THE
PARLIAMENTARY DEBATES
OFFICIAL REPORT

IN THE SECOND SESSION OF THE FOURTH PARLIAMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO WHICH OPENED ON JANUARY 13, 1992

SESSION 1992—93 VOLUME 42

HOUSE OF REPRESENTATIVES

Friday, May 14, 1993

The House met at 1.40 p.m.

PRAYERS

[MADAM SPEAKER *in the Chair*]

PAPERS LAID

1. Report of the Auditor General on the Accounts and Financial Statements on the Environmental Protection and Rehabilitation Programme—Loan Contract No. 857/SF-TT for the period ended December 31, 1992. *[The Minister of Finance (Hon. Wendell Mottley)]*

2. Report of the Auditor General on the Accounts and Financial Statements in respect of the East/West Corridor Highways Project, Inter-American Development Bank Loan No. 513/OC-TT for the year ended December 31, 1992. *[Hon. W. Mottley]*

Papers 1 and 2 to be referred to the Public Accounts Committee.

3. Report of the Auditor General on the Accounts of Reinsurance Company of Trinidad and Tobago Limited for the year ended December 31, 1992 *[Hon. W. Mottley]*

To be referred to the Public Accounts (Enterprises) Committee.

4. Report of Team of British Police Officers commissioned to conduct a review of the Trinidad and Tobago Police Service - The O'Dowd Report. *The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley)]*

HINDU SEVA SANGH (INC'N) (AMDT.) BILL

Select Committee Report
Presentation

Dr. Rupert Griffith *(Arima):* Madam Speaker, I beg to present the report of the Select Committee of the House of Representatives appointed to consider and

report on a private bill to amend the Hindu Seva Sangh of Trinidad and Tobago (Inc'n) Act, No. 22 of 1988.

WRITTEN ANSWER TO QUESTION

The following question was asked by Dr. Carl Singh (Tabaquite):

Students' Revolving Loan Fund

133. Could the Minister responsible for Administration state to this honourable House:

(a) The total sum of money which was available at the inception of the Students' Revolving Loan Fund?

(b) From what source was the fund made available?

(c) To whom, i.e. names of students and areas of study and also sums which were made available to each student?

(d) The conditions under which these loans were granted?

(e) What measures are in place to recover outstanding debts?

(f) How many of these students completed their areas of indicated studies and are employed by the national community?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

The following question stood on the Order Paper in the name of Mr. Subhas Panday (Naparima):

Unemployment Symposium

141. Would the Minister of Labour and Co-operatives state:

(a) What was the cost of the symposium on unemployment held in April, 1992, at the Chaguaramas Convention Centre?

(b) As a consequence of the said symposium, how many permanent jobs were created?

(c) In what areas were these jobs created?

Mr. S. Panday: Madam Speaker, on the last occasion the Member had asked for a deferral of two weeks.

Madam Speaker: Question No. 141 will be answered next week.

Caroni M1 and M2 Roads

145. Mr. Subhas Panday *(Naparima):* asked the hon. Minister of Agriculture, Land and Marine Resources:

(a) Does the Government intend to open the Debe Wholesale Market prior to the acquisition, maintenance and opening of the Caroni's M1 and M2 roads?

(b) Is the Minister aware that the Government can speedily acquire the Caroni's M1 and M2 roads by private treaty?

(c) Does the Government intend to instruct Caroni (1975) Ltd. to open the M1 and M2 (Caroni's Private Roads) throughout 1993?

The Minister of Agriculture, Land and Marine Resources (Dr. The Hon. Keith Rowley): Madam Speaker, the Debe Wholesale Market will be opened prior to the completion of procedures now in train for the acquisition by private treaty of a parcel of land known as the M2 Tasker Road from Caroni (1975) Limited. The acquisition of the M2 Road is being pursued by private treaty.

The M1 and M2 Roads are private roads belonging to Caroni (1975) Limited. The Government does not intend at this time to instruct Caroni (1975) Limited to open these roads throughout 1993. The M2 Road will become a public road when the acquisition is finalized.

Mr. S. Mohammed: Madam Speaker, the House was informed that the Debe Wholesale Market would have been opened some time during the course of last year. I would like to enquire from the hon. Minister if he can give a date when the Debe Wholesale Market will be opened.

Dr. The Hon. K. Rowley: The Debe Wholesale Market is scheduled to be opened on Wednesday May 26, 1993 and NAMDEVCO is taking steps to have the formal opening on that date.

Industrial Park (Barrackpore)

The following question stood on the Order Paper in the name of Mr. Subhas Panday (Naparima):

146. Will the Government commence the establishment of the proposed Industrial Park at Barrackpore simultaneously with the proposed park and/or plants in the La Brea and/or Point Fortin constituencies?

Mr. Kenneth Valley: Madam Speaker, I ask for a deferral of this question for one week.

Question, by leave, deferred.

WRITTEN ANSWERS TO QUESTIONS

Caribbean Seasonal Programme (Applications for Employment)

The following question stood on the Order Paper in the name of Miss Hulsie Bhaggan (Chaguanas):

191. (a) Would the Minister of Labour and Co-operatives indicate the number of persons who applied to the Caribbean Seasonal Programme in 1992?

(b) Would the Minister provide a listing of the names and addresses of the applicants indicating those who were successful in obtaining employment under this programme in 1992?

Copy of answer lodged in Parliament Library.

AIM Programme (Applications for 1992)

The following question was asked by Miss Hulsie Bhaggan (Chaguanas):

197. Would the Minister of Education state:

(a) The number of persons who have applied under the AIM Programme for the year 1992?

(b) The number of persons who have benefited under the programme?

(c) The names and addresses of the applicants?

(d) The names and addresses of those who have benefited under the programme?

(e) The names of the public and private companies and other institutions to which the beneficiaries were assigned?

Copy of answer lodged in Parliament Library.

ADJOURNMENT MOTION (LEAVE)

Miss Hulsie Bhaggan *(Chaguanas):* Madam Speaker, I sent you correspondence earlier today requesting leave to raise as a definite matter of

urgent public importance the issue of the rising cost of living in this country. In writing to you, I mentioned that this matter is definite because it concerns the rising cost of basic necessities, like food, clothing, accommodation, fuel, water, electricity, household supplies, medical goods and transportation.

This matter is urgent because the recent relief measures announced by the Government will not alleviate the devastating effect of the high cost of living upon the poor, unemployed, senior citizens and the middle and lower income groups. I also said that this matter is of public importance because it is adversely affecting more than 75 per cent of the population.

In proposing this motion and seeking your leave, I wish to mention that since 1983 the cost of living has been increasing. As a matter of fact, when one examines the statistics from the period March, 1988 and, most recently up to March 1993, prior to the floating of the dollar, food prices increased by 168.1 points. To give an example. After the floating of the dollar almost every single thing went up. For instance, flour, as you have seen today, has gone up and bread (hops) would now move from $3.00 to $3.50 per quart; cheese has gone up from $7.20 to $8.75; soap powder has gone up, toilet paper has gone up, onions, cooking oil. In fact, all the basic necessities have gone up. Additionally, we had water rates, electricity rates, bus fares, tablets for diabetic and heart patients all going up.

Secondly, on the point of this matter being of urgent importance, within recent times the Prime Minister announced some relief measures. But these are not adequate. With respect to old-age pension we are looking at an increase of $9.15. The Unemployment Relief Programme cannot be touted as a relief for unemployment because presently it is a programme in chaos and is not reaching the wider population. We have seen where 4,000 food hampers will be distributed. We do not know how these hampers will be distributed especially in light of the problems with URP. I saw today where the sum of $3 million being given to help is now considered to be insufficient as that ministry feels that $50 million would be the adequate figure.

Madam Speaker, I feel that this matter is of public importance because when we look at the situation today, and based on our own estimation, it means that a family of four would need to have at least $5,000.00 per month to be able to survive with the various commitments that they have. In examining the CSO's statistics it is known now that at least 84 per cent of the working population earn less than $5,000.00 per month and at least 66 per cent of the households in this country earn $5,000.00 per month.

1.50 p.m.

The rising cost of living, as far as we are concerned, is a definite, matter of urgent public importance, and, as such, we seek your leave to debate this matter today.

Thank you.

Madam Speaker: I advise the hon. member that this is not the kind of matter that qualifies as a definite matter of urgent public importance. If one does the researches on matters of this type, one will see that it is a completely different kind of consideration that is given to matters of these types.

I would urge the Member to bring this matter via another mode to this House.

COMPANIES BILL

The Attorney General and Minister for Legal Affairs (Hon. Keith Sobion): Madam Speaker, the Government is introducing today in this honourable House the Companies Bill 1993, which is a bill to revise and amend the law relating to companies, and in so doing to repeal the existing Companies Ordinance, Chap 31:01.

This latter piece of legislation was enacted in 1938, about 55 years ago and has resisted quite strenuously all attempts of change over that period. When one considers also that this Act was in fact based on the United Kingdom legislation of 1929, one can immediately realize that it is something of a dinosaur in this modern world of rapid technological change, evolving business practices, and shifting emphasis towards the protection of shareholders and creditors.

Indeed and by comparison, the United Kingdom model of 1929 was in that country revised in 1948, substantially, and in 1967, 1976 and 1985 to keep pace with changes in business and social developments in the United Kingdom over the years. The present revision, the Bill of 1993, has its genesis in the report and Bill of the Working Party on Company Law Harmonization in the Caribbean Community. That Report and Bill were produced in 1979 after eight years of extensive research and deliberations by a working party comprised of representatives of all the Caricom states.

It had as its fuelling vision, the deepening of the integration movement within the region, and its narrower focus recognized that common commercial legislation within the Caricom region would serve to strengthen the drive to develop an economic community in keeping with modern trends. To the foreign investor, the

West Indian archipelago must appear to be a frightening prospect with a potpourri of company and other commercial legislation rooted in different historical periods. It is clearly incumbent on us in those circumstances to continue on the road to harmonization of legislation in this area.

This Bill which is being introduced today has been subject to widespread discussion and debate, and was developed after careful consideration, and with input from relevant interest groupings. In this connection, permit me to acknowledge the contributions made by the Institute of Chartered Accountants and the Association of Chartered Secretaries and Administrators who led the final initiative, when on July 7 - July 8, 1989, they hosted a seminar with the simple theme, "Company Law Reform".

Following upon this seminar, a Cabinet appointed team was appointed in August 1989 with the following terms of reference: To prepare a detailed brief for the drafting of new company legislation for Trinidad and Tobago, taking into account the Report and Bill of the Working Party on Company Law Harmonization in the Caribbean Community.

That working group comprised representatives of several Government ministries including the Ministry of Finance, the Ministry of Industry and the Ministry of Legal Affairs. Of major significance, however, was the representation of several professional organizations which included the Institute of Chartered Accountants, the Association of Chartered Secretaries and Administrators, the Chamber of Commerce, the Manufacturers' Association, the Law Association, the Hugh Wooding Law School, the Institute of Banking, the Labour Congress, the Employers' Consultative Association and the Trinidad and Tobago Stock Exchange. The work and effort of that committee led to a 1991 Bill by the Institute of Chartered Accountants.

On assuming office in December 1991, a decision was taken to further review and refine the Bill, and the legislation review committee early in 1992, established machinery for what was to be the final review before presentation to Parliament.

I thought it necessary to trace the evolutionary history of the Bill of 1993, primarily to show the extent of consultation which has informed the legislation. The Bill itself is an intimidating piece comprising as it is of about 553 clauses, spread over 274 pages. The Government therefore intends to propose a particular course of action in the management of this Bill through Parliament, which hopefully would ease the trauma and reduce the areas of parliamentary conflict in this final passage of the Bill.

I know that in presenting this Bill, I would in the normal course of things have to deal at some length with the provisions of the Bill. I do not however, consider it inappropriate at this time to refer to some of the significant policy positions contained therein.

The Caricom model which was developed in 1979 was the base document used in the preparation of this Bill. The Caricom model itself marks a significant departure from our law-making traditions. Our colonial experience has caused us almost by reflex, to look to the United Kingdom for precedents in designing our own legislation. However, if one traces the pedigree of this Bill, one would discover that there are strong North American linkages.

Significant concepts which were introduced into the Canadian Business Corporations Act of 1975, and which have stood the test of time on practical application are included in the Bill. The Bill seeks to simplify the process of incorporation of companies and ensure their more effective and efficient management. In this connection, the Bill provides for a standard form of articles of association, and permits a company to be formed on the application of a single individual.

The complications which have surfaced over the years with respect to the doctrine of *ultra vires* have been removed by giving a company the rights, powers and privileges of a natural person. The abolition of this doctrine has been reinforced by the abolition of the doctrine of constructive notice which ascribe to third parties knowledge of any restrictions on a company’s activity merely by the fact of registration of a document with the Registrar of Companies. Other significant features include protection for minority shareholders, protection of creditors, directors' responsibility and financial disclosure and machinery for the investigation of the operations of companies.

In sum, the legislation seeks to bring the corporate world into the 20th century. We have in recent years experienced the adverse effects of the failures of companies, caused at times by the manipulation of directors. We have noted the impotence of the law in bringing to book those who by their deliberate action have caused grief to shareholders, creditors and employees of those companies. This Bill will provide the machinery to prevent such occurrences and afford clear avenues for redress.

Clause 103 establishes the duties of directors and officers on a statutory basis and mandates that they act honestly and in good faith with a view to the best interest of the company. In determining what is the best interest of the company,

the Bill further requires that directors have regard to the interest of a company's employees as well as to the interest of shareholders. That represents a significant shift in the approach to the regulation of commercial activity as it recognizes the role and function of those who, though they may own no shares in the enterprise, have a significant stake therein.

The Bill contains so many interesting innovations and concepts that I can go on and on, but there will be the time when we as a Parliament would be fully able to explore them. For the present, I am content to note that this Bill is an important step forward in the reorganization of our social and economic institutions.

The Government is committed to improving the quality of life in this country, and to do so it is important that institutions which could contribute to the attainment of that objective be strengthened and made more relevant to our changing world.

In closing, Madam Speaker I had commented on the imposing nature of this Bill and indicated that the Government would make a proposal for the effective management of the Bill in its passage through Parliament. Quite simply, we would wish to propose that at the appropriate time, the Bill be referred to a Joint Select Committee of Parliament where more detailed consideration could be given to its provisions. This approach would also be in keeping with the intense nature of the deliberations which also went into the formulation of the Bill.

Thank you.

2.00 p.m.

Bill to revise and amend the law relating to companies and to provide for related and consequential matters *[The Attorney General];* read the first time.

ORDER OF BUSINESS

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Madam Speaker, I beg to move that the House now consider the Private Member's Motion at page 11, item 10, before considering "Public Business".

Leave granted.

HINDU SEVA SANGH (INC'N) BILL

Select Committee Report

Adoption

Mr. Rupert Griffith *(Arima):* Madam Speaker, I beg to move that this House adopt the report of the Special Select Committee of the House of

Representatives appointed to consider and report on a private Bill to amend the Hindu Seva Sangh of Trinidad and Tobago (Inc'n) Act of 1988.

Question proposed.

Question put and agreed to.

Report adopted

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

Bill accordingly read the third time and passed.

ORDER OF BUSINESS

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Madam Speaker, I now beg to move that the House consider Bill No. 1 on the Order Paper, before "Motions", under Government Business.

Leave granted.

FINANCIAL INSTITUTIONS BILL

Order for second reading read.

The Minister of Finance (Hon. Wendell Mottley): Madam Speaker, I beg to move,

> That a Bill to provide for the regulation of banks and other financial institutions which engage in the business of banking and business of a financial nature, for matters incidental and related thereto, for the repeal of the Banking Act (Chap. 79:01) and the Financial Institutions (Non-Banking) Act 1979 (Chap. 83:01) and the re-enactment of certain provisions of those Acts in consolidated form, be now read a second time.

This Bill, as stated in the Explanatory Note, seeks to repeal the Banking Act Chap: 79:01 and the Financial Institutions (Non-Banking) Act, 1979, and to replace them by a single Act, the Financial Institutions Act, which is now the Bill now before you, which will provide more comprehensive provisions relating to the regulation of financial institutions engaged in the business of banking or quasi-banking.

I wish to emphasize at this stage that members of our financial community have shown a high level of responsibility and they contribute significantly to the development of the country. However, the laws must try to cater for any

eventuality, particularly in respect of the few people who may wish to abuse the system.

In our published *Medium-Term Policy framework—From Stabilization to Growth*, the Government stated that over the medium term greater attention will be paid to financial sector reform, since the rapid expansion of the financial intermediaries had outgrown the existing regulatory framework, and the deepening of capital markets had been hampered by limited information, poor disclosure, lack of transparency and deficiencies in the regulatory framework.

Before going into the proposed changes to the existing laws in detail, it is necessary to give this House some background as to the type of banking legislation that existed hitherto and to the progress that we have been making in the financial sector in Trinidad and Tobago.

When the Central Bank Act, Chap. 79:02 and the Banking Act, Chap. 79:01 were promulgated way back in 1964, the financial system then was very, very different from what it is in Trinidad and Tobago today. The role and functions given to the Central Bank under the Central Bank Act and the Banking Act reflected the nature of the financial system at that time. Then, it was a traditional system of banking, quite simple in relation to today's world, and especially it was a time during which moral suasion from the Central Bank and the financial authorities was the way of doing business. Banking was conducted in a gentlemanly tradition and the Central Bank's discretionary authority was accepted without question.

The major thrust of the Central Bank, after it was established, was to promote the development and diversification of the financial system, to facilitate increased local economic development and to wean the economic and financial assistance from its extreme dependence on the metropolitan countries, and especially the Mother Country.

As a result of the stated policy of taking over the commanding heights of the economy in the 1970s, the Government encouraged the localization of the larger banks so as to redirect the financial system towards the promotion of economic growth and development, by reducing dependence on foreign capital and expertise in the banking sector. That decade saw the establishment of several near-banks, referred to as non-bank financial institutions or NFIs.

The growth of the NFIs came about as a direct consequence of a substantial increase in liquidity in the country, that time, associated with the oil boom. By mid-1970s, eight commercial banks were operating, along with several financial

companies, trust companies, mortgage companies, in additional to specialized development banks, savings banks, credit unions and insurance companies, which were all regulated by their own legislation.

By the late 1970s, the NFIs had become a significant factor in the economy as their total assets increased from approximately $106 million in 1973 to $2.1 billion in 1981, the last year during which those NFIs had substantial growth.

Because of the significant growth in those institutions, the Government decided to regulate the NFIs in 1979 by the passage of the Financial Institutions (Non-banking) Act, the provisions of which were almost the same as those in the Banking Act, the major distinctions were that the NFIs were not allowed to take deposits and to lend for periods less than one year.

2.10 p.m.

The licensing of these institutions coincided shortly thereafter with the downturn in the economy, caused mainly by the dramatic decline from 1983 onwards in world market prices for petroleum and the decline in production in this country. The sharp contraction of the economy triggered a shaking out of the weak NFIs.

The shortcomings of the existing laws covering both banks and NFIs became manifestly clear, especially with the changing and competitive approach to banking and a creative and less cautious approach to lending which was displayed by several of these institutions. Foremost among the shortcomings is the lack of effective intermediate enforcement powers attached to the Central Bank and that is a point I will come back to in the course of outlining some of the details of the Bill now before the House.

In 1986, an amendment to the Central Bank Act was passed, amending the existing law and establishing a deposit insurance fund for the benefit of depositors of banks and NFIs. Membership in the fund is compulsory for banks and NFIs. Maximum insurance coverage is $50,000.

Since the establishment of the corporation, seven NFIs were closed and payments totalling $240 million in respect of 14, 478 depositors were made. The amendments also gave the Central Bank emergency powers to restructure and deal with failing institutions.

The Central Bank has exercised this power in respect of two banks, the Trinidad Co-operative Bank and the Workers' Bank. The shocks to our banking system caused by the collapse of these institutions have been due mainly to the

reversal of economic fortunes. During the period 1982 to 1991 the economy contracted sharply as it adjusted to the reduced oil production and prices.

Petroleum export earnings fell dramatically and so too did the country's real gross domestic product. Contraction in the economy resulted in the closure of many businesses, particularly in the construction-related field where many of the NFIs had loans outstanding.

