumer Credit Protection Act of the United States. It envisages that legislation would be made which would describe the cost of borrowing so that a percentage would be calculated, expressed and applied. It would prescribe the manner of determining the portion under the act of borrowing.

The main object of the legislation which had been drafted was that its purpose was to introduce a bill which would impose upon creditors a duty to disclose to the borrower before the relationship of creditor and borrower has been entered into. In fact, my friend who believes that this is going to assist the bankers missed that point. It is before the agreement is signed the banker or lender must tell the borrower: "Look, you are borrowing \$1.00, when you are finished paying back all of it, you will be paying back \$5.00 because you will be paying instalments over a period and, therefore, your real interest would not be what is stated at 10 per cent but rather 50 per cent." I agree totally with the Member for Oropouche, the onus of proving that must be upon the lender, not the borrower.

Mr. Speaker, when people are desperate they will say: "Show me where to sign," and they will sign. Of course, agreements will be provided in which the banker will put a clause stating: "I hereby certify that I have informed ... of all

Credit Facilities (Legislation)
[MR. PANDAY]

Friday, November 23, 1990

the conditions." And he will make the borrower sign it. It depends on how desperate the borrower is, he will sign. But the fact that people are sometimes desperate to get loans is no reason for resisting legislation of this nature. As a matter of fact, people's desperation vary in degree. Some people are so desperate that they commit crimes in order to get money. Because people are desperate and will commit crimes, does this mean therefore, that we should not have a law against robbery? People are so desperate that they would sign anything, but there are people who are going to be less desperate. There are people who are going to contemplate borrowing for consumables or business and, therefore, if they know what they are getting into, not only would it help them to make up their minds whether they would go into such transactions, but it will enable them to go to other institutions and enquire if there are better deals elsewhere. I think that is the point the Member was making.

The legislation which was drafted and ought to have come to this House would impose a duty upon creditors to disclose to a borrower, before the relationship of creditor and borrower is entered into, what it would cost him to borrow money or to purchase goods or services on credit. It does not only have to do with going to the bank or insurance company to borrow money, but it will also cover hire purchase transactions where people are buying goods on credit. It will have to be disclosed to them how much interest is being charged, when they would have paid their instalments, what is going to be the total amount they would have paid for the goods as opposed to what it would have been had they bought with cash.

4.05 p.m.

The Explanatory Note of the bill that ought to have been put before this House reads and I quote:

"One result of this object would be to let borrowers and consumers know the cost of credit so that they can compare between various credit sources and avoid the unformed use of credit. The provisions of the bill apply to banks, non-banking financial institutions, credit unions, friendly societies, insurance companies, building societies, finance houses,"—

If that has to be spelt out, but non-banking institutions are included here—

"to any individual or organization, corporate or unincorporated which extends or arranges for the extension of credit."

In that bill which we are calling upon the Government to introduce into this House, clause 3 gives details of the items that a lender must disclose, in writing, to a borrower before giving credit. Other items in the clause make it compulsory upon the lender to enable the borrower to see, at a glance, how much he would have to repay and how the amounts would be made up. There is also a clause that requires the lender to include all other relevant terms of credit in any transactions which will include the sum to be totally received in cash.

At the moment, there is a case before me where a farmer went to the Agricultural Development Bank. His farm was washed away and destroyed in a flood and there was this programme from the Government whereby they would arrange a "flood loan" for farmers. So the Bank arranged a "flood loan" of some \$40,000 to this farmer from Carlsen Field. When he entered into this transaction, he signed this deed mortgaging his house. After the transaction, the bankers told him: "Well, now that you have signed this deed, no money for you. We are taking this money to pay off your arrears." That was definitely illegal. If you are borrowing money, the banks have to say how much they are giving in cash. You cannot make people sign deeds and after signing the deeds, instead of handing them the cheques you say, "we are going to deduct this from your former debt"—and that is a Government institution in this country. I thought the whole purpose of lending farmers money was to enhance the agricultural production. If therefore, they suffer flood damage through acts of God and so on, they ought to be helped in order to resuscitate their farms so that they could repay the loan. This Government lends them money so that they could pay their loans.

The legislation would require the sum to be actually received in cash by the borrower or the actual cash price of the goods. The borrower must know the amount of down payment, the amount of each instalment, the number of instalments required to pay, the total indebtedness, including the cost of borrowing. As a matter of fact, this proposed legislation makes it a criminal offence and violators of the Act are subject to civil liability.

Clause 3 of this proposed bill says that if the Government proposes to introduce this bill it may be introduced by the Opposition. We shall introduce this bill into the House if the Government refuses to do so. Once we get the approval of this motion, we would not let them sit down.

