

*Leave of Absence**Friday, August 15, 1997***HOUSE OF REPRESENTATIVES***Friday, August 15, 1997*

The House met at 1.31 p.m.

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

Mr. Speaker: Hon. Members, I wish to advise that I have received communication from two Members: the Member for Port of Spain North/St. Ann's West (Mr. Gordon Draper) and the Member for Diego Martin West (Dr. Keith Rowley), who have both asked to be excused from today's sitting. They are excused.

STATUTES (AMDT.) BILL

Bill to amend the Statutes Act, Chap. 3:02, brought from the Senate [*The Attorney General*]; read the first time.

PAPERS LAID

1. Annual audited accounts of the National Gas Company of Trinidad and Tobago Limited (NGC) for the year ended December 31, 1996. [*The Attorney General (Hon. Ramesh Lawrence Maharaj)*]
 2. Annual audited accounts of the National Helicopter Services Limited for the year ended September 30, 1996. [*Hon. R. L. Maharaj*]
- Papers 1 and 2 to be referred to the Public Accounts (Enterprises) Committee.*
3. Trade policy for Trinidad and Tobago for the period 1997—2001. [*Hon. R. L. Maharaj*]

DHARMA PRAKASH SABHA (INC'N.) BILL

**Select Committee Report
Presentation**

The Parliamentary Secretary in the Ministry of Works and Transport (Mr. Chandresh Sharma): Mr. President, I beg to present the report of the Special Select Committee of the House of Representatives appointed to consider and report on a Private Bill for the incorporation of the Dharma Prakash Sabha and for matters incidental thereto.

DEFINITE URGENT MATTER
(Foreign Exchange Non-availability)

Mr. Kenneth Valley (*Diego Martin Central*): Mr. Speaker, in accordance with Standing Order 12(1), I gave you notice earlier today that I would seek leave to raise a definite matter of urgent public importance; that matter being the non-availability of foreign exchange for normal trading purposes in Trinidad and Tobago.

Mr. Speaker, this matter is definite because it concerns the specific issue of the non-availability of the medium of foreign exchange for trading purposes.

It is urgent because businessmen are unable to source foreign exchange in the market for trading purposes. As a matter of fact, the information is that for the last three days, businessmen have been unable to obtain foreign exchange in the market. Checks in the banking system this morning suggest that that is, in fact, correct. Obviously, there appears to be a crisis in the market.

Mr. Speaker, it is urgent also because today is the last sitting of Parliament until sometime in October. It is therefore important that we deal with this matter today so that the Government may take appropriate action to correct this situation. It is of public importance because in our open economy, imports are critical to the proper functioning of the economy. In addition, the business community would be preparing at this time, for the Christmas season. To the extent that they are unable to access foreign exchange to provide their material for the Christmas season, a crisis would exist. *[Interruption]* I am just putting some meat on it, Mr. Speaker. As I said in my note, it is of public importance because imports to Trinidad and Tobago would be affected, especially given the hour and the season.

Mr. Speaker, I seek your leave to raise this matter.

Mr. Speaker: Hon. Members, I have, in fact, received notification from the Member for Diego Martin Central in which he said in the main, that which he said today in the House. I wish to indicate that in terms of qualifying to be discussed in the way in which he wants it discussed, it does not qualify.

I wish to inform the Member, however, that insofar as it is possible for me to speak to the other side and see whether a different system could be used whereby at the end of the day's sitting, one might be able to raise certain things, we will explore the possibilities.

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Mr. Valley: Mr. Speaker, with your help I would like to speak with the Leader of Government Business so that we can raise the matter later today.

1.40 p.m.

OCCUPATIONAL SAFETY AND HEALTH BILL

Order for second reading read.

The Minister of Labour and Co-operatives (Hon. Harry Partap): Mr. Speaker, I beg to move,

That a Bill respecting the safety, health, and welfare of persons at work be now read a second time.

Mr. Speaker, the Bill has as its short title “The Occupational Safety and Health Act, 1997”. This Bill will repeal the Factories Ordinance, 1948 and the Employment of Women (Night Work) Act, 1939, Chap. 88:12. It provides for the revision and extension of the present law regarding the safety, health and welfare of persons at work. This Bill will, in fact, revise and upgrade the laws which, in effect, will keep pace with the country's rapid industrialization.

Mr. Speaker, this Bill is a culmination of 24 years of planning, drafting, re-drafting, consultation and compromise in arriving at a piece of legislation that is friendly to both employees and employers. It spans four PNM administrations, one NAR term and now the Government of National Unity headed by the distinguished Member for Couva North and Prime Minister, the hon. Basdeo Panday.

It is a credit to successive PNM administrations, that the initiative was taken to revise the Factories Ordinance in an attempt to put on the statute books legislation to protect workers at the job site. Even though these initiatives were not taken to their logical conclusion, there was that recognition that the Factories Ordinance applied only to workers employed in factories. It did not embrace all workers. As such the scope of that ordinance was limited and restrictive.

Mr. Speaker, based on an agreement between the then government of Trinidad and Tobago and the United Nations Development Programme, an expert arrived in Trinidad and Tobago on May 24, 1973—some 24 years ago—to begin work aimed in part, to make recommendations for the upgrading of existing occupational safety and health legislation in the country.