During the 1980s the Government initiated a number of reform measures to address imbalances in the economy, for example, the introduction of a tax reform programme, reduction of the fiscal deficit through tighter control of public expenditures, structuring, divestment and liquidation of a number of state enterprises and the rescheduling of a portion of the public sector external debt.

As you will remember, Madam Speaker, Government entered into a structural adjustment programme, with the support of two standby arrangements with the IMF in 1989 and 1990 and a structural adjustment loan from the world Bank in 1990.

The weakening of the country's balance-of-payments position in 1991 constrained the growth potential of the economy. The continued deterioration of the country's external reserve position associated with speculative activity against the exchange rate in the first quarter of 1992 and the large external debt payments which the country has had to meet, especially in 1992 and continuing in 1993, have caused a corresponding toughening in monetary stance and tightening of liquidity in the financial system and an increase in real interest rates.

The long period of economic stagnation has taken a severe toll on the country and a major concern of the Government is to introduce measures to redress the situation and reverse this period of stagnation.

The Government has already taken certain initiatives which, as we had indicated in our medium-term plan, would expand the productive base; virtually reshape and redirect Trinidad and Tobago's productive economy; increase international competitiveness of our industries and agriculture and impart greater resilience to the economy, thereby increasing its ability to respond more readily to changes in the international environment.

We are committed to a policy which will enhance our domestic sector through the facilitation of investment and private sector activity. To this end we must provide the necessary infrastructure that, together with the liberalization of our economy, will provide a secure framework from which we can take advantage of the changes in the global economy.

Madam Speaker, as we are all aware, the international environment is becoming increasingly competitive and we have no choice but to respond with equally competitive responses from our productive sector.

The rapid pace of technology and the globalization of commerce have brought about profound changes in the world which have dramatically affected international trade, banking and finance. The financial services industry and financial markets have undergone widespread changes during the last two decades; changes in telecommunication and technology have generated rapid and accelerated linkages in products and markets, as well as the integration of firms that provided these products.

As a result of the internationalization of finance, a high degree of intradependence in all these markets has now become self-evident. Events far away can affect an indigenous financial institution, as we learnt to our regret with the closure of the BCCI in London and the metropolitan countries having an immediate effect on the institution locally.

Three major things have happened in the last decade and a half in international finance that are making banking today a much riskier business than it was in the steady gentlemanly days when the Central Bank was first introduced in Trinidad and Tobago. These are new developments in technology, absolutely volatile markets and the movement of millions and billions of dollars of international hot money daily and deregulation in response to increasing competition among banks as well as non-banks.

The tremendous developments in technology have facilitated the achievements of global control by transnational institutions in a very short space of time. These corporations seek on a worldwide basis what is most advantageous to them—cheap sources of funds, labour, material and services. Competition from such corporations has resulted in the liberalization of many economies and has created new opportunities for many countries which can act in time to provide the services required by these corporations.

Many countries are restructuring their financial systems to make them more efficient and competitive. Some have dismantled the barriers in banking, securities and insurance permitting full integration of securities and financial services. One result of that change is that customers begin to assess carefully the available alternatives of financial services on the basis of quality, service and cost.

It is essential, if Trinidad and Tobago is to become competitive, that we have the necessary infrastructure in place. This legislation is but one part of a package

of legislation which we intend to bring to introduce and facilitate these developments.

It is obvious to everyone that policy making can no longer be carried out in a solely national context. The international linkages and the intradependencies of markets must be factored into policy decisions.

The major policy objective which is receiving the most attention in almost all countries in the modernizing of financial systems is to provide a framework for the functioning of safe and sound financial institutions.

Madam Speaker, if I could just give you some international perspective on that. It is important that we put in some perspective what has happened in Trinidad and Tobago—the failure of a number of NFIs and the Central Bank having to intervene in the case of two banks. We need to put it in perspective. Right across the world, in response to the kind of forces that have been described and especially when those forces have coincided for whatever reason with downturns in the economies in those countries, there have been quite severe fallouts.

If we just look at Africa—I have here a list of seven countries in which there were major problems. Look at Ghana, in 1989, the government recapitalized 10 state-owned and controlled commercial banks which suffered large foreign exchange losses on non-performing loans.

In Kenya, in 1989, eight institutions were merged into a turnaround bank.

If we look at Asia, Bangladesh, in 1987, four banks accounting for 70 per cent of total credit had estimated 20 per cent non-performing loans.

In Hong Kong, between 1983 and 1986, the Commissioner of Banking had to take over or liquidate seven banks.

In the Philippines, between 1980 and 1987, the Central Bank closed 173 banks.

We come to Latin America. In Argentina, between 1980 and 1989, the Central Bank intervened in 93 institutions, of which only seven were rehabilitated or sold.

We look at the industrialized countries. In Australia, in 1989 to 1990, two large state banks received capital injections.

In Canada, two small provincial banks failed in 1985.

In the United Kingdom, the Bank of England acquired Johnson Mathey, a key player in the gold market, re-capitalized it and sold it subsequently.

BCCI—one of the largest bank frauds in history—was closed in 1991.

Madam Speaker, in the United States, between 1981 and 1991, more than 1,400 savings and loans and 1,300 banks failed.

The thrift crisis has cost the United States between $315 billion and $500 billion. So that we need to understand and put in some perspective the Trinidad and Tobago experience and at the same time understand that we have benefited greatly from the experiences of the regulatory authorities in all of these countries around the world, and that experience is now focussed in this legislation.

Madam Speaker, the United States Congress has been in the forefront of introducing comprehensive banking legislation spurred on by the level of bank failures that I have just referred to in the United States.

The United Kingdom has now strengthened its regulatory powers through the Banking Act, 1987 and many of the provisions which we seek to introduce in this legislation have, in fact, been patterned on the United Kingdom's recent legislation.

Not only in the United Kingdom have we seen an attempt to strengthen regulatory powers subsequent to the difficult period of the 1980s but throughout the world we have seen the introduction of financial legislation similar to that which we are introducing now.

For example, in Canada, in 1992 new legislation was brought in under the Federal Financial Institutions Act. This legislation also introduced new prudential safeguards and introduced several restrictions on the dealings of financial institutions. Of particular interest is the fact that restrictions have been placed on bank ownership and the number of shares that any one person or group of associated persons may own and certain transactions between a financial institution and its related parties are banned.

In 1977, financial reform in Argentina. Similarly, in 1985 and 1987, the same process of financial reform in Malaysia.

In Chile, the Philippines, Spain, Jamaica and Japan, all of them have had financial reform similar to what is now before this House.

At present, Madam Speaker, somewhat behind us, Barbados and the Eastern Caribbean are currently formulating legislation to go before their parliaments.

This is in response to the liberalization which is taking place in many countries and with the speed to change in financial services and well publicized problems that financial institutions have experienced as they try to adapt to change.

In the absence of adequate financial regulations and supervision, liberalization can lead to increases in the number of failures of financial institutions as a result of increased competition, greater operating risks to institutions and newer and more uncertain areas of activity which may pose even higher risks for financial institutions.

It is obvious that our laws require revision to deal with the changing environment and the worldwide trends in banking and finance. Our laws and financial systems are designed to handle, at present, a simple system in a simple world. What we are now faced with is not just a more complex system, but a volatile turbulent world where dealings in money and finance become absolutely enormous in terms of volume and far more hazardous and, always, new systems and instruments; change is the order of the day.

Our financial institutions, if they are to survive, have to learn to manage risk, especially. We now have to predict what the future portends, what are the many things that can go wrong, how much capital would be needed as a buffer and how can the risk be measured. The development of financial derivatives has been seen as a more recent answer to better risk management. Derivatives would include currency swaps, interest rates swaps, currency and interest rate options, rate agreement, *et cetera*.

Over the last few years the Central Bank here has trained its bank supervisors extensively so that they are prepared to cope with the changes in our financial system. The Inspector of Banks and his department have been especially well serviced by association with the federal reserve system in the United States and extensive training and exposure through that medium. Our inspectors and Inspector of Banks will now have to grapple with the financial wizardry behind derivatives to assess the risks involved.

Capital adequacy standards set this year may no longer be relevant in even one or two years because of the rapid rate of change and the introduction of new instruments. We now have to look at ways to encourage financial discipline of financial institutions operating in a free market system. Disclosure rules become of even greater importance and so too will sharing of information among regulators of home and host authorities where financial institutions have branches overseas.

It is, therefore, necessary for us to look ahead and prepare our institutions for the world of tomorrow. As we all know, laws usually tend to lag behind developments and, therefore, we need to bring legislation to this Parliament that is flexible and understands that.

What the government is seeking to do is to respond and adapt to the realities of a global environment. We have already taken steps to remove all exchange controls and I am pleased to report that the system, even though it is still in its early days, is working well. We are committed to reducing the common external tariff on a phased basis. We have commenced our efforts to enhance revenue collection by the Board of Inland Revenue and to re-organize and restructure the Customs and Excise administration and to rationalize and re-organize the state enterprise sector. These policies are moving apace.

As promised, also, we are paying greater attention to financial sector reform. We have, today, introduced to this Parliament the new Companies Bill. Coming shortly behind are amendments to the Insurance Act and the Securities Industries Act; also, amendments to the Central Bank Act and new legislation for venture capital companies as well as for customs. When these laws are in place, we are confident that we shall have a financial sector which is more competitive, better capitalized and properly regulated. The Central Bank has been working on proposals for this legislation now before you for the past three years and has done comprehensive research and comparison with other countries' banking legislation, as I have mentioned.

The governing principles behind the new legislation are as follows:

(1) to provide an effective framework for the supervision of financial institutions; banks and NFIs will be governed by the same rules although the distinction between the two types of institutions will be retained;

(2) to allow banks of participate in wider spheres of financial activities;

(3) a tighter admission policy for financial institutions;

(4) establishment of minimum accounting standards aimed at reflecting accurately, timely and properly the true condition of a financial institution.

(5) stipulated criteria for analyzing the performance of loans, classification of assets, accuring interest on non-performing loans, treatment of foreign exchange losses, payments of dividends, loan provisioning—to name a few—and, of course, disclosure requirements;

(6) minimum capital and liquidity requirements, regulation of controlling interests, regulation against unsafe practices; and,

(7) the sharing of information where necessary, between the regulator and the auditors to the particular private institutions.

Main proposals are consistent with provisions which many countries are putting in place in restructuring and modernizing their financial systems. I now come to the main provisions of the legislation before you.

Supervisory functions: Supervisory functions will be removed from the purview of the Minister of Finance. The powers of supervision of financial institutions will be vested squarely in the Central Bank with an obligation on the part of the Governor to keep the Minister informed of developments in the system and the conditions of financial institutions. The Inspector of Banks will continue to be responsible for examinations of financial institutions and all applications for licences. His assistants will be appointed by the Central Bank.

Another major proposal, review of developments in the financial system: The Central Bank of Trinidad and Tobago will be charged with the ongoing review of banking legislation and the developments in the financial system. Madam Speaker, things are changing rapidly. We have to keep this constantly under review.

Definition and schedules: The definition section of the Bill is fairly comprehensive and has introduced new terms and definitions. For example, "affiliate", "borrower group", "connected" or "related parties", *et cetera*. "Business of banking" and "business of a financial nature" have basically remained unchanged.

However, the legislation provides that banks will be able to carry on the classes of business that NFIs will be licensed to carry on. NFIs, on the other hand, will be restricted to the classes of business for which they have been specifically licensed. They will be able to carry on other classes of business and even banking business if they eventually satisfy the minimum capital requirements and other criteria. In other words, it is contemplated that NFIs could graduate.

Grant and revocation of licences: Licences to operate as financial institutions must be made to the Central Bank of Trinidad and Tobago which will have the authority to grant or refuse such applications. This function is now exercised by the Minister of Finance.

It is properly the function of the Central Bank, since it is a highly technical matter, and especially of the Inspector of Banks, to discharge this function, since its siting in the Ministry of Finance could lead to delays at crucial stages in the regulation of institutions. The requirement for annual licensing of NFIs is no longer required. They remain licensed until their licences are revoked.

In addition to the present requirements for the grant of a licence, the applicant will now have to satisfy the Central Bank that it has a minimum paid-up capital of at least $15 million, that its proposed directors, controllers and managers are fit and proper persons in accordance with specified criteria. In coming to a decision whether or not to grant or refuse an application, the Central Bank has to take into account several matters which are set out in the Second Schedule.

Annual licence fees have been increased to $50,000 for banks and $20,000 for NFIs and a charge of $10,000 for each branch. Payment of these fees will be made to the Central Bank so as to assist them in defraying the costs of inspection, regulation, *et cetera*. As I said, the Central Bank, not the Minister of Finance, will have the power to revoke licences. The grounds for revocation have been widened. In certain circumstances, for example, upon winding up of an institution or where a compromise is made with creditors, revocation will be mandatory.

Directors and management: The present laws deal to some extent with this subject. The new legislation widens the restrictions governing directors and persons debarred from management, and the Central Bank would have the right to notify persons who are disqualified on the grounds of not being fit and proper persons in accordance with the criteria specified in the Second Schedule to the Bill.

Prohibitions: The prohibitions under the existing laws will be retained, subject to some amendments and additions.

I now come to some more controversial aspects of the Bill. In particular, the grant of unsecured credit facilities to any one person has been restricted to five per cent instead of 10 per cent of the paid-up capital and statutory reserve fund and to minimize exposure to related parties. The restriction now extends to a borrower group, which is a comprehensively defined area to cater for exposure to persons who control several enterprises and who are financially dependent on each other.

Provision has been made to deal with loans in excess of the new statutory limit by notification to the Central Bank within four months of the coming into force of the Bill and financial institutions will be required by the Central Bank to

take measures to reduce the excess credit over the statutory limit or to provide additional capital.

Again, in a similar vein, Madam Speaker, unsecured lending. Several of the domestic financial institutions are concerned that the existing legislation allowing unsecured lending up to 10 per cent of the paid-up capital on reserve fund should be retained. The new proposal was linked to section 51(g) of Act No. 52 which limits unsecured lending to related companies, directors, to five per cent of paid-up capital and reserve fund. This is what we were talking about earlier.

Further, the restriction in lending to 10 per cent when the Banking Act was first passed in 1965, when the required minimum paid-up capital of only $20,000 was then reasonable. However, the new legislation with a minimum paid-up capital of $15 million is much in excess of that.

I think I ought to go into some practical details about this, because it is an area of concern to the financial houses. But this is where we have run into the most trouble in the last 10 years, especially with the NFIs, because many of the NFIs are related to borrower groups or to parent companies. If you remember, the experiences of Trade Confirmers and so forth related back to other more powerful groups that had very large sway and loans in between borrower groups. I think you will understand the nature of the problems that we are now trying to address and to precluded that from ever happening again, because the price that we paid has been a tremendous one.

2.40 p.m.

If I could just get some data here for you, Madam Speaker. In one company, one of these NFIs, loans to related parties, one institution, was $22,300,379 making up 75 per cent of the loan portfolio—just one; another group, massive loans, by far the majority of the loans portfolio to a related construction company that was owned by the parent group.

As a result of these incestuous relationships between these institutions, they kept showing assets on the books but when you actually went into the books—because of this relationship that could not really be verified—you had in one instance, SWAIT with a book value at the time of closure of $12 million, but on realization $247,000; CFC with a book value at closure of $90.8 million but on realization, $4.4 million; Summit, book value at closure $7 million, on realization to December 31, 1990, $334,000; Trade Confirmers, book value at closure $48.7 million, realization $11 million; MATT, book value at closure $15 million, realization $1.3 million, a total of $174.9 million in book value at closure, just

between these five institutions but realization out of that $174.9 million was $17.6 million and, therefore, Madam Speaker, the need for insurance payouts—

Mr. Sudama: Could the Minister indicate during what periods those activities took place?

Hon. W. Mottley: It is not listed here, Madam Speaker, but I can get the hon. Member that information. So that we had massive payouts from the Deposit Insurance Fund during that period. We need to understand the sensitivity on the part of the financial institutions about this kind of regulation that we are introducing here now, and we also need to understand the context in which this regulation is being introduced.

We are aware, that immediate implementation of this particular provision will result in most of the banks and NFIs being in violation of this Bill that we are now proposing. As such, it is recommended that a provision be made for a transition period during which time they can be brought into conformity.

Secured Lending: This restricts the granting of secured credit facilities to any one person or borrower group exceeding 25 per cent of an institution's capital base. Prudential norms once more must be aimed at ensuring that an institution maintains an adequate capital base to fund its assets portfolio. Whilst banks act as one of the main financial intermediary channels in an economy and thereby facilitate economic growth, such growth cannot be permitted to continue without putting in place adequate prudential safeguards.

Recent history has demonstrated the all too deleterious effect of rapid growth with a lack of adequate prudential controls. The proposed limit on the granting of secured facilities does not appear onerous given the current capital bases of the banks which, with the case of the four largest banks, are over the hundred million dollar level.

Clause 22(6). This clause is viewed by the banks again with some concern since it is perceived as pre-empting the right of banks to manage their resources. It should be noted that these provisions were included in the present legislation as a concession to allow the banks to maintain facilities which do not comply with clause 22(2) and allow the Central Bank to monitor these facilities.

A financial institution will be restricted in its exposure to any one person or borrower group exceeding 25 per cent of its capital base, which is defined to include the total of paid-up share capital and other stipulated reserves. Exemptions to the restrictions, however, can be granted by the Central Bank if it is satisfied as to the financial soundness of the institution and the borrower.

In expanding the licences, financial institutions will be allowed to conduct insurance agency business. This provision, however, will come into force on a date to be proclaimed. I should like to add here that it is recognized that the institutions will have exposures exceeding the new statutory limits and as a result—and I stress—transitional arrangements will be agreed upon by the Central Bank and the respective financial institutions.

Reserves and Other Requirements: These are existing provisions which now appear under section 40 to 44 of the Central Bank Act. The only differences being:-

(1) that reserve requirements will be in relation to liabilities prescribed by the Central Bank as opposed to deposit liabilities;

(2) the reserve requirement may be waived for a special period of time and upon conditions where the Central Bank has provided financial support to an institution facing severe difficulties.

It is interesting to note that clause 27 gives the Central Bank authority to prescribe working balances which institutions may hold in specified currencies. This provision will now be relevant since the abolition of exchange controls.

The Inspector of Banks will be reporting to the Central Bank and not to the Minister of Finance. He will be allowed, in certain limited cases, to hold other offices—he may be allowed to become a director of an international lending institution or serve on the Deposit Insurance Corporation or similarly closely related institutions.

The Central Bank may also appoint persons to investigate any aspect of the business of a licensee and there are also disclosure provisions on the information accessed.

General Regulation of Licensees: The general powers and duties of the Central Bank with regard to regulation of licensees are set out in this part, which give the Central Bank authority to make bye-laws in respect of prudential criteria. This will enable the Central Bank to deal quickly with changing products and market conditions. This is where, Madam Speaker, we are building the flexibility that will be required in view of the uncertainties that we clearly see ahead in new products.

For example, the Central Bank will be publishing bye-laws dealing with reporting requirements with regard to large deposits. The bank here is mindful of the potential money laundering in view of the opening up of the foreign exchange

market. With regard to large exposures, institutions will have to report on individual exposures so that the Central Bank will be able to know whether they are keeping within the prudential limits.

2.50 p.m.

It is contemplated that any transactions, or related series of transactions, which have already been entered into with one person, or associated persons, and carrying a potential loss in excess of the statutory prescribed limits of available capital will have to be reported to the Central Bank. Such information will signal to the Central Bank whether it has to monitor certain loan portfolios of institutions very carefully. Reporting requirements will also be made in respect of foreign currency accounts and transactions, and the Central Bank is at present establishing a unit and guidelines for monitoring foreign currency accounts and transactions.

With respect to shareholder control, restrictions have been placed on persons acquiring more than 25 per cent of the issued share capital of a financial institution without prior approval of the Central Bank. It is well known that certain people have become very wealthy in this country from sources that are not desirable, and it would be very undesirable, even more undesirable, if such wealth were used to control major banking institutions.