There is an interesting clause in the bill which says:

"Every lender to whom this Act applies shall disclose to the borrower before giving credit in clear and unambiguous statement in writing—

Credit Facilities (Legislation)
[MR. PANDAY]

Friday, November 23, 1990

- (a) the sum expressed as one sum in dollars and cents actually received in cash by the borrower together with the insurance or official fees if any actually paid by the lender."

This is to prevent the adding of fees to the loan. What really happens when they add the fees and charges to the loan, you really end up paying interest on the fees and interest on the charges.

- (b) "the sum should also indicate that where the lender is a seller being the amount of the cash price of the goods or services including any insurance or official fees;
- (c) the sum where the lender is a seller;
- (d) the sums, if any, actually paid as a down payment or credit in respect of a trading or paid or credited for any other reason;
- (e) where the lender is a seller the amount by which the sums stated under paragraph (2) of paragraph (a) exceeds the sums stated under paragraph (b);
- (f) the cost of borrowing expressed as one sum in dollars and cents;
- (g) the percentage of the cost of borrowing bears to the sum stated in the previous paragraph;
- (h) the amount if any charged for insurance, the amount if any charged for official fees, the basis on which additional charges are to be made in the event of default."

It is not insignificant that this Government has been in power for almost four years and has refused to bring legislation which is already drafted. I have no doubt that this is what has prompted the motion from my colleague, the Member for Oropouche. I congratulate him for so doing and ask his colleagues to support him fully in this motion. If the Government approves this motion but intends to delay its introduction, we wish to give notice here and now that the Opposition will take the unprecedented step of introducing legislation into this House and that is to say, the legislation of which I speak. Thank you kindly.

4.15 p.m.

The Minister of Industry, Enterprise and Tourism (Dr. The Hon. Bhoendradatt Tewarie): Mr. Speaker, I will not be very long, but I want to make a few points which I consider pertinent to the debate. In the first place, we

essentially have no quarrel with the motion. It is a rather straightforward one and in its final paragraph calls upon the Government to institute truth in lending legislation in Trinidad and Tobago, as expeditiously as possible.

I do not think that anyone can oppose the general idea, that if someone goes to a banking institution or some such institution to borrow funds for some specific purpose, that person should know exactly what he is borrowing, what he is paying for it and what are the terms and conditions, so to speak, of repayment of the loan. As a matter of fact, some years ago in 1987, I introduced a private Members' motion calling for the lowering of mortgage rates in Trinidad and Tobago, which as I indicated just now, was successful by virtue of the work done by the Ministry of Finance and the Ministry of Settlements in reducing mortgage rates for first time homeowners. I raised some of those same issues including the truth in lending issue. I remember at that time—and I mean to cast no aspersions—the Minister of Planning supported the motion quite strongly. However, the hon. Member who is presenting this motion at this time, who was then Minister of Finance, did not particularly go out of his way to support the motion.

Mr. Panday: That statement is totally incorrect.

Dr. Tewarie: Well the *Hansard* will speak for itself.

The business of truth in lending, and in fact the legislation governing the financial institutions of this country, is something that has been under consideration by this Government for sometime. It was very clear, at the time of the 1970s when a number of financial institutions mushroomed to supplement the existing banking system in Trinidad and Tobago, because of the excess liquidity brought about by the oil boom, there was need for some kind of regulation. Such regulation did not in fact come into being at that time.

When the crisis began with the reduction in the prices of oil in 1983, some legislation was, I think, introduced at that time following which you had a squeeze on some of those institutions as the situation became graver. Many people complained and in fact there was general panic in the country and the economy. Certain things were done at that time in 1986 by the last regime including the establishment of the Deposit Insurance Corporation. Since then, this administration has been looking at the situation, both in the banking and the non-banking sectors and in general, looking at the whole regime governing finance and financial institutions in this country with a view, of course, to putting the strongest measures possible that will allow for a strong financial system and

Credit Facilities (Legislation)
[HON. B. TEWARIE]

Friday, November 23, 1990

strong financial institutions and at the same time would ensure that the consumer at the receiving end is adequately and properly looked after.

These things have been under the scrutiny of the Ministry of Finance—the Minister of Finance is not here at this present time—and especially under the scrutiny of the Central Bank, of course, which in a way is the main bank that governs the functioning of many of these financial institutions. As I said, I will not be very long and I do not mean to be very long, but I want to put some facts straight.