Two years later, in 1975—that is 22 years ago—the first draft bill on occupational safety and health was prepared but no action was taken on it. In 1979 an amended version was produced, but again no action was taken. A 1984 version

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was disseminated for public comment. Seven years later, in 1991, another version was referred to the Legislative Review Committee and then introduced into the House of Representatives on October 11, 1991. The Bill remained on the Order Paper but lapsed when Parliament was dissolved on November 5, 1991.

Mr. Speaker, a 1994 version was produced by an ad hoc committee set up by the Legislative Review Committee which decided it should be reformatted in the interest of simplicity and user-friendliness.

This Government of National Unity promised in its 1995 General Elections Manifesto, that legislation protecting the health and safety of workers in the workplace would be enacted during our term of office. We recognized that the absence of adequate legal protective cover for workers left them at the mercy of employers, and placed a heavy and unfair burden of responsibility on the trade union movement to become the virtual watchdogs on safety, in the world of work.

Mr. Speaker, the role of the trade unions was limited because they could have acted as watchdogs only in situations where they had bargaining status for employees. The fact that there are more non-unionized than unionized workers in Trinidad and Tobago exposes the enormity of the problem which workers at present face, in relation to safety and health in the workplace.

I pause to recognize the significant contribution of the trade union movement in creating awareness and awakening the consciousness of both workers and employers to the importance of safety and health in the workplace. Over the years, the trade union movement has attracted the wrath of some employers who condemned them as preachers of doom and gloom, whenever they warned of the possibility of serious accidents in the workplace. It is only fitting, therefore, that in piloting this Bill I should pay tribute to the trade union movement for the role it played in ensuring safety in the workplace.

Mr. Speaker, the All Trinidad Sugar and General Workers Trade Union, the Oilfields Workers Trade Union, the National Union of Government and Federated Workers, the Seamen and Waterfront Workers Trade Union and the Steel Workers Union of Trinidad and Tobago are among those unions always in the forefront in the struggle to protect workers in the workplace.

Even as I speak, the Steel Workers Union of Trinidad and Tobago is continuing its campaign to ensure that safety and health procedures are constantly in place to protect workers at the steel plant. We are also grateful to those enlightened employers who have supported our effort to present this legislation here today.

In a sense, because of the non-effectiveness of the 1948 Factories Ordinance, workers had to depend on the investors' need to protect their investment, as a means of protecting workers' own safety and health.

It was up to the investor to introduce appropriate measures to safeguard his plant and machinery, and for workers to piggy-back on those measures to ensure their own safety and health at the plant. The Factories Ordinance is now and has been for some time a toothless tiger, enacted at that time when the only significant industry in the country was an oil refinery. Point Lisas and other industrial estates were not even visible on the distant horizon 50 years ago.

Mr. Speaker, indeed, we are fortunate that we have not had any major accidents except for the sad occasion at Petrotrin in 1985 when 14 employees lost their lives in an explosion at Pointe-a-Pierre. This Government cannot, in good conscience, pursue the further expansion of our industrial and manufacturing sector without putting in place protective legislation to ensure that economic progress is not achieved at the expense of the health and safety of the citizens of Trinidad and Tobago.

1.50 p.m.

Introducing this Bill here today will be the seventh attempt since 1975 to put on the statute books legislation to protect workers in the workplace.

This Bill provides for the revision and extension of existing laws regarding the safety, health and welfare of persons at work so that Trinidad and Tobago can take its place among modern nations in the global village.

No one will be able to allege that our goods and services are produced under conditions that would disqualify us from any of the growing number of international standards. We are putting in place the legislation that will take our nation state into the 21st Century. I make this point, Mr. Speaker, that we at the Ministry of Labour and Co-operatives are questioned about our safety and health requirements at the work site by investors coming into the country to set up industries. Some of these investors raise their eyebrows when we advise that we base our safety and health codes on an ordinance that was enacted 50 years ago. Because of this anomalous situation and the fact that most of these investors are safety and health conscious, they implement safety and health codes, regulations and standards that govern their parent companies operating in other countries. That is an untenable situation which this Bill will seek to correct.

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I am, therefore, a bit surprised that a few local employers have had some reservations about this Bill; and those reservations are mainly that the small and medium sized businesses may be forced to close down because of the provisions of this Bill. That kind of hysteria is not supported by the evidence we gleaned in researching this Bill. An analysis revealed that when an employer invests in a safe and healthy work environment it saves him money in terms of injury, lost time, medical care costs and a slow down in production. It also protects him from being exposed to civil litigations, expensive as that is at present.

Mr. Speaker, if we were to take a look at the reportable industrial accident situation we find that in the three-year period 1993—1996 there were 1,432 accidents. Introduction of occupational safety and health legislation is expected to slash this rate considerably. More revealing, Mr. Speaker, are the data which I have extracted from the annual reports of the National Insurance Board of the cost of work injuries over the period 1984—1996. Over that period there was a total of 40,365 new claims allowed at a cost to this country of \$108,630,810 and yet we hear employers bemoaning the costs involved in enacting this piece of legislation.