Accounts, auditors and information: Requirements for publication of accounts have been retained and a new provision has been included to have institutions submit to the Central Bank consolidated accounts and accounts of affiliates. Where those accounts indicate the likelihood of insolvency of an affiliate, the financial institution would be required to take measures to prevent the adverse conditions of the affiliate affecting the licensee. The Central Bank will now be empowered to commission special reports from auditors, and provision has been made for auditors to report directly to the Central Bank on relevant matters pertaining to the institution, or its affiliate, which come to the attention of the auditors. This is a very significant provision. Protection has been given to the auditor where confidentiality between auditor and its client institution may be breached in the circumstances. The provision applies to the auditor of a former licensed institution. Financial institutions will be required to submit, on a quarterly basis, a list of shareholders on its register who hold five per cent, or more, of its share capital.

It is interesting to note, that in the United Kingdom where similar reporting arrangements between accountants and the Central Bank were introduced in their Banking Act, the professional bodies introduced guidelines similar to those which

the Bank of England specified in its own guidelines and, in particular, the matters which are to be communicated to the Bank of England. In that country if any accountants are not covered by satisfactory rules, and guidelines, the Treasury itself is granted a reserve power to bring forward rules and the accountant will be under a statutory duty to communicate to the Bank of England the circumstances specified. We have not included such a provision here, but if we consider it necessary as we continue to have this Bill and, ultimately, the Act under review, we will do so.

We come now to cease and desist orders, and this is very, very important. A radical improvement which this legislation will achieve is by providing intermediate enforcement powers to the Central Bank which had been severely lacking under the existing legislation. If I can explain, Madam Speaker, the weight of powers under the previous legislation was to actually come in and close down institutions. That is the extreme and ultimate power right at the end of the day; and it was largely ineffectual, in that when problems began to arise and come to the notice of the Inspector of Banks, the intermediate powers were not available to the Central Bank to go in and correct, to issue cease and desist orders to correct situations before they came to the ultimate point where it became then necessary to close down an institution, with all of the trauma and losses involved, such as our history has detailed. So we are now making this radical new departure to strengthen the cease and desist orders.

The authority will be used in certain circumstances. Let me give you some examples: Where financial institutions are in breach of prudential criteria, statutory prohibitions and restrictions; where contractual fees and other payments between financial institutions and their affiliates are exorbitant, we can come in and stop that; where a financial institution accrues interest and such interest is not likely to be collectible, but still they are showing it on their books and painting a pretty picture, we can come in and stop that. In the case of proposed excessive dividend payments, where it is likely to impact negatively on the financial institution's capital, we can come in and stop that. You would not believe, Madam Speaker, that we would have to do that—to stop companies from paying dividends.

Mr. B. Panday: I am glad you said that—"we can come in and stop that". Those words are very significant.

Hon. W. Mottley: Facilitation of transfers and undertakings: This provision, which dealt with the acquisition of a bank, will now apply to non–bank financial

institutions. The provisions have been extended to include the extension of deposit insurance coverage for a period of two years where the merger of institutions takes place and the deposit protection as a depositor will be reduced as a consequence of the merger.

Appeals: Again an important provision, Madam Speaker. A new mechanism has been put in place for appeals, by appointing the Tax Appeal Board as the forum. The role of the Appeal Board would be in the nature of a review of the decisions of the regulator and, pending appeal, the decision of the regulator will take effect. It is hoped that through this mechanism, there will be a speedy resolution of decisions of the Central Bank which are appealed. The matters which may be appealed by the financial institutions are refusal, revocation and restriction of licences; direction given by the Central Bank in the cases of revocation; cease and desist orders and disqualifications of persons from being a director, manager, etc. All of these can be appealed, and the appeal would be heard through this forum.

The legislation imposes severe penalties for breaches of the legislation and provides for new offences including that of fraud on depositors. The Act also makes it clear that even though an offence has been committed, it will not invalidate any transaction between the financial institutions and the borrower.

Before I close, Madam Speaker, I would like to state that a review of the performance of the financial institutions for the fiscal periods 1989—1992 has shown that, notwithstanding the challenges and problems which they face in a contracting economy, several institutions have continued to show profitability as a result of maintaining a substantial portion of earnings assets in their portfolios. Further, in the 1991—1992 period there has been capital growth, thereby providing capacity for expansion of deposits and subsequent asset growth. The capital improvement will also act as a buffer for any unforeseen loan losses. We anticipate that in the very near future our financial institutions will be expanding outwards in the region, within Caricom and even further afield. One of our banks already has a branch located outside these shores.

3.00 p.m.

It is important that our banks can stand up to international competition and the tighter scrutiny that other jurisdictions are putting in place for regulating financial institutions. In fact, the view of the Central Bank is that it will not allow any institution to establish a branch or subsidiary in any country where it is unable to properly monitor the affairs of the institution. Reciprocity of treatment by

supervisory authorities would become critical and host authorities would also wish to be satisfied that we have a strong, regulatory and supervisory framework in place governing branches of our own.

I would like to say a special word of thanks to the Central Bank for submitting comprehensive proposals for this amendment and to the commercial banks and the NFIs who have been working on this particular piece of legislation for all these many years. The Central Bank held one-day seminars with representatives of the commercial banks on Friday, September 11, l992, to outline to them the proposals which were submitted to the Ministry of Finance and they were asked to submit comments on the proposals.

Based on their submissions, the Ministry of Finance and the Central Bank took cognizance of their concerns. Further comments were given by the commercial banks on these earlier drafts. Not all of the suggestions were accepted, but several of them found their way, ultimately, into the legislation now before us. We believe that the legislation, therefore, has benefited from this process.

Before I end, there is one note of caution. I would be unrealistic and impractical if in putting this legislation before Parliament for its eventual approval I painted a picture that, henceforth, everything would be "honky dory". The fact is that the intention is this legislation is to introduce measures to minimize the risks of failure. It is obvious that regulators do not and cannot hold a duty of care to all depositors and persons who use the banking system. Further, no matter how effective the laws and the supervision may be, they would not necessarily prevent fraud if persons are so minded.

The collaboration of auditors, both internal and external, is of fundamental importance and so, too, is the sharing of information and the need for extensive disclosure provisions. By ensuring that proper internal controls, accurate and consistent reporting of relevant information, prudential regulations and other safeguards are in place, negligent practices and opportunities for perpetrators of fraudulent practices will be minimized.

I wish to emphasize to the Members of this House that if we wish to become an international financial centre, we, here in Trinidad and Tobago, must have a strong regulatory framework in place to win the confidence of other jurisdictions. If we do not meet these requirements, those jurisdictions would not allow their financial institutions to participate in our market, nor will they allow our financial institutions to participate in their jurisdictions. With this legislation we have

sought to put into effect a supervisory and regulatory framework that will enable our institutions to become more competitive and to promote the safety and soundness of the entire financial system, in a dynamic and changing environment. I thank you, Madam Speaker.

Question proposed.

Mr. Trevor Sudama *(Oropouche):* Madam Speaker, I listened very intently to the very long discourse of the Minister of Finance here this afternoon. I was not very clear in my mind, until he came to the very end, what was the real purpose. Why was this legislation brought in the present form and brought now? Was there a need for such legislation before now, May, l993? If there was a need for such a piece of legislation before now, why was not such legislation brought before this Parliament long ago?

It appears to me that the reason for this legislation coming at this time is to coincide with the liberalizing of the economy of Trinidad and Tobago. When you liberalize, you invite foreign financial institutions to come into your country to participate in the economy, and as he said, if you do not have—or do not appear to have—a proper regulatory framework, they are not likely to come. So that, apparently, if we were not liberalizing the economy of Trinidad and Tobago, if we were not opening up to the outside, if we were not integrating more closely into the global economy, this legislation would not have come to this Parliament.

It was merely as an aside, as a secondary matter that he spoke about the protection of depositors, when one would have thought that given the experiences between the late '70s and the early '80s in Trinidad and Tobago, especially with respect to the non-bank financial institutions, the protection of depositors would have been a cardinal objective of any caring government. I will come to that because I want to give a brief overview of what transpired between 1973 and l983. That would have been the most urgent objective of a so-called caring Government.

When you deposit money in a bank or another financial institution, you assume that the risks associated are limited. You are not talking about equity participation in a company where when you go and you participate in that way, you undertake certain risks with respect to the profitability or otherwise of that company. But when you deposit in a financial institution that springs up, the average citizen would think that it has the approval of the Government and, in fact, it is working within a framework of which the Government approves.

Therefore, merely by allowing a non-bank financial institution or a commercial bank to operate, a government makes a certain representation to the citizens of this country. When you see what has happened in the period of the '70s and the '80s, you will understand that somewhere along the line there was negligence in the implementation of the regulatory powers. While the Minister did make mention of the downturn in the economy—yes, there are some risks involved when there is a recession in the economy—the question for the Government to have addressed is: How could the effects of that have been minimized on the average depositor in Trinidad and Tobago?

3.10 p.m.

Because, by the same token the Government is saying there was a downturn in the economy, I understand it is saying there were millions and millions of dollars in capital flight from Trinidad and Tobago which must have come from this very economy and some of which must have come from those deposits in the commercial banks and non-banking institutions.

Madam Speaker, we accept that, but it is not a sufficient argument to explain the loss of billions and billions of dollars of the hard-earned savings of the ordinary average citizen of Trinidad and Tobago; certainly not.

Then, we always hear about what is happening in other countries. I am sure we do not live in a world by ourselves. We take note of what is happening elsewhere, but the curious thing about this Government is that it does not take note of good and progressive happenings elsewhere. It is only what is deleterious elsewhere that they take note of, as a reason to justify their laxity.

The Minister of Finance then made reference to the United Sates' banking system. Everybody knows that the United States' system is different from systems of Trinidad and Tobago and the United Kingdom from which we have derived our structures. We are a country of relatively few large commercial banking institutions; the United States is a country with a large number of relatively small banking institutions. If the Government is comparing, it should compare like with like, and not bring what is happening in the United States as an excuse for its dereliction of duty. *[Interruption]*. I did not want to make reference to the Member for San Fernando East, but I shall have to in due course.

Madam Speaker, as I continue with my contribution, I would make a brief historical survey of what has happened, particularly as it affected some of the non-banking financial institutions and the banks in the period from the '70s to the '80s. The question that one asks is: Could the Central Bank, with whatever

powers that may have been available to them at that time, have taken some sort of pre-emptive action? If they could not have done so, we ought to have known that they could not have done so, but one cannot know it at a meeting such as this; One would know it by bringing the Central Bank before a parliamentary committee on banking and finance.

I would come to the question of the autonomy of the Central Bank and its status and its relationship *viz-a-viz* the Ministry of Finance; this whole question of so-called independence, autonomy and accountability. I just want to start with the International Trust Limited (ITL) and ask a few questions. In fact, there is a report in the *Guardian* of March 29, 1990, from which I will quote.

There were developments in the economy and the non-bank financial institutions grew, according to the Minister, from merely $100 million in deposits in 1973 to $2.1 billion in 1981. The first question I ask is: While this growth was taking place what was the Central Bank doing? Was it aware that certain risks were being taken which would have placed the depositors at jeopardy? Was it aware of that?

The Financial Institutions (Non-Banking) Act was passed in December of 1979, and all these things were going on with the development of the non-banking financial institutions. It took the then Government a number of years to pass legislation, and then it took a further two years from 1979—1981 to put regulations in place which were deemed to bring about some measures of regulatory control over the Central Bank. The question I ask is: Why did it take so long?

The Government would answer that they were not there; but some of them were. We are talking about 1979 when the Act was passed. Almost the same provisions of the 1979 Act appear in the 1993 Bill. Therefore, if all provisions were there in 1979 and they were not implemented then, they could not prevent the collapse of certain non-bank financial institutions. So what guarantee does the Government have that in 1993 it would be any different? Or, that there will be implementing power and regulatory control?

I make reference to the prohibitions in the Financial Institutions (Non-Banking) Act, which are all the same, particularly, the prohibitions with respect to granting unsecured credit facilities to any of its officers and employees exceeding the amount of two years' emoluments of such officer or employee or five per cent of its paid-up capital or which ever is less, and granting unsecured credit facilities to any one person exceeding in the aggregate 10 per cent of its paid-up capital and

reserve funds. There were provisions in 1979, and the Government is now telling us that these non-bank financial institutions were lending 75 per cent of their deposits to one person. Well, if there were regulations, who was in charge of implementing those regulations?

Secondly, we are told that the Government had no intermediate power. Obviously, the intermediate powers of enforcement have been improved in this legislation. But there was power, as far as I can see here, not only to seek a winding up, but the Inspector of Banks had authority. Section 28 states:

> "Where the Inspector is satisfied after examination of the affairs of any financial institution or upon information received from it, that it is insolvent or unlikely to meet the demands of its depositors or that its continuation in business is likely to involve a loss to its depositors or creditors the Inspector shall report such finding to the Minister and to the Central Bank."

and then the Central Bank will consider all the relevant facts and circumstances and, with the approval of the Minister, order the financial institution to suspend business forthwith and may direct the Inspector to take charge of all books.

We are told that is the extreme. But, it also makes reference to where the Central Bank may vary its orders and instructions to a commercial bank and non-bank financial institution in order to see that that institution complies with directions which are likely to put it on a proper path.

Madam Speaker, what was the Central Bank doing in these years? In the case of ITL, what happened there is that the chairman of ITL and another director resigned. They resigned one and a half years before the Central Bank sought to take action to protect the interest of the depositors.

3.20 p.m.

There were many things that went on with the ITL fiasco. That is another issue I will be referring to time and time again, that unless we have a parliamentary committee to investigate these matters in detail—nobody knows the truth of the ITL fiasco up to today. If we had such a comprehensive investigation we would have known what happened and where the truth lies with respect to the debacle of ITL. I read from the article. It states:

> "After a year and some months of seemingly self-induced somnolence, the Central Bank suddenly suspended the business of...ITL...and asked the court to appoint a receiver to supervise the activities of the International Trust Ltd."

after the horse had bolted the stable—

> "Why did the Central Bank not invoke the provisions of...the 1979 Act immediately..."

or take action immediately—

> "after the Chairman or Director resigned and satisfy itself that all was well?"

Was it capable of doing so? We have to ask.

> "During the court hearing that resulted from the 'too-late' intervention by the Central Bank it became clear to everyone just how far wrong things had gone."

apparently with or without the knowledge of the Central Bank—

> "I mean to say, what kind of management would permit the making of huge loans without the receipt, in some cases, of any written security whatever, or in other cases with grossly inadequate security for such loans. You do not make that kind of loan with your own money far less with the life funds of thousands of mainly geriatric depositors who were one deposit away from abject poverty and in many cases a faltering heartbeat or two from death."

And these people and their fate have to be put fairly and squarely into the hands of the PNM Government of the time. Further more, this is 1981 or 1982 or 1983. The Financial Institutions (Non-Banking) Act was passed in 1979.

> "Shockingly, what also came to light during the hearing was the role that the firm of accountants or auditors played in all this.
>
> I would like to know what sanctions were invoked by anybody or any organization against this firm."

What was the Central Bank doing to protect the public's interest? Whatever is being regarded as the true objective of this Bill before us, whether it is to modernize the system, to protect depositors, to support the integrity of the banking system to make us more amenable to foreign investment and loans, whatever it is, I think there is a general impression in the public on whose behalf I speak here today, that if this Bill is too little, certainly it has come much too late to protect the interest of thousands and thousands of poor people in Trinidad and Tobago whose life savings and deposits went down the drain.

The size and the importance of the banking sector in Trinidad and Tobago—we are talking about assets to the tune of $9 billion. We are talking about direct

and indirect employment for 50,000 persons. But more important, we are talking about control over credit facilities that are the lubricant of the economy of Trinidad and Tobago. It appears to me that perhaps, not much emphasis was being placed on the significance of this sector over the years 1973 and 1979 and following 1979.

Another point I make here today is that we are introducing enhanced regulatory provisions for the commercial banking and the financial sectors generally. We are doing this in a situation where we are putting the Central Bank as the chief authority to implement that regulation and that control. And while we are doing that, today you have an indirect collusion between the Central Bank and the commercial banks with respect to the management of foreign exchange assets, the sinking dollar. If you want to control somebody, you do not go and collude with them. This is what the Central Bank is engaged in at this time.

Madam Speaker, have you ever heard where something is subject to market forces but is not changing at all? The rate is never changing. Market forces change from day to day, from my understanding of economics, but not the rate of exchange of the Trinidad and Tobago dollar. Having been floated, it sank and it remains sunken up to this point, a devaluation which has caused havoc with the lives of thousands and thousands of our citizens. It has remained there and the only reason it can do so is that there is collusion between the Central Bank and the commercial banks.

You have that, and you are now telling us you are bringing legislation to implement stringent controls over these same commercial banks with whom you have a "finger in ring" relationship. The contradiction to me, seems rather obvious.

Let me talk about the Central Bank and try to locate it in our system of financial control. According to the Central Bank Act, the Central Bank of this country operates with a certain measure of autonomy and independence. Where under the Central Bank Act and the Banking Act, for example, the Minister had to give final approval for the licence of banks and their branches, from what I understand, it is now the Central Bank that is going to exercise that power. We have no problem with that. But, I had a certain difficulty in the relationship with the Central Bank when I was there in my brief tenure.

I want to put on record the difficulty that one encounters in trying to implement fiscal, financial policies where the Act provided that the Central Bank would operate on the general policy directives of the Minister of Finance. When I was a Minister in the Ministry of Finance with some responsibility for Central

Bank and other financial institutions, I was inundated with complaints about the activities of the Central Bank in one area—that is, with respect to the implementation of exchange control. On a daily basis, I was inundated with letters and telephone calls that the manner in which the allocations were made seemed quite arbitrary and seemed to savour corrupt practices.

Madam Speaker, there was no way of knowing whether what was being complained of was really true or not. I wrote the Central Bank and was told—as a Minister in the Ministry of Finance you will appreciate that in the discharge of its duties the Central Bank and its officers are necessarily constrained by the provisions in the relevant statues. There are severe restrictions and significant penalties for the unauthorized disclosure of information relating to the business of the Bank, not even to the Ministry of Finance. In this regard I once again draw your attention to the Exchange Control.

Mr. Manning rose.

Mr. T. Sudama: Are you on a point of order? I do not want to be unduly disturbed.

Mr. Manning: No, I just want to be sure you said not even to the Ministry of Finance. What does the law call for, the Ministry of Finance or the Minister of Finance? And in what capacity did you write the Bank?

Mr. T. Sudama: I wrote in the capacity of Minister in the Ministry of Finance. *[Interruption]*

If you are willing to do that, I will concentrate a little more on you and your role this afternoon.

> "In this regard, I once again draw your attention to the Exchange Control Act. Chap 79:50, section 54."

I looked all over, but I could not find a section 54 in the Exchange Control Act Chap 79:50 and section 56 of the Central Bank Act Chap 79:02 deal with non-disclosure.

3.30 p.m.

You understand what is going on here. The question of autonomy is taken to its very limits. I tell this House that with respect to exchange control matters at that time, and I suppose it is now, the Central Bank was merely an agent of the Ministry of Finance. The relationship there was one of principal and agent. Here was the agent telling me, that he could not make that disclosure to me, that it was confidential information.

I replied to the Governor of the Central Bank. I want to put this letter on record. One would get a sensitivity now as to the difficulties we were having with the Central Bank during that fateful year of 1987. This is the content of the letter.

"This is in response to your letter of August 28, 1987 in which you seem to give the impression that the actions of the Central Bank and the Exchange Control Division cannot be queried in view of the secrecy provisions contained in the Exchange Control Act and the Central Bank Act. This raises fundamental questions about the role and function of the Central Bank and its relation with the Ministry of Finance and the economy.

I do not think that the relevant legislation intended that the Central Bank (and Indeed, the Exchange Control Division) should be a law unto itself subject neither to supervision nor monitoring of its activities. I was not able to locate section 54 of the Exchange Control Act in the laws of Trinidad and Tobago. Section 56 of the Central Bank Act does however begin with the *proviso*. 'Except insofar as may be necessary for the due performance of its objects...' In my view, due performance incorporates the notion of a just, reasonable and rationale exercise of the Central Bank's discretion.