The first thing is that the matter has been under serious study, and we are doing something about it. The second thing is that we have looked at this matter carefully, methodically and comprehensively. In fact, pretty soon the Central Bank is going to send its report to the Cabinet, before the matter comes for the consideration of Parliament. Just for the information of the hon. Members for Couva North and Oropouche, draft legislation has been done and a bill will be brought before this House, once it has been approved by Cabinet. Legislation entitled—"An Act to provide for the disclosure of credit terms to borrowers and buyers by lenders of money and sellers and credit of goods and services and for matters connected therewith and incidental thereto" will be brought to the Parliament. Once this matter is fully considered at the level of the Attorney General's office and it goes to Cabinet and finally comes to Parliament, since the Member for Oropouche has spoken so strongly on the matter, I am sure it will receive the full support of all the Members on this side. Therefore, there is no need for the Member for Couva North to initiate any legislation.

We will move as expeditiously as possible because we have moved systematically and in an organized fashion to bring this country from decline to recovery in 1990 in the space of four years. The only criticism one can really make against this Government is that maybe we did not do things as fast as we could, or things could not happen as fast as other people wanted them to. But nobody can say that we did not do things strategically, in an organized and planned fashion, in a methodical fashion and do what was in the best interest of this country on every issue and any issue that one can outline as being a critical issue in Trinidad and Tobago. Therefore, in a short time these measures will come before the House. I have already identified the bill. It will come with a full appraisal of what are the problems and the issues which need to be addressed, including this question of truth in lending, however one might phrase that term.

Mr. Speaker, I simply want to give this House the assurance on behalf of the Government of Trinidad and Tobago. I have no doubt that at that time, the Minister of Finance will present in full, what is the Government's position of these and related matters.

Thank you very much.

Mr. John Humphrey (*St. Augustine*): Mr. Speaker, I want to start with the aside that the Member for Caroni East made when the Member for Couva North was on his feet, questioning the logic of an argument for freeing up the system and at the same time having a national commercial bank operating specifically, towards extending credit at much softer terms than the commercial banks to the little people of the country. I wish to justify that philosophy by quoting from the NAR manifesto, which the remnants of the NAR no longer consider. The remnants of the NAR include the Member for Caroni East and his colleagues.

Miss Nicholson: Mr Speaker, on a point of order. I would not sit here and entertain that kind of comment. I think the word "remnants" should be withdrawn Sir. I would not entertain that, Mr. Speaker. I think it is out of order.

Mr. Humphrey: Mr. Speaker, I cannot see why anybody would object to the truth. I mean this is a motion that is based on the truth.

Mr. Speaker: The Standing Order states that Members should avoid the use of offensive or insulting language.

4.25 p.m.

Mr. Humphrey: Mr. Speaker, let me put it in a different phrase. What is left of the NAR after its principal components were thrown out. That is all. But you see the principal components of the NAR when it was formed, were the ones that brought most of the progressive ideas that are in fact contained in the manifesto that was supported by the electorate, in no uncertain terms.

Under the section of the manifesto dealing with recovery and reconstruction, in a chapter headed "Imperatives for Sustained Economic Expansion" at page 11 the principle was in fact enunciated:

"...it is a fact that in a country with our history, if the state does not take certain initiatives in terms of getting production in particular areas moving, no one else will."

Credit Facilities (Legislation)
[MR. HUMPHREY]

Friday, November 23, 1990

So we are not talking about a free enterprise approach, a market type of economy that the remnants of the NAR, what remains of the NAR now subscribes to—

Miss Nicholson: That is offensive.

Mr. Speaker: Order please!

Mr. Humphrey: That is a legitimate word, it is not offensive.

Miss Nicholson: It is offensive!

Mr. Speaker: Order please. If the Member is offended could we just leave out the word and continue with the debate, please.

Mr. Humphrey: It is a word used in the right context Mr. Speaker; it is parliamentary language. There is nothing objectionable about it and I cannot understand why the Member for Tobago West takes objection, unless, of course she wants to interrupt on very spurious grounds.

There is a particular philosophy of development that informed the entire manifesto of the NAR and that philosophy recognized that the history of this country went against the vast majority of the citizens and favoured a small minority. This is what was recognized and, in fact, when the Member for Toco/Manzanilla and others were being critical of the Member for Couva North of describing the "oligarchy" and they were chiding him by throwing in the word "parasitic", that is in fact mentioned in the manifesto as well. There is a section of the manifesto that describes the parasitic oligarchy.

Mr. Panday: Who did you mean Winston, when you did that? Tell me now, since you wrote it. You are no part of the parasitic oligarchy.

Mr. Humphrey: You see, Mr. Speaker, the problem is that the NAR no longer subscribes to the philosophy of development. When we put it together originally, we subscribed to it and that is a fact. The members of the United National Congress continue to subscribe to that philosophy of development, a philosophy of development that recognizes that there is a historical imbalance in the society where history has favoured a chosen few of the citizens of this country and disfavoured the vast majority.