I would like to suggest, Mr. Speaker, that they are unaware of the present cost in the absence of the proposed legislation and therefore the figures I just quoted will come as a shock to them. However, Mr. Speaker, the success of the law is a function of joint co-operation of the social partners. Effect is given to the law by persons in the society so that if we want the law to work we can, indeed, make it work. I mentioned earlier, Mr. Speaker, that most of the foreign investors operating in this country have instituted, as a matter of policy, safety and health codes and they stick to these codes without exception. That kind of persistence has paid off well for these companies.

Mr. Speaker, last July I attended a ceremony in the company of the Minister of Energy and Energy Based Industries, Sen. Finbar Gangar, and the distinguished Member for Point Fortin, Dr. Vincent Lasse, where employers of Bechtel International Incorporated and Atlantic LNG at Point Fortin celebrated two million hours worked without a lost-time injury. I know they are moving to the three millionth because Bechtel International has an international record of, I think, nine million hours worked without a lost-time injury. Mr. Speaker, a safe and healthy workplace will contribute to increased productivity and profits. It cannot, in my view, be a factor in any financial slide of an enterprise. It must be seen as a plus to the organization.

This Government, from the inception, has emphasized its commitment to consultation. We have certainly demonstrated this in bringing this Bill before this honourable House. The draft Bill was subjected to intense scrutiny at four consultations. The first involved hands-on technical persons being given the opportunity to bring their varied experiences to bear on the draft document. Three other public consultations were held, including one in Tobago and thereafter the Ministry of Labour and Co-operatives held mini consultations with unions, groups of employers and non-governmental organizations. Indeed, Mr. Speaker, as recently as three weeks ago we held further discussions with employers in the Point Lisas area and as a result we will propose additional amendments to the Bill based on these discussions.

Arising out of the earlier discussions, that is the consultations that were held before, 128 amendments were made to our original draft. Therefore, Mr. Speaker, this document before us today is the result of extensive consultation over the last 10 months and indeed consultations that have taken place since 1975 as well.

Miss Nicholson: It is a democratic Government.

Hon. H. Partap: It is a democratic Government, Mr. Speaker, where we consult and talk with people in order to arrive at a consensus. Government does not rule out the possibility, that in spite of such consultations, proposals for further amendment of this piece of legislation could arise during the debate in this honourable House and in the Senate, so if Members opposite do have any alterations we will be listening to those as well. The existing legislation applies only to persons employed in factories.

In the proposed legislation the protective cover afforded has been considerably widened, almost all persons at work will be safeguarded. Indeed, in Part I of the Bill the term 'employee' is defined as follows, and I quote:

“ ‘employee’ means any person who has entered into or works under a contract with an employer to do any skilled, unskilled, manual, clerical or other work for hire or reward, whether the contract is expressed or implied, oral or in writing or partly oral and partly in writing.”

2.00 p.m.

This means that persons in offices, shops of all kinds, persons working in the open air, such as electricity linesmen and agricultural workers, will all be covered by law in respect of their health and safety and, for the first time in Trinidad and Tobago, employers will be distinguished from occupiers.

Part II of the Bill will impose duties appropriate to employers in relation to their employees and on occupiers in relation to persons in the industrial establishment and most importantly, whether or not such persons are employed by the occupier. An “occupier” is defined as the person who has the ultimate control over the affairs of an industrial establishment.

Indeed, you will find provision for the several duties of five categories. In clauses 6, 7 and 8, you will find, first of all, that employers have a duty to their employees; secondly, that employers and self-employed persons have a duty to persons other than their employees; thirdly, the occupier has a duty to persons in, and in the vicinity of, the industrial establishment; fourthly, to employees at work.

The occupier is required to prepare a safety policy for his industrial establishment. This policy must specify the organization and arrangements for the execution of the said policy. Fifthly, a new feature being introduced in the legislation also in Part II, clause 13, is the responsibility of persons who design, manufacture, import or supply any machinery for use in an industrial establishment. They will be required to ensure that so far as is reasonably practical, the machinery is safe and without risks to health when properly used.

I would wish to emphasize from the onset that the Bill does not ignore the responsibilities that the employee has in occupational safety and health in the workplace. Part II, clause 10, specifies these responsibilities and provides penalties to be imposed where the employee fails to live up to those responsibilities. Safety and health in the workplace must be seen as a partnership between employer and employees.

In respect of risks, Part VIII of the Bill provides *inter alia* for prohibition notices which are to be used as controls against the risks of serious personal injury. Under Part XIII, clauses 72—83, an inspector will have the authority to issue such a notice requiring that work in the specified area or on the plant must stop forthwith. I recall an incident in Malaysia last August—and I am sure that you would remember, Mr. Speaker, because you were in Malaysia at the time—when that country’s Safety and Health Commission actually closed down a government project because, in the opinion of the inspector, unsafe practices were in use at the work site. The project remained closed until the safety requirements were met.

The Bill proposes that kind of authority for the executing agency so that the prohibition or restriction will remain in force until the danger has been removed. It may be a matter of making alterations to mitigate the danger to life and limb and simple things may have to be done.