In addition I wish to refer you to subsections (1) and (2) Section 3 of the Exchange Control Act which state as follows:

(1) The Minister may by order designate the Central Bank established under the Central Bank Act or an officer in his ministry to be in charge of exchange control.

(2) Subject to subsection (1) the Central Bank shall be charged with the general administration of this Act and in the exercise of its powers and the performance of its duties the Bank shall conform with any general or special direction given to it by the Minister.

I wish to point out that, notwithstanding the degree of independence accorded to the Central Bank by statute and not wishing to intrude in the day-to-day operations of the institution or any division of it, the Central Bank does not operate in a vacuum and ultimate responsibility for the exercise of its powers and the performance of its duties lie with the Minister of Finance and the Economy.

The Minister (and his Ministry), as part of the Government of Trinidad and Tobago is responsible to the people of the country and must be sensitive and responsive to the views, sentiments and perceptions of the public. This

responsibility includes the redressing, if need be, of administrative fault, injustice, bias or discrimination.

I must emphasize that I am of the view that the Exchange Control Division of the Central Bank is not a law unto itself and should not be allowed to so operate."

Mr. Manning: Would the hon. Member give way? Just a question, please. I wonder whether the hon. Member for Oropouche would be kind enough to tell us whether his instrument of appointment had as one of his responsibilities, the delegation of responsibility for the Central Bank. Just for the record.

Mr. T. Sudama: Which instrument of appointment are you talking about, from the President or the Minister of Finance?

My appointment from the Minister of Finance said that I was responsible for financial institutions. It included the Central Bank and commercial banks. The one from the President was a ministerial appointment.

Mr. Manning: So, your difficulty therefore, was not with the Bank?

Mr. T. Sudama: Madam Speaker, I am trying to make a point.

The point I am coming to and the difficulty—He points to autonomy. I want to make this point. If the Central Bank is to be autonomous and independent, and we want to respect that autonomy and independence, it must be accountable for its actions to some body in the system. If it is not the Minister of Finance, then it has to be a parliamentary committee. It must account for its inactions, omission to act, dereliction of duty and its involvement in corruption, if such be the case. It has to be investigated. That is what we are saying.

This is the problem that we face. Let us assume that we have this new Bill having been passed. [*Interruption*] Shut up!

Madam Speaker: You are used to the cut and thrust of debate for too long.

Mr. T. Sudama: I am trying to make a point. They would not listen.

Madam Speaker: I am surprised that the Member is so—

Mr. T. Sudama: It is not my duty. I only speak on behalf of the people. The people of Trinidad and Tobago would shut up the Member for San Fernando East and the Member for Diego Martin Central in due course.

Madam Speaker: I have never seen the Member so ruffled.

Mr. T. Sudama: We come to the issue of autonomy.

What we are saying is that we have a Bill before us which gives the Central Bank very wide and important powers. Let us assume that the Central Bank falls down on its responsibility. What are you going to say as a Government? That you do not know; it is the system, as the Member for Arouca is so fond of saying? We are not responsible; the Central Bank is independent; it is autonomous. It is the system that is at fault not the Member for St. Ann's East, or particularly the Member for San Fernando East. He is there for 22 years now; part of all this that went on in the ’70s and ’80s. Who is responsible?

We are saying that if this Bill is deficient to the extent that it makes the Central Bank accountable to no one, and if you want to give it that autonomy, then it must be accountable to a committee of Parliament or to Parliament itself. It is not the question of submission merely of a report, or the Minister coming here to make a statement which we cannot question in Parliament. It has to be a detailed investigation and interrogation of the activities with respect to implementing laws which we have passed in this House.

That is one issue that I want to make very clear in this House as to what I believe is the need at the moment with respect to the functioning of the Central Bank of Trinidad and Tobago.

3.40 p.m.

They talk to everybody, "Farrell: new legislation will tighten up banking." He was speaking to the Caribbean Actuarial Association's annual general meeting. "Central Bank wants wider powers". Dr. Farrell again, speaking on the 25th Anniversary of the Central Bank in 1989.

The Governor of the Central Bank speaks to some technical committee of Stock Exchange regulators, giving details of provisions of the legislation he has proposed. Nobody is speaking to the Parliament of Trinidad and Tobago. They have the time to speak to everybody else; to every Tom, Dick and Harry—foreign or local—but we in the Parliament of Trinidad and Tobago have no inkling of what the thinking of the Central Bank is with respect to enhanced regulatory powers to control the financial system. The system does not permit it, and the only way we can have that is to have a standing committee of this House and get the Central Bank before that committee to explain its act of permission or otherwise, and its performance. How else are we going to assess the performance of the Central Bank?

Let us look at what has happened with respect to the Workers' Bank. The Minister did mention that the Central Bank needed to intervene in two cases of commercial banks: One was the Trinidad Co-operative Bank and the other the Workers' Bank. Certain questions have come up to which we cannot get answers because of the system. Even if a report is laid, you cannot question a report. We need to have people before us to interrogate to get at the truth. At this point all that we have had with the International Trust Limited (ITL) fiasco and the problems with the other non-bank financial institutions are merely reports based on so-called rumour appearing in the newspapers. There is nothing tangible, nothing concrete in terms of a proper investigation.

We have been told that with respect to the Workers' Bank, many things were going on. For example, one question was asked: Did the Central Bank's intervention into the affairs of the Workers' Bank come three years too late? We are talking about 1986 when the legislation was in place and 1989 when some intervention took place.

I quote from the *Mirror* of Friday, May 26, 1989:

> "In a Press Conference last Saturday at the Central Bank, William Demas, Governor of the Central Bank, admitted that 'things started looking bad' for the Workers Bank since 1986".

What was the Central Bank doing between 1986 and 1989, if things had started looking bad then? Did it advise the Workers' Bank to take a certain course of action?

> "But when asked why the Central Bank did not intervene then, after the findings of the Inspector of Banks, Henry Jeffers, his only comments were:
>
> 'Hope springs eternal. So we didn't move in then. ' "

At Mr. Demas' age, I think that is a very good aspiration to have. So they put the matter in the hands of hope. I do not know if the Inspector of Banks so advised. We thought that things would have turned around said he.

> "Demas further revealed that the Workers' Bank had loaned a whopping $350 million against a share capital of $38 million."

Is that prudent banking practice? This is a bank in which the Government had a significant shareholding, so it is not as if they did not know. They ought to have known what was going on with the loan portfolio of the Workers' Bank, except that they were party to the collusions and mismanagement that went on at the

Workers' Bank, clearly pointing to the Central Bank's claim that equity of the bank had been eroded.

Here the Government is instituting regulatory powers and they have the chance to participate in a bank and they permit the equity of the Bank to be eroded and all kinds of malpractices to be indulged in. After all this, the Central Bank went into a restructuring exercise and injected some $27 million into the Workers' Bank for it to be reopened.

In the meantime, many things happened. People who knew that the Central Bank was going to take action to close down Workers' Bank, at least temporarily, began withdrawing their deposits, and it is a question of acting on insider knowledge. Merchant Bank, which is a subsidiary of the National Commercial Bank, withdrew some $37 million it had on deposit, one week before the Central Bank ordered a suspension of business of the ailing financial institution. The Unit Trust Corporation and the Trinidad and Tobago Mortgage Finance Company also withdrew before the bank was closed. Suspicions are that there was a leak to privileged people from those concerned with the suspension—the Central Bank, the Workers' Bank, Workers' Bank auditors and the Ministry of Finance, hence the $100 million run. This is all the action of a bank in which the Government had some investment. The Minister of Finance admitted that they had a bad loan portfolio.

Then there was a curious request by someone, who was a financial expert, advising the bank to get a letter from the Central Bank stating that it was prepared to give liquidity support to the bank, which the Bank refused to do. When it refused to do this, there was an accompanying note attached to the financial report of the Workers' Bank stating that if the Central Bank withdrew its liquidity support to Workers' Bank, it would collapse. This is all part of the monitoring regulatory system that we are here today trying to enhance and approve. All this time the Inspector of Banks had been monitoring the operations of the bank and never indicated any unusual problems. How are we to know under the new Bill when it becomes an Act in 1993, that things will be any different? How are we to be assured of that fact?

We come to this debate with a great degree of scepticism as to the enhanced regulatory powers, improvement and control over the operations of the financial institutions.

I want to deal a little with the question of monopoly and restricted competition. I believe, from what the Minister of Finance is saying, that the

controls that are being put in place would ensure that there are no monopolies being developed in the financial sector; that you have a restriction on the shareholding of any one person in a commercial bank or a non-bank financial institution and, therefore, as a result of that, you will prevent monopolies or oligopolies being created and, therefore, enhance competition in the system.

For a start, the very, very significant provision—capital adequacies and so on—which has to be met, will in itself reduce competition in the system because not very many organizations have the capacity to raise that kind of funding to reach that level and do all the other things that are required in order to put in an application for commercial bank and non-bank financial institution status. That in itself is restricting.

3.50 p.m.

Madam Speaker: The speaking time of the hon. Member has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. *[Mr. R. Palackdharrysingh]*

Question put and agreed to.

Mr. T. Sudama: If we put the limit at 25 per cent, and anything in excess of that has to be liquidated, we are saying that no one person should have more than 25 per cent of the shareholding in a commercial bank or another financial institution. The question we have to ask ourselves is whether 25 per cent, in effect, can give a measure of control over that financial institution and whether that limit should not be even lower.

If you want to deal with that question of disbursal and distribution of share ownership, that limit of 25 per cent seems to me, in the circumstances, to be rather high particularly if the distribution of the other 75 per cent is such that 25 per cent can give you a very significant say in the ownership, control and operation of these financial institution.

When we make laws, we must be mindful of the context in which we make them and that is the whole issue of the interlocking directorates, which the Member for Couva North, I am sure, will get into in greater detail. My own research a few years ago showed that there is a significant degree of interlocking directorates among the conglomerates, the banks, non-banking financial institutions including the insurance companies.

Therefore, what you have in Trinidad and Tobago is a financial oligarchy controlled by a few people who have a finger in almost every financial pie. How

are you going to deal with that if you want to have a broadening or an opening up of the system of financial operations in the country?

The fact that this is so unrealistic strikes one at the very beginning. Clause 23 tries to deal with the question of separating banking activities from insurance activities. It says in subclause (1):

> "A licensee, controller, manager officer or other employee of such licensee shall not exercise pressure or undue influence upon a borrower to place insurance for the security of the licensee in any particular insurance agency."

That is fine. What is "pressure" or "undue influences"? It does not say. It is a question of judgment. But then subclause (2) goes on to say:

"Nothing in subsection (1) precludes the licensee from—

(a) requiring such insurance to be placed with insurance companies approved by it;

(b) acting as agent for an insurance company."

Now you see the unrealistic nature of this provision. While we understand the intent of it, let us be realistic, let us look at what happens in Trinidad and Tobago, let us look at the empirical situation. They have power to say, "We accept the insurance from such and such insurance company", at the same time they are telling them they must not exercise undue pressure or influence.

I will tell you what undue pressure of influences is, and which seems legitimate. It is if you do not do that, you will not get any loan. We think by putting this provision in, that we are dealing with this problem and the question of monopoly and restrictive competition and so forth.

There is the other question which I have to raise and that is that we have being put in place now provision to deal with new applications. You have the $15 million requirement for share capital, you have other requirements which are being put in place. Those are for new people.

But the existing organizations can carry over their existing operations and are deemed to be approved, and where there are any inadequacies, the Central Bank is going to give these institutions time and direction how they can come up to scratch. That is, in my view, giving an undue advantage to the people who are already in operation, not making them come up to the same standards within a specific period.

I raise this not in the context that we appear to have no crisis at this point—that could arise—but when the Non-Banking Financial Institutions Bill was passed in 1979, the regulations came in place in 1981. Immediately the regulations were approved, many of the non-banking institutions were in breach of the regulations, they were operating outside the law.

The Central Bank and the Ministry of Finance permitted them to operate in order to regularize their positions and in this period of regularization, many things happened which were to the disadvantage of the average depositor of these institutions. It showed a certain kind of laxity in the manner in which they went about the business of permitting existing institutions to come to terms with the law. One wonders whether, in fact, the same laxity would prevail in the current situation.

Then, the role of the Tax Appeal Board: I would not say much about that; we have legal experts on our side who will deal with that. The simple question is: Does this appeal board have the capacity to deal with appeals with respect to commercial and financial institutions? Does it have the expertise, the capacity, the time or the resources to deal with that? Its performance in the past is the reason we express so much scepticism. Why the Tax Appeal Board? Is there no other institution they could have thought of to deal with appeals from people who have been denied applications of one sort or another?

Another issue is the question of prohibitions. Clause 22 outlines the prohibitions. This is what a bank shall not do:

> "(a) a Bank shall not engage in or carry on any business other than business of banking or business of a financial nature;
>
> (b) a licensee other than a bank shall not engage in or carry on any business other than business of a financial nature."

This clause goes on to list the various prohibitions under which the banks or the financial institutions will operate. I am particularly concerned about clause 22(2)(e) which states:

> "A licensee shall not directly or indirectly—
>
> (e) grant unsecured credit facilities to any of its directors in a principal amount exceeding five per cent of the sum of its paid-up share capital and statutory reserve fund or such other proportion thereof as the Central Bank may from time to time approve."

Now, if this paid-up share capital happens to be anything like $50 million or $100 million, you can see that five per cent granted on an unsecured basis is a rather significant amount of money to be granted unsecured to any of its directors. I am wondering whether this limit for the granting of unsecured facilities is perhaps not too liberal a limit.

I know directors of banks are wealthy people but, even so, one would think that the granting of unsecured credit facilities at that level is something which one should be very careful of, since many of the problems which were encountered by the non-banking institutions and even the commercial banks such as the Workers' Bank were related to the granting of unsecured credit facilities. Not only that, they were related to the granting of secured facilities where the assets were overvalued against which the facilities were made.

So that when it comes to this question of granting unsecured facilities and, and even secured facilities, I think we have to be very careful. Of course, Madam Speaker, as you know, the soundness of a financial institution, a bank, finance house or trust company is related to the quality of its loan portfolio and the more that loan portfolio lacks soundness is the greater the possibility of problems arising from its operations.

So I would urge the Minister of Finance to perhaps take a look again at some of the limits which have been established. I understand they have been done after what he calls "due deliberation". We had due deliberations in 1979 in the passing of the Non-Banking Financial Institutions Bill and we have had due deliberations with respect to the regulations. They have always had "due deliberations" before they bring anything here to this House and after all these "due deliberations", crises and problems have occurred. So we want to know the quality of these "due deliberations" that we have before us.

I should like to look at the clause which deals with advertisements. Advertisement, really, is in the nature of a commercial bank or financial institution making representations to the public; what kind of representations it ought to make to the public and what kind of restrictions should be put on the making of such representations. It is dealt with in rather a cursory fashion. It is dealt with in clause 24 of this bill. It states:

> "(1) A person other than a licensee shall not issue or cause to be issued any advertisement inviting the public to deposit money with that person or with some other person or licensee."

Fair enough.

"(2) A licensee shall not issue or cause to be issued any advertisement which in the opinion of the Central Bank is misleading."

If that is the case, one would have expected some criteria to be established as to what is misleading and what is not misleading. Or are we going to leave it to the sole opinion, discretion and cogitation of the Central Bank?

"(3) The Central Bank may make bye-laws governing the issue of the advertisements;

(4) For the purpose of this section—

(a) an advertisement issued by any person by way of display or exhibition in a public place shall be treated as issued by him every day on which he causes or permits it to be displayed or exhibited;"

I do not know what the point of that is.

"(b) an advertisement issued by any person on behalf of or to the order of another person shall be treated as an advertisement issued by that other person;

(c) an advertisement inviting deposits with a person specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued by that person."

Well, of course, I see in all this we are trying to identify somebody who is responsible and can be charged under the law. But this whole clause dealing with advertisements evades the whole issue.

I got a Motion approved by this very House that we should introduce what, in other jurisdictions, is called "truth in lending legislation". Because there are many ways in which commercial banks and other financial institutions misrepresent to the average citizen what is actually being offered as a service in terms of loans conditions and so on.

I remember that in introducing the motion I spoke about a number of things, but I made a specific point that when the banks or the financial institutions talk about a rate of interest, they do not give you the effective rate of interest. They give you a rate of interest, on many occasions, which is not the real rate of interest that you actually pay. I will tell you how it works, Madam Speaker.

You go for a loan and you say you want to borrow $10,000. The bank says, all right, I will charge you 10 per cent. Ten per cent on $10,000 is $1,000. What they do is, they add on the $1,000 to the amount which you are owing so, in fact, they

make you sign a note saying you are owing $11,000 and they make you sign that for the year. If the loan is for two years, it will be $12,000. But the assumption is that you have borrowed $10,000 for two years but that is not so, because you are paying back this loan on a monthly basis and, therefore, the principal which you owe reduces from month to month.

So that the rate of interest which is quoted is not the effective rate of interest and when you actually calculate the effective rate of interest, if it is a 12 per cent rate of interest, you may be talking about 18, 19 or 20 per cent, effective rate of interest. Therefore, this is something that the banks should make absolutely clear to the potential borrower, "Look, this is the effective rate of interest; such other conditions are applicable".

Another thing which the banks refuse to tell you, is that when you take a loan there is a little clause at the bottom of the form which says that "this loan is repayable on demand". There are very few citizens who understand what repayability on demand means. That, in the morning, the commercial bank can call and say they want this loan back tomorrow or next week.

Mr. B. Panday: Particularly if you have a business they want.

Mr. T. Sudama: Particularly, as the Member for Couva North said, if the people who run and control the local economy of Trinidad and Tobago have their eyes on a particular business, they get their friends at the banks to call in the loan to put you out of business and they get the assets at a much reduced price.

We have had the experience of complaints on a daily basis. Therefore, what we are saying is that if you are having a clause about advertisements, please make it effective. If you are going to pass bye-laws—but bye-laws apparently only relate to a few items here. If you are going to have any prohibition of and restriction on advertisements, then this clause should be made far more comprehensive and should put the financial institution under far greater notice as to what representations and how truthful those representations ought to be when made to the average member of the public.

Also, I think that this Bill should contain a provision to the effect that where a commercial bank or a financial institution has misrepresented to a potential borrower or borrowers, as the case may be, the terms and conditions of a loan, that misrepresentation carries a penalty. That should be instituted here, if we are going to have a comprehensive system of regulation and control of commercial banks operations.

I want to deal with the question of prudential criteria. Every time I use the world "prudential", a gentleman names John O'Halloran comes to my mind. Do you know why he comes to my mind? Because of Trinidad and Tobago's money which the PNM permitted him to take out of this country, by corrupt and other means, to build two towers in Scarborough, Ontario, which he called the "Prudential Towers". So not only did he operate by "prudential" means, but he even had that so much embedded in his mind, that when he went to Toronto with millions and millions of our taxpayers' money, so ably assisted by the PNM Government, he even named the towers "Prudential Towers". If you go on Highway 401 and you travel east, out of Toronto, you would see these very impressive towers.

When I look at them and I see the number of agricultural access roads I could have had in my constituency, the improvement of the infrastructure: water, electricity extension, employment opportunities, agricultural expansion, agro-processing as the basis of true development of this country, I have a sense of sadness that a Government which today comes to tighten up regulations to prevent any kind of crisis in the financial sector, in the banking sector, just turned the other way when so much corrupt activity was going on in Trinidad and Tobago. So much was carted away from the banking system of this country. I believe that the Central Bank may have given exchange control permission to that as well.

There was a time when people just went to the Central Bank, got the exchange control approval forms stamped and there was a trade in exchange control approval forms already stamped. They were being traded. Who could pay a premium, got them. Not that they were for any transactions that were supported by documentation either for invisible or visible trade; the approval was given and on the basis of that, they were able to make millions and millions of dollars by trading them.

That is a fact of life. These are things which if we had a proper system of investigation of not only the commercial banks but the Central Bank as well, at least the incidence of this corruption would have been minimized to benefit the soundness of the economy of Trinidad and Tobago. We would have had more resources available.

Of course, you must have heard about Dennis Davidson, Madam Speaker. Dennis Davidson, through the courtesy of the Central Bank, or somebody there, was able to get exchange approval forms stamped to the tune of over US $200 million. How did this all occur if there was any kind of supervision or control? As I said, and I will come back to this whole question—

Madam Speaker: You have five minutes.