In this manifesto, an institutional framework for financing development was conceived and mentioned. It was conceived on the basis of making it possible for the little people who had been historically deprived of genuine participation in the process of development and who had been deprived of the enjoyment of a fair and

equitable share of the proceeds of development. It was conceived when we put the manifesto together but that is no longer considered by the NAR.

Let us look at the Immediate Action Plan, a plan that was supposed to have been implemented within the first 90 days of the Government being in office, and see how serious the framers of this manifesto were about taking action. This is relevant to the motion brought expertly by the Member for Oropouche and the more we hear of the Member for Oropouche, is the more we wonder why the then Minister of Finance did not value the services of this Member of Parliament in his Ministry of Finance, but instead, sought in fact to squeeze him out.

Mr. Panday: Hidden agenda, you know that Winston. If you had only stood up—

Mr. Humphrey: At page 5 of the manifesto under the heading "Immediate Action Plan", it was promised that the NAR Government would—

"7. Establish a Joint Parliamentary Committee on Banking and Finance to meet with all the financial institutions in the most judicious manner possible to discuss with the financial sector, measures that can be taken immediately to restore confidence, to encourage savings, to attract investment capital and to chart a new role for the financial sector in national development, including the feasibility of establishing a jointly owned branch bank in the metropolitan areas to attract financial resources from nationals of Trinidad and Tobago and from other persons and institutions resident overseas and to use such funds to finance viable industrial projects in Trinidad and Tobago."

To—

"10. Revise the Standing Orders of Parliament to provide for:-

- a. The establishment of the required Committees to enable continued and adequate parliamentary vigilance over national, regional and international affairs.
- b. The vesting of these committees with the appropriate authority and powers, as well as providing them with the necessary resources to function.
- c. The opening of Parliamentary debates to the electronic media."

Mr. Speaker, we were very serious.

ADJOURNMENT

Credit Facilities (Legislation)
[MR. HUMPHREY]

Friday, November 23, 1990

The Minister of Industry, Enterprise and Tourism (Dr. The Hon. Bhoendradatt Tewarie): Mr. Speaker, if there is no objection on the other side, I would like to adjourn at this point, we can always come back to the debate.

Special Select Committees

Mr. Speaker: Before the question is put, I have some announcements to make with respect to committees. There are a number of private bills that were being considered and the following committees on private bills have been appointed:

Institute of Internal Auditors (Inc'n) Bill

Dr. Anselm St. George (Chairman)

Mr. Kenneth Butcher

Mr. Theodore Guerra

Mr. Raymond Palackdharrysingh

Caribbean Forest Conservation (Inc'n) Bill

Dr. Anselm St. George (Chairman)

Mrs. Muriel Donawa-McDavidson

Mr. John Humphrey

Mr. Oswald Hem Lee

School of Philosophy (Inc'n) Bill

Dr. Anselm St. George (Chairman)

Mr. Jenson Fox

Mr. Theodore Guerra

Mr. Raymond Palackdharrysingh

Confederation of African Associations (Inc'n) Bill

Dr. Anselm St. George (Chairman)

Mrs. Muriel Donawa-Mc Davidson

Mr. Kenneth Butcher

Mr. John Humphrey

Sessional Committees

Standing Orders Committee

Hon. Speaker (Chairman)

Mr. Anthony Smart

Dr. Anselm St. George

Mr. Theodore Guerra

Mr. Kelvin Ramnath

Mr. Trevor Sudama

Mr. Patrick Manning

Committee of Privileges

Hon. Speaker (Chairman)

Miss Pamela Nicholson

Mrs. Margaret Hector

Dr. Anselm St. George

Mr. Theodore Guerra

Mr. Basdeo Panday

Mr. Kelvin Ramnath

Mrs. Muriel Donawa-Mc Davidson

House Committee

Dr. B. Tewarie (Chairman)

Hon. S. Richardson

Dr. Carson Charles

Mr. Arthur Sanderson

Mr. John Humphrey

Mrs. Muriel Donawa-Mc Davidson

Sessional Committees

Friday, November 23, 1990

Regulations Committee

Hon. Speaker (Chairman)

Mr. Oswald Hem Lee

Mr. Jenson Fox

Mr. Rawle Raphael

Mr. Govindra Roopnarine

Mr. Morris Marshall

Motion made and question proposed, That the House do now adjourn to Friday, November 30, 1990 at 1.30 p.m. [Hon. B. Tewarie].

Question put and agreed to.

House adjourned accordingly.

Adjourned at 4.35 p.m.