Where such a notice is current, the document is required to be displayed in the workplace or affixed to the article in question. This notice cannot be removed without the authority of an inspector.

Steps have been provided to protect against risks arising from the use and handling of toxic substances and a number of standards have been alluded to for the purpose of giving guidelines and recommending codes of practice. Hitherto, there has not been any statutory pronouncements relating to personal protection equipment. This will change, for in clause 34, the proposed legislation requires that every occupier—

Mr. Hinds: On a point of order, Mr. Speaker. I wish to refer to Standing Order 33(6) which says:

“Except with the leave of the Speaker, a Member shall not read his speech; but he may read extracts from written or printed papers or books in support of his argument, and may refresh his memory by reference to notes.”

Mr. Speaker, I rather suspect that this is a clear infraction of that Standing Order.

Mr. Speaker: I rule against you because that Standing Order does, in fact, permit one to read extracts and to refresh one’s memory and it is usual that when Ministers are making certain statements and they need to be very accurate—*[Interruption]* Will you allow me to rule on this? I rule that the point of order which has been raised has been overruled.

Mr. Manning: Mr. Speaker, may I suggest, out of an abundance of caution, if you are so minded, just authorize that he reads his speech at this stage so that all will be clear.

Mr. Speaker: I will not do that. Will the Member please continue?

Hon. H. Partap: Thank you for your ruling, Mr. Speaker. This is a technical Bill and I would like to be accurate in what I am telling the House.

Please take note that I did not say employees, but persons, whether employees or members of the public, and it is intended that all persons entering an area in an industrial establishment where they are likely to be exposed to the risk of head, eye, hand or foot injury, hazards from air contaminants or any other bodily injury, will have to be provided with suitable protective clothing or devices of an approved standard.

2.10 p.m.

Previously, no such protection had been afforded passers-by. Regulation 23 stipulates that an appropriate temperature is to be maintained in the workroom given the work rest regimen. Reasonable conditions of comfort and an environment conducive to good health are to be created and maintained in the industrial establishment.

Moreover, every occupier is required to secure and upkeep adequate and suitable ventilation by the circulation of fresh air. Where contaminants are generated in a process, steps must be taken to remove the dust or fumes and where practicable, by the use of exhaust appliances.

No worker needs to fear victimization by his employer as a result of giving information to an inspector about the operation of the establishment. This protection is guaranteed at clause 77 and any employer who contravenes that provision is guilty of a punishable offence. In the area of industrial hygiene it is significant that in the list of industrial diseases there is a drastic increase of what obtained.

Under clause 48 of the Factories Ordinance, eight diseases are mentioned. In clause 48, we have now increased this list to 37 sets of industrial diseases. These are deemed to be notifiable to the chief inspector and to the chief medical officer. Where such a notice is sent to the chief medical officer, arrangements are to be made for a medical inspector to investigate and submit a report on the case of the industrial disease of which notice was received. I draw the attention of this honourable House to some other specific provisions in this Bill.

In clause 6, women are protected. A female employee who is pregnant is to be protected against hazards to her offspring. An employer must adapt the working condition of a pregnant employee to ensure that she is not involved in the use of, or exposed to chemical substances or conditions of work dangerous to the health of the unborn child. Where appropriate, the employer may assign to her alternative work where available, without prejudice to her right to return to her previous job.

Also, in clause 15 there is the right to refuse. In accordance with the ILO Convention 115, Article 13, the right to refuse to work is being given to the worker where he has reasonable cause to believe that any machine, plant, device or thing present or to be used, is likely to endanger him. There is a procedure, however, to be followed in such circumstances in terms of reporting the matter and of investigating the claim.

At clause 65 there is the establishment of an agency to operate the Bill when it becomes law. This agency is to be known as the Occupational Safety and Health Agency. Its functions would include occupational safety and health, policy formulation and advising the Minister on the organizational structure and staff requirements to give effect to the law. The operational arm of the agency is expected to include other units with a responsibility for safety or health inspection in the Government service, so there may not be any duplication of service.

At clause 68, there is the provision for codes of practice. Provision has been made for the approval and issue of codes of practice suitable for giving effect to this legislation on occupational safety and health. These will reflect the recommended practice in respect of industrial activities on the basis of safety considerations.

At clause 84(1)(b) an aggrieved person may apply to the Industrial Court for redress; the Industrial Court may make an award in favour of the aggrieved person and impose any penalty, other than a term of imprisonment that a Summary Court may impose, in respect of that contravention or failure to comply.

There is also protection in terms of pressure vessels. There is regulation for the use of pressure vessels hereto outlined, and which is omitted from the law. Unfired pressure vessels other than air pressure containers, air receivers are to be examined periodically by a competent person for structural integrity. Effective measures have to be taken to ensure that the safe working pressures of such vehicles are not exceeded.

There is provision for special protection in regulation 25 against ionizing and non-ionizing radiation. The standard being applied is that of the International Commission of Radiological Protection. Specific standards are being applied, as also in other areas of the legislation. No person in an industrial establishment is to be exposed to biological agents which would expose him to the risk of contamination and bodily injury.