Mr. T. Sudama: Despite all the disruptions on the other side, I will be able to say what I have to say in the five minutes.

I come back to this very crucial question. We are putting in the hands of the Central Bank enormous powers to regulation and control over the commercial banks and the other financial institutions. We have given them a degree of autonomy which they have never had before. We have given them a degree of independence and they are, in essence, the guard. I ask: Who will guard the guards?

We must have provision, not only for the supervision of the commercial banks and financial institutions in the whole financial system, but we must also have some measure of monitoring supervision, control over the activities for which it is mandated to perform on behalf of the Parliament of Trinidad and Tobago.

So that the inadequacy of this general framework is emphasized—we do not have in this legislation or any other, as far as I know, any form of serious and effective accountability by the Central Bank for its actions, for its performance, for the way it is managing the monetary system and policy and the other activities for which it is responsible.

Madam Speaker, as I said when I started, we welcome in a general way whatever may be regarded as legislation and provisions to protect the long-suffering depositors of Trinidad and Tobago. At the same time, in view of the past performance of this government, we view with scepticism whether these provisions will be implemented effectively, to the benefit of all concerned.

We said that in the preliminary discussions if we on this side were involved maybe we would have given our own input into framing such very essential and important legislation.

In closing, I, therefore, call for parliamentary reform in order that this Parliament play a more effective role in the supervision of the financial sector of Trinidad and Tobago.

Thank you very much.

The Parliamentary Secretary in the Ministry of Legal Affairs (Mr. Andrew Casimire): Madam Speaker, I am indeed very happy to participate in a debate touching the Central Bank of Trinidad and Tobago, an institution of which I am very proud.

First of all, I would like to expose some of the misconceptions, half-truths and no truths at all to which the Member for Oropouche attempted to allude regarding members of staff of the Central Bank of Trinidad and Tobago. I happened to work at the Central Bank for a number of years and I speak from experience.

Mr. Palackdharrysingh: As what?

Mr. A. Casimire: A messenger, a truck driver—and I am indeed very proud of the performance.

Mr. Sudama: On a point of order, I did not attack any individual member of the staff of the Central Bank. I spoke in general terms about the performance and activities for which they were responsible.

4.20 p.m.

Mr. A. Casimire: Madam Speaker, when the Member was unleashing his broadside against officers of the bank, he accepted the fact that he, too, tried to be an officer of the Central Bank but was rejected; and even his boss, the Minister of Finance, did not see it right to make him anything, more than a mere messenger in the Ministry of Finance.

If a Minister can mislead himself to feel that he was an officer of the Ministry of Finance, it reflects on the quality of Minister that he was. Because under no terms or conditions can a Minister be an officer of a ministry. So, therefore, Madam Speaker, when the Minister in the Ministry of Finance wrote a letter to the Governor of the Central Bank asking the Governor to disclose information to him, I want to tell the Member of this Parliament that he was not asking with legal authority. I think the reply by the Governor of the Central Bank was very apt indeed. Today, he had the audacity to read that letter in Parliament; I do not understand what was intended by that action.

Mr. Sudama: Madam Speaker, I just want to tell the hon. Member that on the basis of that correspondence, I did get some legal advice from the Treasury Solicitor on the matter which states specifically:

> "that the provisions of section 44, the secrecy provisions, would not apply to information exchange between the Central Bank and the Minister, where such information relates to exchange control matters..."

Mr. A. Casimire: Madam Speaker, I think I have made that point very clear. Could you now ask the Member not to disturb me with these trivialities? It is very clear that he was not the Minister of Finance; he was only a Minister in the Ministry of Finance.

The object of the Bill before us today is really very simple indeed, and the Minister of Finance showed why it was necessary to bring this Bill before this honourable House. But the crux of the matter is, it is an attempt to modernize the system by enlarging the regulatory powers of the Central Bank thereby giving it a basis to support the integrity of the banking system.

The main pillar of the banking system is the Central Bank. The entire banking system revolves around the Central Bank, and previous legislation did not clothe the Central Bank with all the authority and power it needed to effectively supervise and control the financial institutions in Trinidad and Tobago. In other words, the Central Bank had power at the end of the syndrome to close down an institution; but in the interim it had only advisory powers, in other words it could draw to the attention of the institutions certain shortcomings in their operations.

Mr. Sudama: Madam Speaker, I think the hon. Member is misleading the House. In the case of the Trinidad Co-operative Bank, the Central Bank intervened in a way which did not cause the doors of the bank to be closed. So it intervened with intermediate effect in that case. So that it has the power and the capacity. I understand he used to be in the Central Bank; I do not know as what.

Mr. A. Casimire: Madam Speaker, the Member for Oropouche knows very well that I was working at the Central Bank; that I was one of the persons to whom he made those dubious requests. It is not true to say that the Central Bank was a haven for corrupt officers. In every system there might be a few aberrations. The aberrations that were discovered in the operations of the Central Bank were the subject of prosecution, and I do not think that a matter of that sort should be brought into a debate nor should a broad statement be made that officers in the bank are corrupt.

Therefore, I shall have to come to the defence of those officers of the Bank who cannot reply here to the allegations made by a senior Member of this honourable House. Suffice it to say, the financial institutions all over the world have been subject at one time or another to some form of distress in their operations.

Madam Speaker, I shall quote from an Economic Development Institute Bulletin from the World Bank at page 1, which says:

> "Today, the number of insolvent financial institutions is without precedent in this century. In Latin America, almost all economies have been affected. In Chile, Argentina and Bolivia, financial distress took sector-wide proportions. In Colombia, Ecuador and Brazil, a significant number of individual financial

institutions became distressed. In Asia, the governments of the Philippines and the Republic of Korea had to rescue or restructure a number of private and state-owned institutions. Banks and other financial institutions in Europe, the Middle East and North Africa have had serious troubles. In the United States, the situation is worrisome. While in 1981, 10 US banks failed, by 1986 the number of failures had reached a post depression high of 138, and one out of five savings and loan institutions was insolvent or close to insolvency".

4.30 p.m.

Madam Speaker, this underlines the reason why the Government would seek to bring legislation to strengthen the supervisory powers of the Central Bank and the Inspector of Banks. It is with a view to protecting the depositors in these institutions; and I think that that is the main reason, Madam Speaker, why this legislation is brought at this time.

Madam Speaker: The sitting of this honourable House is suspended until 5.00 p.m.

4.32 p.m.: *Sitting suspended.*

5.10 p.m.: *Sitting resumed.*

Mr. A. Casimire: Before we took the break, Madam Speaker, I was trying to say to this honourable House that the powers vested in the Central Bank were insufficient to allow it to do its job as effectively as it might. The legislation before us is trying to vest such powers in the Central Bank. You may recall that prior to l986, the Central Bank had no powers of intervention in financial institutions, but through Act No. 2 of l986 the Central Bank was given a special power of intervention; and also the deposit insurance system came into being for the protection of depositors. Under that system, depositors could receive up to $50,000 in case an institution went under. Although many people thought that sum was insufficient, it did go a long way to assist some of the smaller depositors in these institutions.

So the question, really, is to have the Central Bank in a position to go into these institutions by putting systems in place which would allow them to have early warning signals. Although some of these systems were in place, the bank never had the teeth to go in and do what it considered necessary. The present piece of legislation would allow the officers to go in at an early stage and will give them the authority to issue cease and desist orders to help the institutions, to nurture them along and to ask them to do certain things which would prevent the

kind of debacles that we had with the non-bank financial institutions, as mentioned earlier.

Mr. B. Panday: I appreciate the argument the Minister is advancing, but I want to refer him to section 31 of the Financial Institution (Non-Banking) Act, l979, and ask him to tell me whether section 31 gives the bank no powers at all. If it gives the bank powers, why did it not use them? That is my question. I quote the section for his benefit because I do not think he would have the time to get the book. Section 31 says:

> "Where in the interest of the depositors of a financial institution it appears desirable to do so, the Central Bank may appoint one or more competent persons to investigate and report to the Central Bank on the state and conduct of the business of the institution concerned, or on any particular aspect of that business."

If they had used that power, would they not have prevented the ITL fiasco?

Mr. A. Casimire: Madam Speaker, several reports—not one—have been written by the Central Bank and by the Inspector of Banks concerning the state of affairs in institutions. You would understand that the Central Bank can only act on the advice of the person to whom it is responsible, that is the Minister of Finance. In some cases we found that sometimes the directive could be a bit slow in coming and the Central Bank would have to await that directive before it could move into the institutions. That is why we are attempting to move the responsibility from the Minister to put it in the competent, technical authority, the Central Bank.

Mr. Maharaj: Is the hon. Member saying, therefore, that the powers which the Minister had, he could not, he did not, or he refused, to exercise those powers?

Mr. A. Casimire: You are saying that; I did not say that.

Mr. B. Panday: What are you saying?

Mr. A. Casimire: It can be inferred. What I am saying is that when we pass this Bill, the Central Bank will be able to act forcefully and timely to avoid situations like ITL, Summit Finance and the others.

5.20 p.m.

Madam Speaker, it may be instructive to try to find out why these institutions failed. There have been several reports on the question of why these financial institutions suffer the kinds of distress that are sometimes brought their way. In every instance, one of the reasons for their bad performance is poor management.

Poor management includes such things as weak lending policies, inadequate internal controls, inadequate supervision of staff and failure to identify problems at an early stage.

The Central Bank, as I know it, has the staff, the skill and the will to implement a Bill like the one we are seeking to have passed today. Some people are saying the Central Bank will be given too much power, or are asking who will guard the guards. I have all faith in the integrity of the Governor and staff of the Central Bank. I am sure that they will execute their functions in a manner which will make this honourable House proud.

The Member for Oropouche enquired why there was no pre-emptive action by the Central Bank with regard to the International Trust Limited situation. While I do not want to touch on the matter, it would be remiss of me if I did not say that the Central Bank did move at the time and used all the powers available to it, but we are all wiser at this point and the experience gained through those traumatic periods is reflected in the new legislation that we are about to pass in this honourable House.

The supervisory functions that we are attempting to give to the Central Bank and to the Inspector of Banks were sorely missing because many a time the Inspector of Banks or the Central Bank officers would go into an institution, perhaps, find certain deficiencies in the operations, but they have no authority to direct the banks or the financial institutions how to proceed to remedy those shortcomings. They will now have it under this Bill.

I think the Member for Oropouche himself admitted that the question of moral suasion is no longer very effective in a world so competitive today. Therefore, it is necessary to have these conditions in the Bill.

The Bill seeks to give the Central Bank authority to look at directors of institutions. If passed, it would give the Bank the authority to remove from any of these institutions a director who is found to be unfit.

We also know of the issue of interlocking directorships. The Bill attempts to minimize the question of control through interlocking directorships. It also restricts the amount of share-voting power that any director of a licensee will have. That, I think, will go a long way in removing some of the trauma that we are having in some of these institutions.

The Bill also attempts to reduce the concentration of loans in certain areas. What has happened is that there were instances where institutions had as much as

90 per cent of their liability in one direction. I do not want to call names, but a well-known institution, which is now no more, had 95 per cent of its portfolio in real property. When the market for real property fell off, the institution became history. If the Central Bank had the authority that we are trying to vest in it at this time, it would have been able to advise, redirect, nurture and, perhaps, as a last resort, direct that institution to at least reduce its liabilities in that area. And, I am sure the management of that institution would have been in a happier position today.

It was clear that the management of these institutions was mainly concerned with quick profits and rapid turnover. We would appreciate that institutions which grew outside the traditional banking system had to take their business into higher risk areas. We accept that. What has really happened is that most of the loans which were rejected by the traditional banks, some of these institutions took the risk and we knew what happened to them.

Taking the risk by itself was not the main reason why some of these institutions went under. The management of these institutions and in some cases companies owned by, probably, families of the directors were recipients of a high level of unsecured loans. As I said, I do not intend to call the names of any institutions or directors, but these were some of the main reasons why as soon as there was a little vacillation in the economy, these institutions could not survive.

5.30 p.m.

Madam Speaker, in the case of the Workers' Bank, we had, what I would call, a massive management problem and, it was clear that the quality of management in the bank did not reflect or respond to—

Mr. B. Panday: Which bank?

Mr. A. Casimire: The Workers' Bank. The number of problems enumerated by the Inspector of Banks after its inspection of these institutions would indicate that loans were not serviced. There were non-performing loans, some of the filing systems were not available and it really reflected a chaotic situation in one of our most indigenous institutions in this country.

I can well imagine the feeling of patriotism which pervaded the minds of the Central Bank officials and the Inspector of Banks when they had to intervene in an institution which we all cherish so much. Nevertheless, a bank will always be a bank and no amount of patriotism or emotion will replace good, sound management. That was lacking, and we know what happened to the bank.

I am trying to make the point because, I think if the Central Bank had the kind of power, the authority to remove or to issue, "cease and desist orders," the debacle of the Workers' Bank would have been avoided. I see a direct correlation between the poor management of the Workers' Bank and its natural demise.

Another question which plagued these institutions and which somehow avoided the scrutiny of the Central Bank and the Inspector of Banks is that of insider loans and unauthorized loans. In most of these institutions you can find loans made to friends and families probably of management or directors which did not bear any relation to the ability to repay them. What you find, is that the thing was doomed before it started.

The Member for Oropouche mentioned the question of the conglomerates' loans. There were institutions whose main business was to finance the growth of certain conglomerates in this country and, a large percentage of their loans went towards the financing of these new companies. I firmly believe that resulted from, as I said before, interlocking company directorships. There was a club, but today, we are about to put the Central Bank in a very strong position to deal with these kinds of situations. After a careful study, we found that the confidence which the institutions enjoyed during the period just before the International Trust debacle had been severely eroded. So that, what could one do?

I had the misfortune of representing the receiver for a short period in International Trust and I wish that I would never be sent there on duty again—I went there for five months.

Madam Speaker, the expressions on the faces of persons who had put their life savings in these institutions—when I say life savings, I mean all of it—who came down the road and enquired, and we could do nothing about it—what followed was the bringing into being of the deposit insurance. I think that in itself went a long way in assisting those depositors, especially the small ones.

Today, I strongly support this Bill and I ask Members opposite to support it as well, because, it is something which transcends party politics and all ethnic groups; it is something which permeates the banking system. I would expect that we would get the unanimous support of Members opposite because, somehow, I detect that they share the pain that most of the depositors of these institutions felt at the time. In trying to control the directorships of these institutions and trying to limit the scope of the activities, I think the Bill is taking a major step forward to even out the operations in the banking system.

5.40 p.m.

Perhaps I could say that I know there was consultation with representatives from the banks and the non-banking financial institutions. As the Minister of Finance said, most of the recommendations have found their way into the legislation. Very few, if I can remember, I think two or three, perhaps not even that much, were untenable. By and large, I believe that the Bill has the support of the banking community in Trinidad and Tobago.

Somebody did ask a question—I think it was the Member for Oropouche—Why did the regulations take so long? It is better late than never. We are here. It does not matter what they say about the last few years, whether the regulations were there or not, whatever they say now would not make those regulations retroactive.

I say we proceed to organize our business in a way that we can service the people of Trinidad and Tobago in the banking system and perhaps elsewhere in a manner befitting us all.

Thank you.

Mr. Basdeo Panday (*Couva North*): Madam Speaker, I rise to support the proposal made by the Member for Oropouche with respect to the appointment of a committee of Parliament, whether it be a joint select committee of both Houses, or a select committee of the House of Representatives, for the purpose of monitoring the activities of the Ministry of Finance, including the Central Bank. That is the proposal.

Before I do so however, let me express my deepest sympathy to the Member for Diego Martin East who must be gravely ill. I have not seen him here for two or three meetings. I do not believe that he is being kept away for the purpose of hiding. He must be ill.

Mr. Valley: Madam Speaker, the Member for Couva North being a Member of the Commonwealth Parliamentary Association (CPA) Trinidad and Tobago Branch, one would have thought that he would have known that the hon. Member for Diego Martin East is representing this country in Australia, at the CPA conference.

Mr. B. Panday: We are sure of one thing: He is not coming back for a long time. I am happy to hear he is not ill and that he is not being hidden to avoid the wrath of the public these days with respect to the ministry.

It says in the Explanatory Note that the main object of this Bill is to repeal the Banking Act and the Financial Institutions (Non-Banking) Act of 1979. If you look at those two Acts you would see that the Banking Act Chap 79:01 was to make provisions for the licensing of commercial banks and for regulating the business of banking. That was assented to on January 11, 1965. The object of the Financial Institutions (Non-Banking) Act of 1979 was to make provision for the licensing and regulating of the business of financial institutions, other than commercial banks and for matters connected therewith.

The objective of this piece of legislation before is to repeal those two, the Banking Act and the Financial Institutions Act; to modernize the banking system by enlargening the regulatory powers of the Central Bank; to provide support for the integrity of the banking system and so on. One thing I think is agreed upon by both sides of the House is that the Act gives tremendous powers to the Central Bank.

It has been said that it is necessary to do so in the modern economic situation, what with liberalization and so on, you need to do this if you are going to make Trinidad and Tobago a financial centre, a Singapore in the Caribbean, so to speak.

The issue before this House is not whether we should give the bank those powers. The issue before the House really is how do we prevent an abuse of power. I understand that the hon. Member for Toco/Manzanilla has said that this has the approval of the commercial banking fraternity. I tell him that it has the approval of those who are in, not the approval of those who are out and want to get in. That is a small powerful group that controls the financial institutions of this country. That is a well-known fact—a small parasitic oligarchy that controls the financial institutions. They determine who comes into business; who stays in business and who goes out of business.

If there is one thing good that the late Dr. Eric Williams did—of course, he did other good things, but his bad far outweighed his good—was to establish the National Commercial Bank. He established it for the purpose of giving access to a certain type and group of people in the society who had no access to that parasitic oligarchy. That is one good thing the PNM did. I always give them credit when they do something good. When they do something bad, of course, I slay them, as I slay the dragon. That, you have reversed and that is besides the point.

The question is not whether we give power, but how we prevent the abuse of power. That is the real issue before the House, because as they rightly said, enormous powers are given to the bank.

For example clause 3 prohibits the use of certain names without the approval of the Minister.

Clause 4: The Central Bank has the power to grant licences to do business.

Clause 5: They determine what is business of a financial nature and so on and grant the licence.

Clause 6: The Minister will regulate the branches and so on.

Clause 10: The Central Bank can revoke a licence and so on.

I need not go through all of it. The powers are very wide indeed. What we really have to look at here, and what we really want to see, is whether this power will be abused. I say that the abuse of power consists not merely of using power, but refusing to use power. You can abuse power by over-using it, and also by failing to use it when you ought to have done so. For example, the Inspector of Banks had enormous power, and if he had that power and failed to use it, then that was an abuse of power which resulted in the tragic loss of hundreds of millions of dollars of the poorest of the poor.

5.50 p.m.

Section 18(6) of the Banking Act that we are going to repeal here states: The Inspector and such other persons as are appointed by him to assist him in the performance of his duties shall be paid remuneration. And subsection (7) says that notwithstanding the provisions of subsections (1), (5), and (6), the President may, on such terms as may be agreed upon with the Governor of the Central Bank, appoint this Inspector; and, according to section 19(1), the Inspector shall examine all applications for licences and make recommendations thereon to the Central Bank and to the Minister. He shall cause to be made an examination and enquiry into the affairs of the business of each of the banks as he considers necessary or expedient for the purpose of satisfying himself that the provisions of the Banking Act and the provisions of Part V of the Central Bank Act are being observed.

He has enormous powers. Do you know what happened in this country? I understand that those non-financial institutions had to get a licence every year to operate. Do you know that Government granted those people licences when they knew that they were ripping off the public! That is a criminal act—political and criminal negligence. I do not know if the Inspector of Banks was doing his job. It seems to me, from what the hon. Member for Toco/Manzanilla said, he might have been doing his job. His job was to look at these institutions; to examine their

books when they come for a licence, and the Minister sits down there and grants these people licence to kill, to rob poor people, to humiliate and degrade people.