I have sought in this short time to put in capsule form the philosophy behind this proposed legislation and to highlight a few of its provisions. I do not propose at this time to take up any more time of this honourable House but if necessary, I will add additional information at the appropriate time in this debate. I thank you and I beg to move.

Question proposed.

Mr. Colm Imbert (*Diego Martin East*): Mr. Speaker, it is unfortunate that the Member for Nariva was so brief and circumspect in his presentation, and so limited in the information that he gave to us. This Bill before the House has 100 clauses and 80 pages. It has far-reaching implications not simply on the management of labour and the working conditions for workers, but on the economy of Trinidad and Tobago; unemployment and generally on the functioning of the entire society.

2.20 p.m.

At the completion of this debate, and maybe in the other place, I suggest that this Bill be subjected to further scrutiny by an appropriate committee, and I will explain why.

It is unfortunate that the UNC Government sought to select the Member for Nariva as the Minister of Labour and Co-operatives because something of this nature requires someone who is able and willing to look at the implications of one's actions. The Minister made, what I consider to be, an absurd statement that he was surprised about the reservations to the Bill by certain employers who are claiming that small and medium-sized businesses may close down and referred to this as hysteria. He then went on to allege that investment in the measures contained in the Bill will result in improved performance.

Mr. Speaker, I am of the view that this Bill is not appropriate to Trinidad and Tobago in its present form. What this will do is put in place a bureaucracy which will have the effect of shutting down a large number of businesses in Trinidad and Tobago and make it extremely difficult for employers to operate economically. It will increase the cost of labour, production and the cost of goods and services, and I agree that if we do not amend this Bill appropriately, it will have the effect of closing down a number of small and medium-sized businesses in Trinidad and Tobago and that cannot be the objective of the Government and this Parliament. So I am asking this House to stop the 'ole' talk I hear coming from the other side that we are against workers. There will be no workers if there are no employers; it is a fundamental principle. [*Desk thumping*] The Minister does not understand these things, that in order for there to be employees, there must be employers first and employers will only involve themselves in commerce and industry if it is economical and practical to do so.

I draw reference to Part III of the Bill—rights of employees to refuse work where safety or health is in danger. I have been advised by my trade union colleagues—[*Interruption*] We have trade unionists on this side—the Member for

Arouca North who was a distinguished member of the trade union movement with long experience prior to his ascension to Parliament.

Mr. Valley: He is not like Selwyn John.

Mr. C. Imbert: I have been advised that the current industrial relations that are being practised—*[Interruption]*

Mr. Speaker: I think that both sides of the House are guilty of some discourtesy in one, not listening to what the Member has to say, and two, carrying on conversation other than behind this Chair and so disturbing myself and the person who is faithfully recording what is being said here.

Mr. C. Imbert: I thank you, Mr. Speaker, for your protection. I always find that Members on the other side do not read the legislation, they do not understand it and they do not listen. *[Desk thumping]*

I will go through some of the clauses and I will say at the outset that this Bill, with suitable amendments, is a necessity for modern Trinidad and Tobago. To use the words of the Minister, "For us to take our place in the global marketplace, we must put in train modern legislation to deal with the rights of workers." One cannot argue about the occupational health and safety of workers, and I am asking the other side to stop the bantering and 'ole' talk. There is no point in putting legislation on the books which is impractical and will have the opposite effect of which is intended.

Look at clause 15 for instance which states:

"An employee may refuse to work or do particular work where he has reason to believe that—

- (a) any machine, plant, device or thing he is to use or operate is likely to endanger himself or another employee;"

There is nothing wrong with that. Who could have an argument with that?

- " (b) the physical condition of the workplace or the part thereof in which he works or is to work is likely to endanger himself;
- (c) any machine, plant, device or thing he is to use or operate or the physical condition of the workplace or part thereof in which he works or is to work is in contravention of this Act..."

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There is nothing wrong with that. Clause 16 states:

“Upon refusing to work or do particular work the employee shall promptly report the circumstances of the refusal to the employer or his representative who shall forthwith investigate the report in the presence of the employee and in the presence of—

- (a) a person who because of knowledge, experience and training is selected by the trade union that represents the employee; or”

Clause 17 states:

“Where, following the investigation or any steps taken to deal with the circumstances that caused the employee to refuse to work or do particular work, the employee has reasonable grounds to believe anything mentioned in section 115, the employee may refuse to work or do the particular work and the employer or the employee or a person on behalf of the employer or employee shall cause an inspector to be notified thereof.”

Clause 18(1) says:

“An inspector shall investigate the refusal to work in the presence of the employer or his representative, the employee and the person mentioned in section 16(a) or (b).

- (2) The inspector shall, following the investigation, decide whether the machine, plant, device or thing or the workplace or part thereof is likely to endanger the employee...”

Clause 19 states:

“Pending and during an investigation, or pending the making of a decision, under this Part, the employee shall, during normal working hours, be in a safe place in the industrial establishment and make himself or, as the case may require, be made available...”

Clause 20 states:

“Pending the investigation and decision of the inspector, no employee shall be assigned to use or operate the machine, plant, device...”