I know people who took their severance—the Member for Arouca North will know what I am talking about—gratuity and pension and put it to earn a little interest, and you sat down there and allowed those institutions to reduce those people to penury! Is that not an abuse of power? That is the real issue before the House today! The real issue is: How to prevent you from sitting there and abusing power, again by its non-use. Not only by its use, but by its non-use, for this was certainly an abuse of power by non-use.

Where the law imposes upon you a duty to act in the interest and protection of people and you fail to act, you are liable, morally and politically. I think that we should make it a criminal offence that people who misuse and abuse public power should face the courts, like the President of Venezuela. No matter whether he demits office or not, time shall not run against the state in these matters. There will be no time limit once we can prove an abuse of power.

As I see it, this is not an argument against who is the Governor of the Central Bank. I am not concerned with who is the Governor of the Central Bank as a person, nor who was, in fact, the person who was the Inspector of Banks. I do not know what he has done. But I surely would like to see a system where when a thing like this happens, there is some kind of investigation where the Inspector of Banks is called upon to explain and to say why less than one year after you have given a licence to International Trust Limited and all those other non-banking institutions to carry on business, they all collapse and rob people of hundreds of millions of dollars.

Maybe he did his job quite properly. I do not know. He would probably come and say, "Well, I did my job and reported it to the Minister. It is the Minister who is at fault". Therefore, the Minister should be brought to book. We should introduce in this that it shall be a criminal offence to be guilty of a breach of statutory duty insofar as this Act is concerned. Not $10,000, but $100,000 fine and/or 10 years in jail. Then, you will give confidence. If you really want to imbue confidence in the economy, you introduce a clause like that and you will be surprised at the results.

If I draft that clause, my Friend on my side here can defend them as much as he can, they are going to be found guilty. Anyway, that is his right because the people he defends are not criminals. I want you to know that. Everyone is presumed to be innocent until they are found guilty. He defends them while they are innocent or presumed to be innocent. *[Interruption]*

I thought the Member for Diego Martin Central wished to make a comment. I do not want to be side-tracked. This argument, I think, is going very well. It is not abusive. We are not abusing anybody. We are not even casting aspersions on anybody. *[Interruption]*

This is serious business. It is our history. We have seen a lack of mechanism in this society to ensure that there is not an abuse of power, and I define abuse of power in my own terms—not using it is an abuse.

All that we are seeking, therefore, to do, is to introduce a mechanism. Now, what kind of mechanism will you introduce? That really ought to be the issue before us at this time. When somebody said that the Inspector of Banks and the Central Bank are supposed to report to the Minister under the legislation, the Member for Toco/Manzanilla said that nothing was done. He did not go far enough and say why nothing was done, whether it was the incompetence of the Minister; whether the Minister was in collusion with somebody. I think he said that could be inferred.

Assuming it was negligence, oversight, incompetence, collusion or corruption why the Minister did not intervene, is not the issue here now. The issue is: Would we not have discovered it had there been a mechanism in place which would have revealed the refusal and/or inability of the Minister to act when he ought to have acted to save the investments of hundreds of thousands of people? That is the real issue, and you cannot disagree with me. You may do so for political reasons, but when you go home tonight in your beds, I know you will say, "He was right".

You cannot disagree with me that there is need for mechanism. Now we may argue over the mechanism, but there is need for mechanism. Do you on the Government side know what you are doing? You are saying, since the Minister was incompetent to deal with the matter, transfer the power to the Central Bank. It does not solve the problem, because it still does not have a mechanism in the event that Central Bank officers, whoever they are, whether it was the Governor, do not act to determine that they are acting or failing to act.

6.00 p.m.

It is not an aspersion against anybody; it is not an attack upon anybody's integrity. It is our duty, as Members of this House, to care for people, to set up institutions that will avoid, as far as we possibly can, the suffering that they may incur because of our refusal to act. No one can disagree with that.

Now, I want Members to remember that what we are doing here is not amending the Central Bank Act. That is the mistake I thought my learned

colleague the Member for Toco/Manzanilla made. It terrifies me too know that that Member had some kind of control over the distribution of foreign exchange. God help them who are not PNM! But let me not get into that. I do not want to do that this evening.

The Central Bank Act remains the same. So that they are giving the Central Bank the powers and they are saying, as the law stands now, their job was to report to the Minister and soon, but they think that the Minister is a dunce so do not bother to report to him any more, he is a slacker. Therefore, deal with it yourself. But suppose he lapses, not because of corruption—it could be anything, incompetence—maybe they are not giving him proper staff, maybe he is not being equipped with the wherewithal to do his job and he cannot complain to anybody because they appointed him, meaning the government.

You know how he is appointed, do you not: The officers of the Central Bank, as far as I recall, are appointed nominally by the President, that is, in fact, the Cabinet. The practice is—since you do not dispute me, I will not refer to that further. The Cabinet appoints the board of the Central Bank up to a certain level. What will they do when they do not act? Will they come five years from now and when the Member for Oropouche says too little, to late, you are going to tell him "better late than never"? Is that what you are going to do? Three years from now you will not be there to answer anything. We cannot operate this system like this or the Government and the country like this, and we owe more to our people than we are giving to them now.

Therefore, what we are saying is, set up a committee of Parliament; you can talk about the kind of committee and so forth: It may be a joint select committee, comprising Members of both Houses; it may be a select committee of this House, and I say, if it is, then it must be chaired by a Member of the Opposition, and the function of that committee is to monitor the activities of the Ministry of Finance and the institutions which come within its purview. "Monitor" means—

Mr. Valley: Every time the hon. Member speaks about this committee, he changes what he wants. He has to make up his mind.

Mr. B. Panday: Let us discuss it and we will come to a joint agreement. The function of that committee, as I see it, is that where matters are brought to its attention or upon its own volition, it may investigate, it may ask questions of what is taking place in the Ministry of Finance. It may summon the Minister of Finance; it may summon officers of the Ministry of Finance; it may summon officers from various institutions, merely to find out what is going on, and when it finds out, to report to this Parliament.

I know that they are afraid of that because one time they are telling everyone, "Do not vote for Panday; he does not want power". At another time they tell them, "He wants power but he wants to exercise it from the back room". But that is their business. I could not care less what they think of me. What I think of me is much more important.

The fact is that if there is such an organization, it may prevent a lapse. It can bring to the attention of the authorities concerned that a lapse is occurring. There may be no need for them to take any kind of action, once they are aware that there is a monitoring committee there, waiting to listen to complaints of people.

I heard the Minister say, "Well, the bank used to do so and so, we are going to stop this, that and the other". Those were his words, very strong words, indeed. How are they going to stop it? That is the one thing he did not tell me. One thing he did not tell me is how he is going to stop any of the wrong things that were taking place in the economy before this Act was passed.

Members of this House will surely agree with me that the effect of this Bill will be to concentrate enormous power in the hands of a few people. In fact, it is tremendous political power that they are now transferring to a non-political body. The truth is that such power should be in the hands of political persons who are answerable to their House and by extension to the country.

There should not be an area of governmental activity in this country which is not subject to the scrutiny of this House. This House, in that sense, is a supreme watchdog. It is not supreme in the sense that British governments are supreme. What is supreme here is the Constitution, really. That is the way that we shall give effect—my Friend has just shown me section 75 of the Constitution, which says:

> "(1) There shall be a Cabinet for Trinidad and Tobago which shall have the general direction and control of the government of Trinidad and Tobago and shall be collectively responsible therefor to Parliament."

This is to give meaning to that, really. That is all it is, give meaning. You know, that is the basic problem in the entire society. That is why this society cannot move. It cannot move because they put power into the hands of people—or they hold power in their own hands—and they are afraid that they will be scrutinized. They are afraid of scrutiny.

So that you do not concentrate enormous power in the hands of a few people without setting up at the same time a mechanism for review. They are tasting the bitter fruits of that today, with the various service commissions—Teaching Service Commission, the Police Service Commission and so on.

Again, let me make it absolutely clear: This is not an attack upon any of the commissions. I am saying that it is the system which is bad. They are putting people above the law. When we come to Parliament to ask why teachers and policemen are being abused, why this policeman cannot get a promotion, why only fellows in the "drug cartel" —if I may use the words in inverted commas— are being promoted, while people working there for 26 years are not being promoted, they say, "Do not ask me, the Police Service Commission is in charge and the Constitution says we must not question their action at all".

Once you do that, you are setting yourself up for an abuse of power. Human nature is like that. Once you concentrate power into the hands of people and it is not supervised and subject to scrutiny, there is a tendency to abuse. Not because of any malevolence or anything like that; it just happens that, by nature, they tend not to regard this use of power as if it is subject to scrutiny.

All we ask today is that if they want our support on this Bill, they must give us the guarantee, show us how there will not be an abuse of power, or that they can control or prevent an abuse of power. Do not given that assurance by word of mouth. We want that assurance translated in terms of an institution. Set up an institution to ensure it. Institutions live on, men die. Therefore, as my learned Friend the Member for Oropouche says, the real question is who will guard the guards. That is not something to be ashamed of. That is something with which we must be concerned. It is not to cast aspersion on the guards. That is not the point at all.

Human nature is such that unsupervised, uncontrolled and unrestrained power, sooner or later degenerates into abuse, even if unwittingly. For example, by the appointing of officers. When the Member for Diego Martin East appointed somebody in the Licensing Office, he did not realize that he did not have power and that the power belonged to somebody else. He went and appointed and installed somebody in office. If we had a committee here which was supervising his ministry, it would have said, "Hold on, you do not have power to go and appoint people all over the place". He may not have done it out of any malice or spite; it is just that he is so imbued with his self-importance and his power that he exercises the power as though nobody has a right to question him. He is not here. Okay. When he comes, I will repeat it. I will use another example.

Dr. Rowley: Madam Speaker, just to correct the record, not because I am acting on behalf of the Minister responsible. But I do not think we should allow it to remain on the parliamentary record: that the Minister appointed a person at the Licensing Office. That is an incorrect position.

Mr. B. Panday: In my dictionary "installation" is a different word to "appoint".

Mr. B. Panday: My Friend says "installed".

Dr. Rowley: I challenge your "appointment."

Mr. B. Panday: I withdraw that and I substitute the word "install"; are you comfortable with that? All right. Installed him.

Dr. Rowley: Do not mislead the Parliament.

Mr. B. Panday: But you know, I am a little bothered that he did not wait to find out if the man was appointed before he installed him, but that is besides the point. I do not think we should continue the controversy on that issue. We will talk about that some other time.

I want also to say that the proposals which we are making here today about the setting up of a parliamentary committee in order to supervise, scrutinize, call it what you will, the activities of several Government departments, have been adopted by many civilized, parliamentary and functioning democracies of the world. In fact, others have struggled with how they are going to deal with this question of abuse—and if I could lay my hands on the document I came across today, some—oh, yes, here it is.

As a matter of fact, in New Zealand, they have appointed a banking Ombudsman—not that I am saying that we should do that. I only use that to indicate that this is an issue that people in other parts of the world find you must do something to control; control the abuse of power which is the central theme of my argument. This is not to say that you must do it, but I make reference to it to say that not only are we concerned; other people are concerned about the abuse of power and other people experiment with devices. One of the devices which have been experimented with is the introduction of a banking Ombudsman to look at abuses in the banking system and take remedial action.

You know, I am concerned about this abuse of power, because this country is now, as they say, liberalizing. I do not agree with that, but that is all right. It means that there will be, hopefully, a proliferation of applications to open banks. We had an experience in this country when a foreign country wanted to open a bank here. I understand that everybody knows about the issue of the Bank of Baroda and the stink it created in the government.

Now, I mention this only to show that where there is going to be discrimination, where people are going to try to break into the present banking

oligarchy, if they find friends in the Central Bank, will they not be in an advantageous position? The argument that they are expected to be independent is really an argument that ought to be examined in the context of Trinidad and Tobago.

I want to say that it is impossible to find an independent committee of persons in Trinidad and Tobago. I say that.

Mr. Valley: Madam Speaker, I want to ask the hon. Member if he includes a committee of Parliament.

Mr. B. Panday: A committee of Parliament is not supposed to be; it is the very partisan nature that will prevent the corruption. That is the whole point. You cannot find an independent committee of men to perform any job in Trinidad and Tobago, and I say this without attacking the integrity of anybody on the committee.

It is because of the smallness of the society. Our society is so small that whenever people are appointed to a committee which exercises power, you will find very shortly that they begin to interact with one another in a way so intense that they become part of one another. You go to a cocktail party in this country, you go to two cocktail parties and you do not have to attend any more for the year, you have seen everybody who is going to be there for the rest of the year. When people begin to interrelate at that level, they begin to think like one another. Nothing to do with corruption.

As they begin to think like one another and they become a group unto themselves, they become self-sustaining to the exclusion of others outside the group and they become a class unto themselves. Or they become part of a class to the exclusion of other people from the class.

When they have a job to appoint people, they will appoint people they know. Not that there is anything wrong with that. I go so far as to say that it is impossible to do otherwise, because if they have to appoint people, whom will they appoint but people they know? Do you think they know about any qualified person down in Cedros or any qualified person, unless that person belongs to the circle? So the appointing group gets into a circle and belongs to a circle of friends. Now when they have to make an appointment, they do so from that group to the exclusion of other people. That is why I say you cannot find a truly independent group of men in this society. It may be possible in larger societies, but not in ours.

That is why you need a committee of Parliament. I now come to answer your question. In Parliament, they are not independent. They are looking at one

another. Each has a group interest to serve. By serving the group interest and looking at one another, they prevent the other side from becoming corrupt, and that is the kind of institution and the only kind of institution that will bring about accountability in this country. And that is because of the small nature of our society.

I think one of the arguments which have been used is that if you set up such a committee you will be politicizing the Service Commission or the Police Service Commission. The truth is, they have already been politicized. By setting up a political committee, you de-politicize them. That is to say—

Mr. Valley: Madam Speaker, by doing that you institutionalize the thing, rather than correct the problem.

Mr. B. Panday: Not at all. The Member does not understand what I am saying. You have a group of men who are exercising power that is subject to the scrutiny of several people in this House who have different interests, looking after different interest groups. If my interest group or your interest group is excluded, you bring it to their attention, you say, "My interest group is being excluded", so you de-politicize it in that way because if that group becomes political, then it exercises the politics in favour of one political group. Does the Member understand what I am saying?

Mr. Valley: You share the concept of patronage.

Mr. B. Panday: Did I hear the word "sharing"? Did I hear him object to the word "sharing"? That is the key. He does not want to share. That is the key.

Mr. Valley: Madam Speaker, the point I am making, quite simply is that with such a system, you end up institutionalizing a sharing of patronage. You remove any concept of independence, and that is what it is.

Mr. B. Panday: So it seems as though my Friend does not want to share patronage. He wants it all for himself. But I am telling him that there are only so-called independent groups in the society, and the only way to prevent them from exercising their power in a partisan way is to have them looked at as groups of conflicting interests.

I want to tell the Member something: This Government is going to get no assistance from us in any quarter whatever unless it concedes to the principle of supervision by committees of this House. Nothing will get done. That is a threat; that is not a promise. That is a threat we make to this House. We will go to the public and explain to them.

As a matter of fact, I have to cut my speech short. I am in Arganguez tonight to repeat this speech there. I do not say one thing in here and something different outside. As a matter of fact, we are talking to them now about your proposals for police reform. We have not replied to your suggestion because we are consulting the people, and when we have done that we shall report to you. We consult the people. The struggle is outside this House, not inside. We refuse to support measures because we are demanding that you set up committees of this House which will give meaning to the word "accountability". If they do not do that, we shall not budge an inch and we shall not give a quarter. *[Interruption]* Dangerous or not, you will not decide that; those people outside there will.

When we go and tell people that we say that there should be a committee to look at URP, a committee of this House to prevent you from abusing people in the East/West Corridor—they are discriminating. People come to me and say that because they were associated with the NAR in the last Government, they cannot get work in the East/West Corridor. They are abusing people, but they are not politicizing that.

I want to tell them that when we say that we will not participate in that kind of corruption and that we want you to set up a committee of Parliament that will supervise that, we are prepared to go outside and justify that to the people. So far, we have been getting a tremendous response. They all agree with us. Because only a small number of people benefit from corruption. Every time you corruptly serve one person, you lose 1,000 supporters. Do they not know that? Ask the Member for Laventille East/Morvant. I saw on TV that he is hiding from his people. He has to hide.

Mr. Collis: When the Member for Couva North says that I "hide," what does he really mean? Was he there?

Mr. B. Panday: Sit down and I will answer.

Madam Speaker: This debate is getting off on a tangent now.

Mr. B. Panday: I want to assure him that I was not there. What do I mean by "he hid"? I do not know; I just though that he could not be found.

So that, Madam Speaker, I have said what I have to say in this House. In the context of all that is taking place in the society, the interlocking directorates which my Friend the Member Toco/Manzanilla admits—I am surprised that he admits the interlocking directorates, interlocking of the banks and all the financial institutions. He knows that. That has been happening, not yesterday, but since the

days of colonialism, before independence and after independence and continuing unto this very day.

It is against that background that I have made my contribution. I have not been vindictive—a few jests here and there, I meant to harm or bitterness to anyone; Members know that. But I will certainly appreciate it if Members would consider deeply what we have said today before this Bill is put to the vote and certainly before our support is given.

The Minister of Finance (Hon. Wendell Mottley): Madam Speaker, this is an important Bill, and I am concerned that on a number of occasions the debate seemed to have gone astray from some of the central issues before us. Therefore, I should like to repeat some of the governing principles that have informed this Bill.

What the new legislation is first attempting to do is to provide an effective framework for the supervision of financial institutions, both banks and the NFIs—that is the primary purpose. For a whole variety of reasons, as I explained in presenting the Bill, the climate has changed and we have to come up to scratch, up to grade, with a more effective regulatory framework.

The second purpose is to allow the banks to participate in a wider framework of financial activity. I mentioned clearly that we wanted to make sure that for instance, the class of business that the NFIs do, now all the commercial banks will do themselves and the Bill makes provision for graduation for the NFIs. They can go and get licences to perform specific activities. The bank will look at their capital adequacy, and on that basis determine how they are licensed, how well they are managed, so as to classify for certain kinds of licences. As I mentioned, at a certain time when it is promulgated, banks will be allowed into the insurance agency business.

This contemplates and recognizes the almost exponential growth in activity of banks into new areas. This is how we are looking at and trying at the same time to guard banks against certain kinds of activities which have been shown very clearly—worldwide experience, getting involved in real estate transactions and so forth. We want to safeguard and move them away from that.

A tighter admissions policy, Madam Speaker, for financial institutions. It was the Member for Oropouche who was quarrelling about standards being applied for those already in the game as distinct from those who would like to get into the game. The Member for Oropouche is right; there are different standards for banks and non-financial institutions which are already licensed, than for those that

would wish to come in. The fact is, they are there at this time, they have loans, they have staff, they are an institution and we would want, as far as is practicable, to assist and to strengthen them. Whereas for those not yet in the business, we are, from the word go, insisting on the very highest standard for entry. We have no problem defending that stance.

6.30 p.m.

Establishment of minimum accounting standards aimed at reflecting accurately and properly the true condition of a financial institution. I do not think anyone in the House can have a quarrel with that. Stipulated criteria for analyzing loans, what will constitute bad debts and so on. So that we are very clear on all these issues. Minimum capital and liquidity requirements—all of these are the main concerns which have informed this legislation. It is out of these concerns that we are seeking to address the concerns of the small man—the depositor—because that, ultimately, is our concern.

The depositor who deposits his savings into these financial institutions: banks and non-financial institutions, is the major concern of this Government and all of these detailed prudential criteria and the thrust of the legislation, ultimately, have wider goals. We want to promote our banking institutions. We want to see Trinidad and Tobago become a financial centre. All of these are goals that we hope would fall out of this legislation, but the primary purpose is to safeguard the interest of the depositor. Madam Speaker, I want to make sure that the House understands the major thrust of this legislation before it. How is it being done? The facts are, that in a number of instances we have, in pursuing these particular policies, stipulated what we want done and then we have, in the legislation, come out clearly and stated the penalties attached. For instance, at the end of Part IV of the Bill, you will see:

> "(9) Where a licensee contravenes the provisions of this section it is liable on summary conviction to a fine of two hundred thousand dollars, and where such offence is committed with the consent or connivance of, or attributable to any negligence on the part of any director, controller, manager, or other officer of the licensee responsible for granting credit facilities or any person purporting to act in any such capacity, he is liable on summary conviction to a fine of one hundred thousand dollars and imprisonment for five years."

Clause after clause the penalties are quite clearly spelt out. Then again, Madam Speaker, we come to the question of the Inspector of Banks—

Mr. Maharaj: What additional machinery has the Government put in place to detect the commission of these offences in light of the fact that the Government has admitted that certain finance houses have robbed people of their moneys, and the Government has not been able to detect any of those offences, they have not been able to prosecute anyone after all these years?

Hon. W. Mottley: Madam Speaker, a great deal is put in this legislation on the powers attached to the Inspector of Banks. Part VI states:

"30(9) The appointment of the Inspector by the President or the appointment of a person by the Governor under subsection (4) shall not be questioned in any proceedings in any court."

"31(1) The Inspector shall—

(a) examine all applications for licences and ...

(b) make or cause to be made such examination and inquiry into the affairs or business of each licensee as he considers necessary or expedient, for the purpose of satisfying himself that the provisions of this Act are being observed and that the licensee is in a sound financial condition;

(c) report thereon to the Governor at the conclusion of each examination and inquiry;

(d) take and maintain such steps or proceedings as may be necessary for the winding-up of a licensee..."

"35(4) Notwithstanding the provisions of sections 31, 32, 33 and 34, where it appears desirable to do so, the Central Bank may appoint one or more competent persons to investigate and report to it on the state and conduct of the business of any licensee, or on any particular aspect of that business."

Madam Speaker: I continue.

"38(1) The Central Bank may make bye-laws with respect to prudential criteria with which licensees shall comply."

And then it goes on to detail and give indications of the type of criteria:

"38(2) (a) capital adequacy and solvency requirements...;

(b) liquidity requirements and ratios;"

(4) A person who contravenes any requirement imposed under this section is liable on summary conviction to a fine of one hundred thousand dollars."

But moreso, Madam Speaker, I want to stress that whereas the original legislation had the major powers attaching to revocation of licences, there are the major cease and desist orders in Part IX, and because they are so crucial to the functioning of the new legislation, these, in fact, constitute the intermediate powers with which the Central Bank is being vested.

I should perhaps go into some detail on it:

"47(1) If in the opinion of the Central Bank or the Inspector, any licensee or any director, controller, manager, officer, employee, agent or other person participating in the conduct of the business of such licensee, is or has engaged in or is about to engage in any unsafe or unsound practice or is about to violate any of the provisions of this Act or regulations made thereunder, the Central Bank or the Inspector may serve a notice upon the licensee and such director, controller, manager, employee, agent or other person participating in the conduct of the business of the licensee."

In other words, Madam Speaker, this is meant to be preventive action, rather than the kind of action that had been contemplated before, which was really to close down the institution.

If I may come back to the major arguments that were advanced by the Member for Oropouche, about the timeliness of action, especially with regard to the non-financial institutions. It must be remembered, that deposit insurance did not come into existence until 1986. So that with the draconian power that existed, not the preventive powers that are now being vested in the Central Bank through its intermediary powers, especially the cease and desist orders, but with only that draconian power, after investigation by the Inspector and the non-financial institutions paying no heed because the teeth that should be attaching are not there, at the end of the day he has to exercise that draconian power to close down the institution.

It must be remembered that until 1986 there was no deposit insurance and so, really, what the Central Bank was facing at that time was to walk in and close the institutions and everybody lose their money, "toute baghai."

6.40 p.m.

Mr. Robinson: Madam Speaker, does the Minister recognize that the grant of large powers to institutions like the Central Bank raises the issue of the possible abuse of those powers, as the Leader of the Opposition mentioned? Would he address that issue? What does the Government propose to do, if anything, about it?

Mr. Humphrey: Not responding to that one at all!

Hon. W. Mottley: The facts are that in these matters the Central Bank will inform the Minister of Finance on a general policy nature and keep him informed as to developments. But more than that—that is the general—the specific matter is that with regard to these quite substantial powers which are being given to the Central Bank—powers incidentally which I have been careful to show in the light of worldwide experience, all the other jurisdictions have found necessary to grant to similar institutions—the way that it is being controlled is that you do have the appeal against "cease and desist" orders against the Central Bank saying that you are not a fit person to be a director or manager of the bank; against an order to close the bank or to restrict a licence.

Mr. B. Panday: Given the legal system, that does not—

Hon. W. Mottley: The appeal against any order of that nature is being lodged with the institution called the Tax Appeal Board. That is where the first line of appeal lies. But we are saying—and we say it very, very clearly—that while the appeal is being considered, the ruling of the Central Bank will continue in force, because it is presumed that unless that happens the institution could be raided and funds leaked out of it.

Mr. B. Panday: But the counter is also true.

Mr. Sudama: The Minister said that the appeal to the Tax Appeal Board is the first line of appeal. Could he tell us what is the second line and if there is a third line—a third right to the Court of Appeal? My understanding of the legislation is that the Tax Appeal Board is the final appeal. There is not any appeal that lies from the Tax Appeal Board.

Hon. W. Mottley: No, Madam Speaker, this legislation does not take the powers away from the supreme courts of this land.

Mr. B. Panday: The only trouble is that by the time the matter is heard, the company is ruined! That is the issue.

Hon. W. Mottley: That is why, Madam Speaker, the ruling of the Central Bank, "the cease and desist order" will continue in place even while the appeal is being heard. But the greater danger, as you have been so wont to put to us, is that the depositors' funds are being raided, and that is our first concern.

Mr. B. Panday: That is why you need your committee, for speed. That is why you need your committee, especially if I am Chairman.

Hon. W. Mottley: Madam Speaker, the other arguments raised by the hon. Member for Couva North about the question of this House in some way overseeing matters of this nature, indeed the whole workings of the Central Bank and the Ministry of Finance, are questions I believe broader than this particular Bill now before us. It is a matter on which this side does not agree and at all times we believe that we have been careful to bring the requisite transparency and accountability in matters of new legislation that we are bringing before this House.

There is one further correction. In quoting, Madam Speaker, some of the realizations from what were stated as the assets of some of the NFIs, in my presentation, I should have pointed out that those realizations were as at 1990 and I was quoting from the report of the IDC. There were some possibilities of realizations from assets after that, but minimal. But I did want to issue that correction in relation to what I have stated in my presentation.

I would also wish to let hon. Members know that we have circulated some amendments—most of them are of an unsubstantial nature, largely related to corrections, typographical and so forth. But there are two fairly important amendments, clause 7(5) and also the deletion of sub-paragraphs 8 and 10 of Part B of the Second Schedule. Those two are fairly substantial amendments—the first having to do frankly with what appears to be repetitions and the second we would prefer to have the question of what constitutes bad debts remain more a matter for regulations to be reviewed from time to time than to be inscribed in the Act.

With these few words, Madam Speaker, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses l to 4 ordered to stand part of the Bill.

Clause 5.

Question proposed, That clause 5 stand part of the Bill.

Mr. Sobion: Madam Chairman, I beg to move the clause 5 be amended as follows:

A. Delete subclause (7) and substitute the following:

"(7) Notwithstanding subsections (5) and (6) a licensee may be required by the Central Bank to provide additional capital for the businesses it is conducting and may be required to satisfy the Central Bank that its capital base is adequate in accordance with the capital adequacy requirements imposed by regulations made under this Act."

B. Delete the number '(7)' occurring in line 1 of subclause (10) and substitute the number '(9)'.

Mr. Sudama: Madam Chairman, clause 5(6) states:

"An institution, under subsection (5), is deemed to be licensed, and which does not have a minimum paid-up share capital of fifteen million dollars may be required by the Central Bank to increase its paid-up share capital within a specified period and where it fails to do so, the Central Bank may limit its business and impose conditions until the share capital requirement has been met."

I understand this is what has been deleted. And here it gives the Central Bank total discretion without providing any limit as to what should be the paid-up capital of the institution. Now, why is this? What is the reasoning behind it?

6.50 p.m.

Mr. Sobion: Clauses 4 and 5 are, sort of, duplicate provisions, one relating to banking institutions, one relating to non-banking institutions. You would notice that subclause (7) as it exists at the moment, is really a repetition of subclause (6). So that the provision is there in subclause (6), and (7) is an additional provision similar to clause 4(7). So we are not removing the concept that is now in the present subclause (7) because it is merely a duplication of the existing subclause (6).

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6.

Question proposed, That clause 6 stand part of the Bill.

Mr. Sobion: Madam Chairman, I beg to move that clause 6 be amended as follows:

"After the word ‘banking’ at the end of subclause (4) add the words ‘or business of a financial nature.’ ”

It is intended to deal with branches both of banks and non-banks.

Mr. Sudama: Madam Chairman, subclause (3) says:

"The Minister may make such regulations as he may think expedient to regulate branches of licensed institutions."

Now the thing is that we are giving the Central Bank autonomy to deal with the licensing of banks to regulate their activities. Why is it that the Minister—and not the Central Bank—is given the power to make regulations to regulate the branches? That seems to be a little contradictory in terms of the objective.

Mr. Mottley: Those regulations will have to come here. That is why it has to be the Minister.

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Clause 8.

Question proposed, That clause 8 stand part of the Bill.

Mr. Sudama: Madam Chairman, again, I find it a little contradictory, that where the Central Bank is given the power to issue the licences—why do you have to have consultation with the Minister? What is the necessity for having this consultation? The Minister did indicate that it is a technical thing, the question of giving licences and all the requirements that are necessary to be satisfied. Therefore, if that is the case, and the Central Bank feels satisfied that it should approve or refuse, what is the kind of consultation envisaged with the Minister? What is the necessity for that, and what are the powers related to that consultation?

Mr. Mottley: We are moving from a situation in which the Minister had the power into one in which the power is shifted to the Central Bank, but the Minister, however, still has some responsibility in the matter. At least, he would like to be consulted to know what is going on, but the onus and strength of power is with the Central Bank.

Mr. Mohammed: So therefore if there is a process of consultation, the Central Bank could overrule the Minister? I would like to get that point clarified. What is being suggested here is the question of consultation. The Minister has said that in that process of consultation, the power of the Central Bank will supervene that of the Minister.

Mr. Mottley: Yes. In matters related to this, it is clearly understood that it is technical. The question is that the Central Bank bear the responsibility. They must act. However, the Minister would like to be consulted. The political directorate has to know what is going on. It has to be informed.

Madam Chairman: What the Minister is saying in answer to the hon. Member's question is, yes, the Central Bank can, in fact, override the Minister. This makes provision for consultation.

Mr. Sudama: I want to ask a second question. Is it envisaged that the Minister can override the recommendation of the Central Bank in the process of consultation?

Mr. Mottley: I just answered the question very clearly.

Mr. Sudama: Is it envisaged that you make a proposal and the Minister could override it in the process of consultation?

Mr. Mottley: No.

Madam Chairman: The section says, the Central Bank may, after consultation, approve or refuse. So the repository of power is really in the Central Bank.

Mr. Sudama: I want to know how it is envisaged it would work.

Mr. Maharaj: Madam Chairman, I just want to make one point, having participated in this debate. Some of these provisions seem to me that they are trying to fetter the discretion which is to be exercised by the Central Bank. If you give a discretion to an individual or an authority and the provisions appear to fetter the discretion, then, obviously, the exercise of that power would not be a lawful exercise.

It would seem to me that some of these provisions should be reconsidered in drafting. This particular clause, for example, and from the answers given, the consultation can even result in pressure being put not to exercise a discretion. I would like the Government to consider that.

Mr. Valley: It does not change the authority, Madam Chairman. The authority and responsibility remain with the Central Bank. The Central Bank comes to the Minister of Finance and the Central Bank may change its opinion because of the input of the Minister of Finance. But the Central Bank are still the authority. They can take it or leave it.

Mr. Mohammed: This raises a fundamental question. I do not know if any Member can quote a precedent where a Minister is overruled in a situation like this, in our parliamentary system.

Madam Chairman: I think the word there is, "consultation".

Mr. Valley: You are changing the power. Before, the Minister had the power. The Central Bank had to act on the Minister's directive. But with respect to this matter, the power would now reside in the Central Bank.

Mr. Mohammed: I am saying that that raises a constitutional point on the basis of Cabinet responsibility.

Mr. Valley: No, it does not.

Mr. Mohammed: You are saying that the Central Bank will override the Minister who represents the interest of the people.

Mr. Valley: Because you are now passing a Bill that is placing the power in the hands of the Central Bank, and the requirement is simply that the Minister be informed.

Mr. Mottley: You had an incident where the Member for Oropouche (Mr. Sudama) was not even considered.

Mr. Mohammed: I am talking about the whole process of Cabinet responsibility. The Minister may go to the Cabinet and the Cabinet may say, "Well look, we want it so." But notwithstanding that fact, the Central Bank could override the Minister.

Mr. Valley: No. What is going to happen in a situation like that, you would then rely on the section of the Act which gives the Minister certain power with respect to general directive to the Central Bank. In a situation where the Minister believes it is interfering with monetary policies or fiscal policies, or what have you, then one would use the power in the Central Bank Act.

7.00 p.m.

Mr. Sudama: Madam Chairman, that is the point. The Minister gives general policy directives—

Mr. Sobion: Madam Chairman, the concept of a person having a discretion to exercise, coupled with consultation is well known in both our Constitution and other laws of Trinidad and Tobago. There is no difficulty, in my view, with a provision whereby the Central Bank has the authority to grant an application subject to or after consultation with another body. That is common to our Constitution.

Mr. Maharaj: Madam Chairman, right now in the history of the country, two weeks has passed with the Government arguing that the discretion of the President is fettered because the President was consulted. Many authorities have been quoted and what this is going to do is to put money into the hands of lawyers employed by the state. Poor people are going to have to challenge this. There will be a situation where discretion is supposed to be exercised but there will be interference with the exercise of that discretion.

Mr. Sobion: Madam Chairman, the point that is being raised is really outside the purview of the committee stage of the Bill, and it deals with something totally outside the purview of this Bill.

Mr. Robinson: Madam Chairman, is there precedence for a case like this where a subordinate authority consults the superior authority before acting?

Mr. Sobion: On the face of it, Madam Chairman, I cannot think of such a situation, but the concept of having a power exercised by one body after consultation with another is a concept that is well understood.

Mr. Robinson: It is certainly anomalous to have a subordinate body consulting a superior body before acting.

Mr. Sobion: Madam Chairman, I do not know whether we can talk about the Central Bank being subordinate to a Minister of Government. The Central Bank is designed and set up to have a high level of autonomy and I do not see the problems which Members are seeing. As I said, it really falls outside the recognized purview of the committee stage.

Mr. Robinson: Madam Chairman, I am talking about approaching this matter quite objectively. The Minister is a Member of the Cabinet which has certain constitutional responsibilities. He issues directions to the Central Bank, albeit of the general nature, therefore, the Central Bank has got to be a subordinate body.

Mr. Sobion: Madam Chairman, I have heard the comments and I do not think they are relevant to—

Mr. Sudama: Madam Chairman, if the Central Bank is not subordinate to the Minister, this is all the more reason why we should have a parliamentary committee to which it should report.

Clause 8 ordered to stand part of the Bill.

Clauses 9 to 15 ordered to stand part of the Bill.

Clause 16.

Question proposed, That clause 16 stand part of the Bill.

Mr. Sudama: Madam Chairman, I would like to have some clarification on clause 16 subclause (9) which states:

> "Where a notice of the proposed revocation of a licence under section 10 is followed by a notice revoking a licence under this section, the latter notice shall have the effect of terminating any right to make representation in respect of the proposed revocation."

Am I to understand that that excludes the right of appeal to the courts?

Madam Chairman: I do not think that the right of appeal can be taken away by this section, but this, of course, is subject to their—

Mr. Sudama: I am a little confused about the term.

Madam Chairman: It is only the right to make representation in respect of the proposed revocation, but that certainly cannot take away the right of appeal in law.

Mr. Sudama: In other words, representation to the Central Bank, presumedly?

Madam Chairman: To the Central Bank, but it can never take away our right of appeal in the exercise of your legal rights.

Clause 16 ordered to stand part of the Bill.

Clauses 17 to 19 ordered to stand part of the Bill.

Clause 20.

Question proposed, That clause 20 stand part of the Bill.

Mr. Sobion: Madam Chairman, I beg to move that clause 20 be amended as follows:

In subclause (6) delete the words "and a fine of ten thousand dollars" occurring in line 10.

Question put and agreed to.

Clause 20, as amended, ordered to stand part of the Bill.

Clause 21 ordered to stand part of the Bill.

Clause 22.

Question proposed, That clause 22 stand part of the Bill.

Mr. Sobion: Madam Chairman, I beg to move that clause 22 be amended as follows:

In subclause (3) delete the word "make" in line 1 and substitute the word "propose".

Question put and agreed to.

Clause 22, as amended, ordered to stand part of the Bill.

Clause 23.

Question proposed, That clause 23 stand part of the Bill.

Mr. Sobion: Madam Chairman, I beg to amend clause 23, merely by deleting the word "agency" appearing at the end of subclause (1) and substituting the word "company".

Mr. Sudama: Has the Minister considered deleting the whole subclause because what is stated here is totally ineffectual. It makes no sense and has no teeth. As far as I am concerned, clause 23 is of only cosmetic value to this Bill.

Madam Chairman: We have heard the comment of the hon. Member.

Question put and agreed to.

Clause 23, as amended, ordered to stand part of the Bill.

Clause 24.

Question proposed, That clause 24 stand part of the Bill.

Mr. Sudama: Madam Chairman, I am wondering if the Government would look at clause 24 again in the light of what I have said about its inadequacy in terms of the banks and other financial institutions making representation to the public as regards the effective rates of interest and other conditions in their loan proposals, and whether they would consider accepting certain amends to this Bill at some later point.

Madam Chairman: Does the hon. Member have an amendment in mind?

Mr. Sudama: I do not have the amendment with me, Madam Chairman, but I am just thinking of any future situation where we could incorporate some amendments to clause 24 to give it some kind of effectiveness on the perspective of truth in lending and representation.

7.10 p.m.

Mr. Sobion: Madam Chairman, may I assure the Member that the details of the rules governing advertisements are going to be put in the bye-laws which are going to be made under subclause (3) and those matters are being considered.

Clause 24 ordered to stand part of the Bill.

Clauses 25 to 29 ordered to stand part of the Bill.

Clause 30.

Question proposed, that clause 30 stand part of the Bill.

Mr. Sudama: Madam Chairman, in clause 30 (5), I am wondering if this is an incomplete sentence. It says:

> "In the event of absence or inability of the Inspector from whatever cause arising..."

I was wondering whether the words "inability to perform his functions" should be included.

Mr. Sobion:. The words "to perform his duties" should be added after the word "Inspector". It should read:

> "In the event of absence or inability of the Inspector from whatever cause arising to perform his duties, the Governor may appoint any qualified person to act temporarily in place of the Inspector. "

Question put and agreed to.

Clause 30, as amended, ordered to stand part of the Bill.

Clause 31 ordered to stand part of the Bill.

Clause 32.

Question proposed, That clause 32 stand part of the bill.

Mr. Sudama: I would like a clarification on clause 32 (3):

"Notwithstanding the provisions of any other law, no action or proceedings may be instituted in any court for the purpose of securing the enjoining, review or revocation of any order made or direction given under subsection (2) or in respect of any loss or damage incurred or likely to be or alleged to be incurred by reason of such order or direction."

Am I to understand that that subclause specifically precludes a recourse to the courts?

Madam Speaker: This is subject to subclause (2). That is the point the hon. Minister was making that in cases of this type the order of the Central Bank will continue.

Mr. Sobion: This clause does preclude recourse to the courts. It is, in fact, an existing provision of the Financial Institutions (Non-Banking) Act. You will see there is a very limited case where there is evidence presented that the licensee is insolvent. If you look at clause 32(1), it is only in that limited situation you can prevent the process from taking place.

Clause 32 ordered to stand part of the Bill.

Clauses 33 to 35 ordered to stand part of the Bill.