Mr. Speaker, what this is putting in place, if it is passed in that form, is that employees can refuse to work and an elaborate procedure follows where a second party is called in, an investigator and an inspector has to come in, and while all this is going on, no employee works in the industrial establishment. I understand that

the current industrial relations practice is that one first complies, then complains, but it appears here that one complains first and then does not comply. So I am asking the Minister to be careful. There is no point in putting in place systems in the workplace which can be used to shut it down unjustifiably.

Hon. Member: That is what he wants.

Mr. C. Imbert: That is why I am saying that this Bill, while it is vital and necessary, is so elaborate that after the debate in both places, an appropriate committee of this House and the other one should be appointed to consider the clauses in the Bill and its amendments, for it has far-reaching effects.

It is all well for the Minister to say that he is giving the philosophy of the Government, but who could argue against the philosophy of ensuring the safety of workers? No one in his right mind can argue against that. We endorse it, but it is the practical implementation of the Bill that worries us.

2.30 p.m.

Clause 35 says:

“(1) An industrial establishment shall not be so overcrowded as to cause risk of injury to the health of the persons employed therein.

(2) Without prejudice to the generality of subsection (1), in every workroom or other work space in a factory there shall be allowed for every person employed in the room or space not less than four hundred cubic feet of space...”

I know the Minister may not have had training in mathematics.

There is another subclause which said that any height above 12 feet shall not be taken into account. Mr. Speaker, we are talking about a space six feet by six feet by 12 feet in height. That is the space allocated to each worker and if there is more than one person in this space, six feet by six feet by 12 feet in height, the factory is overcrowded. I am not saying that these numbers are wrong, I just want the Minister to tell me how he arrived at that.

We have a practice in this country of borrowing things verbatim from other jurisdictions which are not appropriate to Trinidad and Tobago. So I would like the Minister to tell me if this is from an existing piece of legislation. If so, why have they not changed it? Do they consider it to be appropriate? Were these dimensions considered carefully? These are very, very serious matters.

There is another clause relating to health, some of these things are laudable and every Government department in Trinidad and Tobago would close down right now if this Bill is enacted. If one looks at clause 43 which says:

“(4) In every industrial establishment where more than two hundred and fifty persons are employed, there shall be provided and maintained an ambulance...” *[Laughter]*

Mr. Speaker, how many employees, including parliamentarians, are there in the Parliament? Is it close to 200? How many employees are there in the Red House? The Red House is in violation of this clause. So I am simply asking the Minister to tell us how did he arrive at these provisions? *[Interruption]*

Mr. Partap: Mr. Speaker, if the Member for Diego Martin East should continue to read clause 4, he would see that it is an industrial establishment, and in the interpretation, Parliament is not an industrial establishment.

Mr. C. Imbert: Mr. Speaker, I thank the Minister for his intervention. The first thing I did was to read the definition of industrial establishment. Has the Minister read it? I would read it for him.

“Industrial establishment’ means a factory, shop, office, place of work or other premises but does not include premises occupied for residential purposes only;”

In other words, in every single place of employment in Trinidad and Tobago, except a home. I ask the Attorney General to advise me if my interpretation is correct. *[Desk thumping]* This is the problem when Ministers bring legislation they have not read to this Parliament, they do not understand, and they do not listen. They are too harden.

That is why I had a clue when the Minister described the reservations of businessmen that this could cause the closure of businesses as hysteria. That is not what I expect coming from a Minister of Government. A Minister of Government has to be neutral. Yes, you must seek the rights of workers but you must also look at the concerns of employers. One cannot adopt a partisan approach in these matters. That is why we have to take a close look at some of the provisions of this Bill. These seemed to have been lifted from other statutes in First World jurisdictions. Nothing is wrong with Trinidad and Tobago aspiring to a First World jurisdiction. That is what we all want to do. We all want to become part of the First World, but we have to be very, very careful that on the way there, we do not put systems in place that would prevent us from attaining that First World status.

I have no complaint with the intent and purport of many of the clauses. If one looks at clause 27(1) which says:

“In every industrial establishment, the doors that are provided for use as fire exits shall, while work is in progress at that industrial establishment, be either left unlocked, or secured in such a way as to be capable of being readily and quickly opened from the inside.”

Mr. Speaker, what does this mean? Does this mean you must have a fire escape door in every single place of employment in Trinidad and Tobago? I do not know. I would like the Minister to tell me. Listen to this; clause 27(3) says:

“Every liftway inside a building shall be completely enclosed with fire resisting material, and all means of access to the lift shall be fitted with doors of fire resisting materials, except that the top of such liftway shall be enclosed by some material easily broken in case of fire,..”

I think that perhaps a number of elevators in the Twin Towers would not qualify under this provision. I am not certain; I could be wrong, but many important buildings do not conform to this and they must comply. If we enact this legislation exactly as it is written, they must comply. I would say that the entire public service would shut down. The Public Services Association would demand that there is an ambulance in every department or division where there are 250 persons or more, or wherever there is an elevator, it must be fire-resistant and so forth.