Clause 36.

Question proposed, that clause 36 stand part of the Bill.

Mr. Sobion: Madam Chairman, I beg to move that clause 36 be amended as follows:

In subclause (1) insert the word "from" between the words "person" and "whom" occurring in the last line.

Question put and agreed to.

Clause 36, as amended, ordered to stand part of the Bill.

Clauses 37 to 50 ordered to stand part of the Bill.

Clause 51.

Question proposed, that clause 51 stand part of the Bill.

Mr. Sobion: Madam Chairman, there is an uncirculated amendment to clause 51. There appears to be a computer duplication and a portion of clause 51(1) appears on page 46.

Madam Chairman, I beg to move that this clause be amended by deleting that portion of clause 51(1) as it appears on page 46.

Mr. Palackdharrysingh: Madam Chairman, there must be a corresponding amendment with respect to the numbering of the section.

Madam Chairman: No, if you notice on page 47, you see 51(1) and on page 46 there is 51(1) also. So we simply delete 51(1) from page 46 and we continue on page 47.

Question put and agreed to.

Clause 51, as amended, ordered to stand part of the Bill.

Clauses 52 to 56 ordered to stand part of the Bill.

Clause 57.

Question proposed , That clause 57 stand part of the bill.

Mr. Sobion: Madam Chairman, I beg to move that clause 57(1)(b) be amended by deleting the year 1979. The cross-reference is Chapter 83:01 as it appears in the margin.

Mr. Sudama: Madam Chairman, does Chap. 83:01 have the same reference to the Banking Act?

Madam Chairman: Yes.

Mr. Sudama: The Banking Act was passed since 1965.

Mr. Sobion: The Banking Act is Chap. 79:01. Perhaps, we should include the reference to the Banking Act Chap. 79:01 in the margin above Chap. 83:01 as it appears there.

Madam Chairman: There is an error here, then.

Mr. Sobion: Madam Chairman, the reference in the margin is to the Financial Institutions (Non-Banking) Act. There is no marginal reference to the Banking Act because it had been previously referred to in this Bill. So that there is no need to repeat the marginal reference.

Madam Chairman: I think the hon. Member wanted to know which Act you were referring to.

Mr. Sobion: The Financial Institutions (Non-Banking) Act.

Madam Chairman: Does that satisfy the hon. Member?

Hon. Member: Yes.

Madam Chairman: We dealt with clause 57.

Question put and agreed to.

Clause 57, as amended, ordered to stand part of the Bill.

7.20 p.m.

Clause 58.

Question proposed, That clause 58 stand part of the bill.

Mr. Sobion: Madam Chairman I beg to move the following amendment:

In subclause (4) delete "(1)" occurring in line 6 and substitute "(2)".

Purely typographical error. Change of a subsection to refer to the proper subsection.

Question put and agreed to.

Clause 58, as amended, ordered to stand part of the bill.

Clauses 59 and 60 ordered to stand part of the bill.

Clause 61.

Question proposed, That clause 61 stand part of the bill.

Mr. Sobion: I beg to move the following amendment:

Delete paragraph (e).

This is a duplication. It appears at subparagraph (b). The deletion of (e) is really to correct that duplication which occurs.

Question put and agreed to.

Clause 61, as amended, ordered to stand part of the bill.

Clauses 62 and 63 ordered to stand part of the bill.

Clause 64.

Question proposed, That clause 64 stand part of the bill.

Mr. Robinson: May I ask what is the meaning of that phrase, "on the advice of the Central Bank"?

Mr. Mottley: When we have to bring matters to Parliament, the Minister would take advice from the Central Bank.

Mr. Robinson: Does it mean that he is bound by the advice of the Central Bank, which is the meaning given to it in the Constitution of the country?

Mr. B. Panday: There is a difference between “in consultation with” and “on the advice of”.

Madam Chairman: The interpretation of this, it seems to me, is that if the Central Bank sees the need for regulations it is their bounden duty to bring it to the attention of the Minister, who will then have the duty to bring such regulations to Parliament. That is if the Central Bank sees that there is a need for regulations.

Mr. Robinson: Is it the intention that the Minister is a mere conduit pipe and has no input in the matter?

Mr. Sobion: Madam Chairman, we have noted the point raised by the Member for Tobago East. *[Interruption]*

Madam Chairman: Order! Order please! I think the Attorney General is answering the hon. Member.

Mr. Sobion: I suggest in the circumstances, that we delete the words "on the advice of" and include the words, "after consultation with the Central Bank may make regulations".

Mr. Mottley: Would that solve the problem?

Mr. Robinson: If that is what you mean. I merely wanted to find out what you intended.

Madam Speaker: The Minister makes the regulations anyhow. I was thinking that this is if the Central Bank saw the need for it. If the Central Bank sees the need for regulations they have a duty to tell the minister this is so, because the repository of power is now with the Central Bank. That is the meaning. Then the Minister will give it to the parliamentary draftsmen and they would consult.

This is envisaging where the Central Bank of its own accord is seeing that there is need for regulations, and since they cannot go to Parliament, they must ask the Minister to bring it to Parliament.

Mr. Robinson: It seems, Madam Chairman, that I would accept your interpretation. I do not know whether that is what is intended.

Madam Chairman: I would think so.

Mr. Robinson: I would think that you would not put a minister in the position of being a mere conduit pipe.

Madam Chairman: In this case it has to be since the way this Bill is being drafted with such powers being given to the minister who will have to act on the advice, so far as only bringing the regulations to Parliament.

Mr. Robinson: Then the language is contradictory.

Mr. Sobion: Madam Chairman, I think I have a proposal which may solve the difficulties raised by the hon. Member.

Mr. Robinson: The Member has no difficulty.

Madam Chairman: What the hon. Member is saying is that he just wants to find out what is the intention.

Mr. Sobion: He has raised points to some difficulty. I think I have a form of words which should deal with it.

Mr. Robinson: Could I merely say this? If we accept, as I would, the Chairman's interpretation, then the language becomes contradictory because you are saying that the Minister may make regulations.

Mr. Sobion: Madam Chairman, I am proposing a form of words which I think would get the concept we would like to see. I would read the entire thing and then sort out the amendment.

> "The Minister may after receiving the recommendations of the Central Bank make regulations for any matter prescribed..."

We delete the words "on the advice of the Central Bank" as well as "may" appearing after "Central Bank".

Madam Chairman: So, "The Minister may make..."

Mr. Sobion: No. "The Minister may," and these are the words that are going to be included:

> "The Minister may after receiving the recommendations of the Central Bank make regulations."

Question put and agreed to.

Clause 64, as amended, ordered to stand part of the Bill.

Mr. Sobion: Madam Chairman, in that connection may I go back to clause 63 (1) and (2) and have a similar amendment to those two subclauses.

Clause 63 recommitted.

Mr. Sobion: If I may read them Madam Chairman:

63(1) The Minister, on the advice of the Central Bank may from time to time amend the First and Second Schedules by Order published in the *Gazette* subject to negative resolution of Parliament.

(2) The Minister, on the advice of the Central Bank, may from time to time amend the Third Schedule by Order published in the *Gazette*.

Madam Chairman: There were two "mays". "…may after receiving the recommendations of the Central Bank 'may from time to time…' ", That does not made sense. What you are doing here is amending: "The Minister may after receiving the recommendations of the Central Bank from time to time amend the First Schedule." That is what it is. The subclause will now read:

"The Minister may, after receiving the recommendations of the Central Bank from time to time amend the First and Second Schedules by Order published in the *Gazette* subject to negative resolution of Parliament."

Question put and agreed to.

Clause 63, as amended, again ordered to stand part of the bill.

7.30 p.m.

Clauses 65 to 69 ordered to stand part of the Bill.

First Schedule ordered to stand part of the Bill.

Second Schedule:

Question proposed, That the Second Schedule stand part of the Bill.

Mr. Sobion: Madam Chairman, I beg to move that the Second Schedule be amended by changing the reference to 20(2)(f) and 53(3)(a), occurring at the top just below the words "Second Schedule" to read 20(1)(f) and 53(4)(a) respectively.

There are some other amendments to the Second Schedule. These have been circulated.

Madam Chairman: What is the nature of the amendment?

Mr. Mottley: Delete paragraphs (8) and (10) of Part D and renumber paragraphs (9), (11), (12), (13) and (14) as (8), (9), (10), (11), and (12), respectively.

Also delete the number "(9)" in line 1 of paragraph (11), as amended, of Part D and substitute the number "(10)". The existing paragraph 13 would now become 11.

Question put and agreed to.

Second Schedule, as amended, ordered to stand part of the Bill.

Third Schedule ordered to stand part of the Bill.

Question put and agreed to, That the Bill, as amended, be reported to the House.

House resumed.

Bill reported, with amendment; read the third time and passed.

ADJOURNMENT

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Madam Speaker, in moving the adjournment, I should like to take the opportunity to congratulate the House on passing this legislation in such a timely fashion.

We had foreseen a lengthy debate on this matter, in so much so that we have prepared for dinner. We invite all Members of this honourable House to dinner and I assure Members that it will be real dinner, with cutlery, not boxes. There have been some complaints on that. I hope that all Members will take the opportunity to dine this evening.

I should like to inform honourable Members that at the next sitting of the House we intend to start the debate on the Companies Bill. I mentioned this to the Chief Whip and he told me that he would take it up with his caucus. What we intend to do, as the hon. Attorney General mentioned, is to move that this Bill be referred to a joint select committee. Obviously, this has to be done after the Second Reading. We are proposing that we defer debate until the Bill comes back from the joint select committee, so that next week we would be moving rather quickly, if there is agreement on that approach.

Madam Speaker: Then you would have to appoint your side of the joint select committee.

Hon. K. Valley: Yes, Madam Speaker. We would go through the stages to the Second Reading, but if there is no agreement, we would go to debate and at the committee stage we would move a motion referring it to a joint select committee.

Mr. Robinson: Madam Speaker, may I point out that this Bill has a very long history and is very complicated. If this House is to approach it in a responsible manner, I do not see how the second reading can be next week Friday.

Hon. K. Valley: Madam Speaker, let me repeat, we are proposing that next week we move quickly to the second reading, but we are sending it to a joint select committee, so that the real debate would take place when the Bill comes out of the joint select committee. Members would then have a chance to deal with the whole Bill. That is the concept.

Mr. Maharaj: That is assuming there is agreement. What will you do alternatively?

Hon. K. Valley: If we have the time, we will do the Motion on Traffic Regulations on the Order Paper, and then move to the Police Complaints Bill.

I beg to move that the House do now adjourn to Friday, May 21, 1993 at 1.30 p.m.

Madam Speaker: The Member for Fyzabad has a motion on the adjournment but I do not know if there will be time for him to present it and for the Minister to answer.

Hon. K. Valley: We can take it next week, Madam Speaker.

Mr. Sharma: Madam Speaker, I can present it. It is if the Minister can reply.

Madam Speaker: No, it has to be done in one sitting.

Question proposed.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 7.42 p.m.

WRITTEN ANSWERS TO QUESTIONS

Students' Revolving Loan Fund

The following question was asked by Dr. Carl Singh (Tabaquite):

133. Could the Minister responsible for Administration state to this honourable House:

(a) The total sum of money which was available at the inception of the Students' Revolving Loan Fund?

(b) From what source was the fund made available?

(c) To whom, i.e. names of students and areas of study and also sums which were made available to each student?

(d) The conditions under which these loans were granted?

(e) What measures are in place to recover outstanding debts?

(f) How many of these students completed their areas of indicated studies and are employed by the national community?

The following reply was circulated to Members of the House:

(a) The Students' Revolving Loan Fund was established on October 5, 1973, and was financed for a period of four years (1973—1977) in the sum of US $6.2m.

(b) The said sum comprised an Inter-American Development Bank loan of and US $2.5m provided by the Government of Trinidad and Tobago. The Fund was solely financed by the Government of Trinidad and Tobago with effect from October, 1977 to November, 1987, in the sum of TT $53,987,814.00 and has been granting loans through repayments from beneficiaries since December, 1987 to the present time.

(c) Initially loans were granted for students in the following areas:

Agriculture, engineering, education, medicine, para-medical studies, and natural sciences.

Subsequently, other priority areas were identified, and at present loans are granted to eligible applicants in the areas outlined hereunder:-

(a)	LB. and L.E.C.	—	Law
(b)	B.Sc. degree	—	Tourism Management
(c)	B.Sc. degree	—	Agriculture
(d)	B.Sc. degree	—	Engineering
(e)	BSc. Degree	—	Accounting
(f)	B.Sc. degree	—	Natural Sciences
(g)	B.Sc. degree	—	Computer Science

(h) M.B.B.S. degree — Medicine
(i) D.D.S. degree — Dentistry
(j) D.V.M. degree — Veterinary Medicine
(k) B.Sc. degree — Actuarial Science
(l) B.Sc. degree — Special Education

The following is a breakdown of the areas of study, the number of loans awarded and the sums involved over the period October, 1973 to January 1993:

AREAS OF STUDY	NO. OF LOANS AWARDED	SUMS LOANED
Medical Studies (including Dentistry and Veterinary Medicine)	316	$15,107,000.00
Natural Sciences	323	$7,237,512.72
Law	145	$5,000,000.00
Business Studies (Marketing, Commerce)	37	1,819,409.19
Agriculture	169	$2,840,387.14
Aviation (Pilot Training, Aircraft Maintenance)	34	$1,659,404.00
Architecture/Quantity Surveying	47	$3,648,271.48
Accountancy	176	$7,934,905.97
Actuarial Science	8	$620,738.51
Home Economics, (including Food and Nutrition and Apparel Design)	45	$2,762,847.31
Education (including Special Education)	36	$5,512,175,175.63
Engineering	235	$4,015,400.95
Industrial Technology	33	$2,079,334.22
Communication Information Science	85	$493,398.99

AREAS OF STUDY	NO. OF LOANS AWARDED	SUMS LOANED
Communication/ Information Science	85	$493,398.99
Environmental Studies	2	$80,740.00
City/Regional Planning	2	$82,206.44
	1693	$60,893,732.55

It is not considered appropriate to give the names of those who received loans because the matter is a private one between the Fund and the beneficiaries.

(d) At the inception of the programme, loans were made available to applicants who fulfilled the following conditions:-

(i) Applicants should be enrolled at or accepted for entry by the University of the West Indies or in institutions of higher learning located outside the Caribbean region which had been declared eligible by the Board of Management of the Fund.

(ii) Applicants must be members of families in which the income of the head of household did not exceed TT $14,000.00 yearly.

(iii) Applicants must furnish a guarantor between twenty-one and fifty years, a resident national of Trinidad and Tobago and acceptable to the National Commercial Bank of Trinidad and Tobago.

The conditions referred to above, have been reviewed during the period 1976—1981, and at present the following criteria apply:

(i) Applicants must be under the age of 30 years.

(ii) The joint gross earning of heads of household should not exceed $96,000 yearly.

(iii) Applicants are required to furnish a guarantor who must be between 21 and 55 years old, a resident national of Trinidad and Tobago and acceptable to the National Commercial Bank of Trinidad and Tobago Limited.

(iv) Loans are granted for studies in the Caribbean region with the exception of the B.Sc. degree programmes in Actuarial Science and Special Education.

(v) (v) Applicants must furnish a letter of acceptance from the institution at which the course of study is to be pursued.

Interest is charged on the loan at the rate of 4.5 per cent from the date of the first disbursement of the loan.

Successful applicants and their guarantors are required to enter into a signed Agreement with the National Commercial Bank of Trinidad and Tobago Limited. The Agreement includes the following stipulations:

(1) The student Covenants to return to Trinidad and Tobago after completion of studies.

(2) The student is given a grace period of one year following which repayment of the loan commences in the thirteenth month after the date of graduation. The repayment period is nine years in duration and is arranged in three year phases. During the first phase the student is required to repay 20 per cent of the amount owed including interest. In the second phase, 30 per cent and in the third phase, 50 per cent so that the loan shall be fully repaid by the tenth year after graduation.

(3) (i) Repayment is to be made by monthly instalments, promptly on the last day of each and every month until the loan is fully repaid.

(ii) Where the student defaults, the Bank takes steps to recover overdue payments. In cases where the amount in question is six months in arrears, the matter is referred to the Civil Law Department of the Ministry of Legal Affairs for action.

(iii) In no event whatever is the term of payment of the loan to extend more than 15 years beyond the expiration of the grace period.

(4) Where the student has pursued studies outside Trinidad and Tobago and is in breach of his/her agreement to return to Trinidad and Tobago after completion of his/her studies the entire unpaid balance of the debt becomes immediately due and payable.

(5) The student also convenants that he/she will not, after completion of studies and whilst the loan remains unpaid, pursue a career outside Trinidad and Tobago.

(6) The guarantor agrees to hold himself jointly and severally liable for the repayment of the loan hereby made to the student.

(e) In accordance with an agreement between the Students' Revolving Loan Fund and the National Commercial Bank of Trinidad and Tobago Limited, the Bank takes steps to recover overdue payments. In cases where the

amount in question is six months in arrears, the matter is referred to the Civil Law Department of the Ministry of Legal Affairs for action.

Additionally, the Administrative Office of the Fund issues stern letters of warning to defaulting beneficiaries and their guarantors, on a regular basis, exhorting them to regularize the status of their accounts. Contact is also made via the telephone.

In cases where the Administrative Office of the Fund is unable to locate beneficiaries and/or guarantors in Trinidad and Tobago, the assistance of the Permanent Secretary, Ministry of National Security is sought in ascertaining their whereabouts.

Where beneficiaries and guarantors are known to reside out of the country, but they cannot be located by the Administrative Office of the Fund, the assistance of the Permanent Secretary, Ministry of Foreign Affairs is sought to make contact with those persons.

Further, known relatives of defaulters are encouraged informally, to impress upon them the need to honour their commitments to the Fund.

(f) The data base concerning the number of students who have completed their areas of indicated studies and are employed by the national community is being developed. It is to be observed, however, that the Administrative Office of the Fund has not had much success in obtaining this information readily from beneficiaries in the past.

Caribbean Seasonal Programme
(Application for Employment)

The following question was asked by Miss Hulsie Bhaggan (Chaguanas):

191. (a) Would the Minister of Labour and Co-operatives indicate the number of persons who applied to the Caribbean Seasonal Programme in 1992?

(b) Would the Minister provide a listing of the names and addresses of the applicants indicating those who were successful in obtaining employment under this programme in 1992?

The following reply was circulated to Members of the House:

The Minister of Labour wishes to reply as follows:

With regard to part (a) of the question, the Minister wishes to advise this honourable House that in 1991, 2,466 persons responded to advertisements by the

Ministry of Labour and Co-operatives for employment in Canada during the 1992 season. From this total 1,308 presented themselves for interview.

With regard to part (b) of the current question, the Minister wishes to advise that 800 workers travelled to Canada on employment contracts during the 1992 season, out of which ninety-five (95) were new persons and seven hundred and five (705) were repeaters of "named" workers. Because of the voluminous nature of the information requested, the Minister has filed a copy of the data in the Parliamentary Library for the information of hon. Members.

AIM PROGRAMME
(Applications for 1992)

The following question was asked by Miss Hulsie Bhaggan (Chaguanas):

197. Would the Minister of Education state:

(a) The number of persons who have applied under the AIM Programme for the year 1992?

(b) The number of persons who have benefited under the programme?

(c) The names and addresses of the applicants?

(d) The names and addresses of those who have benefited under the programme?

(e) The names of the public and private companies and other institutions to which the beneficiaries were assigned?

The following reply was circulated to Members of the House:

The Minister of Education wishes to state that during 1992 the number of persons who applied to become trainees under the AIM Programme was 7,243.

Four thousand, six hundred and twenty-five persons were successfully placed as trainees during 1992.

The names and addresses of the 1992 applicants are compiled in a document which will be lodged in the Parliament Library for scrutiny by Hon. Members—(Appendix 1).

The names and addresses of the successful applicants are compiled in a document which will be lodged in the Parliament Library for scrutiny by hon. Members—(Appendix 11).

The names of the public and private companies and other institutions to which trainees were assigned in 1992 are complied in a document which will be lodged in the Parliament Library for scrutiny by hon. Members—(Appendix 111).