I am not saying that these things are not required, what I am saying is that we have to be careful about what we are doing. We have to be careful that when we enact legislation, we do not put systems in place that would cause companies to close; cause establishments to be shut down and cause people to be put out of work. Mr. Speaker, I could go through every clause because I have put notes on a number of clauses here. Clause 37 says:

“(1) Where, after the commencement of this Act, a person seeks employment in an industrial establishment, he shall be required by the employer to undergo medical examination...except in such shops or places of work as the Minister may, by Order, exempt.”

Mr. Speaker, the Minister of Labour and Co-operatives is going to have a great deal of work because the duties that have been imposed upon him in this Bill are extremely onerous. The Minister has to do all sorts of things in this legislation. As a matter of fact, he is chief cook and bottle washer. In many of the cases where there is a dispute—an inspector has closed down an establishment and an owner

appeals, or a worker is aggrieved because the conditions in the workplace are not to his satisfaction—it is being left up to the Minister to make a decision and to intervene and so forth. I do not think that any Minister should be required to get involved in this level of bureaucracy. In Trinidad and Tobago, we should be trying to reduce the bureaucracy to which Ministers have to attend.

I remember when I was Minister of Works and Transport, in one month we counted 3,560 letters coming to the Minister that I personally had to read and respond to. The Minister of Public Utilities and the Minister of Housing and Settlements, I am sure, have similar stories to tell. The thousands of letters that come to Ministers requiring personal attention, personal intervention and personal decision-making of the Minister, is absolutely ridiculous. We should not be putting more legislation in place where, again, there is a grievance; where a factory has been shut down.

Mr. Speaker, in this proposed Bill, under the definition of “industrial establishment”, every single place of work would be an industrial establishment, as I pointed out.

2.40 p.m.

If the Minister gets involved in every single dispute or grievance, what is going to happen? No human being is capable of doing that. What is going to happen is that paper work is going to pile up, decisions are going to take months or even years to be made and industrial growth of Trinidad and Tobago is going to be affected. It is all in the concept of sustainable development. It is all very well to put systems and procedures in place, that already exist in some First World jurisdictions. As I indicated earlier, those systems may, in fact, inhibit our industrial growth and we may not be able to sustain them.

Mr. Speaker, let us be serious. This legislation is going to cause problems. Problems with labour legislation, with the international labour bodies complying with the Conventions and with this type of legislation. You are in a 'catch twenty-two' situation. You want to do something to improve working conditions for workers; you want, as a legislator, to improve the standard of living of people in this country, but on the other hand, you realize that if you follow this verbatim, that you may, in fact, be doing them a disservice. Temporarily, yes, workers may get some improvement, but then they will be laid off because the employer is unable, not just to afford, but to comply with the provisions of the legislation.

What happens when a factory is shut down? What happens if workers shut down a factory because it is not in compliance with this Bill? What happens? The wages still have to be paid, the pension arrangements still have to be continued, medical plans, insurance, the overheads of the factory still have to be paid for. What happens? Costs start to escalate, and if it is an unresolved matter, I am submitting—which can easily arise out of the provisions of this Bill—the factory will close down, the workers will go home, the factory may even go into receivership and the workers may not get their severance benefits and so forth. So that, there are a number of clauses in this Bill which have to be looked at very, very carefully.

Mr. Speaker, it is one of those pieces of legislation like the Companies Act. Why was the Companies Act subjected to scrutiny by a joint select committee? Merely because it was a complex piece of legislation, it had been in the making for years, it was going to impact on the lives of ordinary people in Trinidad and Tobago but not just the lives of people, but the economy of Trinidad and Tobago; whether Trinidad and Tobago would be an attractive place for investment and so forth.

Mr. Speaker, there are 102 clauses in this Bill, I have referred to some of them. There is a clause here that bothers me, somewhat. The definition of "shop", and I quote:

"means a building, booth, stall or place where goods are handled or exposed for sale, or where services are offered for sale, and includes a hotel, restaurant, pub and recreational facility;"

What are we really saying? Someone has a small business in the garage and he employs two people. Under this Bill that will suddenly become an industrial establishment? Are we ready for this? Are we ready for a situation where, in accordance with clause 4(3), and it states:

"A workplace in which, with the permission of or under agreement with the owner or occupier, two or more persons carry on work, which would constitute the workplace a factory if the persons working therein were in the employment of the owner or occupier, shall be deemed to be a factory for the purposes of this Act,..."

[MR. DEPUTY SPEAKER *in the Chair*]

Are we ready for this? That someone who employs his wife and daughter, making channa in the garage—in the constituency of the Member for Caroni East—is an

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industrial establishment? Sorry. Someone processing chive in Paramin in the garage, and his son and nephew are employees, this becomes an industrial establishment. Let us not be flippant. I am not saying that this is not required, I am just cautioning the Government to be careful about what it is doing when it just picks a number out of a hat. Why two or more? Most family businesses have two to four people in them. Now, family businesses—people are supplementing their income by making mauby or something like that—will be deemed to be industrial establishments and, after complying with all of these things, could still be shut down if the Chief Inspector comes in. I am not saying it should not be done. I am just asking the Government if it has thought about this.

Mr. Deputy Speaker, personally, I do not believe that this is a "gallery" on the part of the Minister. I do not think the Minister is attempting to prove to us that he is a fantastic magician, that just 20 months later he could produce a Bill. I do not think so. I think he has been misadvised by a number of people. Persons have presented this to him and persuaded him that this legislation is appropriate and that everything is in order. It is a set up. I would ask the Minister, do not treat this as a frivolous matter. As I said, I could go through all 102 clauses and, in reading them, at least half of them, in my opinion, require amendments to suit Trinidad and Tobago's development at this time. I am not even sure if some of these things apply in developed countries. Some of these things seem so severe, so onerous, so difficult to comply with, that I am not sure that they exist in all developed countries.

I am asking the Minister, let us debate the Bill. No one on this side—I will say on behalf of the People's National Movement, we support any measure that will improve the working conditions of workers. We support the ideals in this Bill, because we were in the process of preparing similar legislation. Many of the concepts of the Bill have evolved over the last 50 years. This has been going on since 1948, even before the PNM was in existence. It is not just the PNM, it is the NAR, the PNM before that, the Legislative Council, even before the advent of parliamentary government and so forth. This has been going on for 50 years; no one could argue against the principles, concepts and ideals in this Bill. All I am asking the Minister is, let us subject it to scrutiny, let us look closely at every single clause, let us look at the provisions, see if they are appropriate for Trinidad and Tobago, if they will not have an adverse effect which is not intended. Let us come together and amend this Bill appropriately, in the interest of everybody.

I thank you, Mr. Deputy Speaker.

2.50 p.m.

The Parliamentary Secretary in the Ministry of Local Government (Mr. Razack Ali): Mr. Speaker, I stand in support of this Bill before the House, the Occupational Safety and Health Bill, 1997. I will not deal with the rhetoric as espoused by the last speaker, [*Laughter*] but with facts of the Bill. I want to deal with it as the working class people of this House will benefit.

The purpose of this Bill is to revise and extend the current law regarding the safety, health and welfare of persons at work, so as to keep pace with the rapid development in the industrial sector of the country. Trinidad and Tobago over the years has attempted to fast-track its economic development by stimulating the development of its industrial base. In this effort, we have been relatively successful since we have petroleum and petro-chemical plants and machinery operating in our midst. The country has facilitated this development in the industrial sector with the development of industrial estates which contain the necessary infrastructure to encourage foreign companies to invest and set up plants in Trinidad and Tobago.

One such estate is the Point Lisas Industrial Estate which houses a diverse number of companies manufacturing a vast number of products. Many of the items produced in these plants are toxic and hazardous to human beings, yet without the human beings employed at these plants, those products will not be produced. Thus, it is our citizens who must work in close proximity to toxic and hazardous materials whom we seek to protect as well as the nation itself. This is the darker side to the economic and industrial development that the Occupational Safety and Health Bill, 1997 seeks to address in a comprehensive manner.

Mr. Speaker, this Bill will repeal the Factories Ordinance of 1948 and the Employment of Women, (Night Work) Act, Chap. 88:12. This Bill, unlike the above Ordinance which applies only to persons employed in factories, embraces all persons at work. It thus attempts to integrate, into one piece of legislation, facets of occupational safety that were lacking in Trinidad and Tobago. I wish to applaud the hon. Minister of Labour and Co-operatives for his vision in seeking to address the darker side of economic and industrial development. The Bill recognizes the difference between employers and occupiers and seeks to establish a more caring relationship between employers and their employees.

Part II of this Bill outlines the general duties of employers to their employees. It is instructive to note clause 6(1) of the Bill which states:

"It shall be the duty of every employer to ensure, so far as is reasonably practicable, the safety, health and welfare at work of all his employees".

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Thus, all employees are entitled to work in a safe environment so as to minimize possible injury. The Bill also requires that employees who work in close proximity to hazardous and toxic materials be provided with information pertaining to the hazardous nature of the material they are working with, by their employer. This would provide the employee with the necessary information to guide his actions at the job site.

Accordingly, Part II also addresses the conditions of work for female employees who are pregnant so as to safeguard the health of both the child and the mother. This is long overdue, for we all know of instances where an expectant mother was required to perform duties which could endanger both lives.

Mr. Speaker, Part III of this Bill provides for the right of the employee to refuse to work where his or her safety or health is believed to be in danger. It sets down procedures for him to have his claim investigated without punitive action being taken. This could be considered as a check on the employer's claim that he or she has provided a safe working environment for his or her employee.

Part IV of this Bill is of critical importance. It seeks to provide additional safety requirements for the employment of young employees. Some of the additional requirements are:

- (1) That he or she received sufficient training in the operation of the machine that he or she is required to use;
- (2) That he or she be adequately supervised when performing his or her duties; and
- (3) That he or she be fully informed of all dangers arising out of the operation of machinery.

[MR. SPEAKER *in the Chair*]

Additionally, Part IV also stipulates that all protective gear be provided to persons entering an area in an industrial establishment.

Mr. Valley: That is the Minister.

Mr. R. Ali: This is to sensitize the potential for bodily injury that can occur. This added safety cannot be overemphasized. The young workers are the future.

3.00 p.m.

Mr. Speaker, Part V makes provision for fire-fighting and escapes in case of a fire. All plants will be required to be certified by the authority, that they have a

means of escape for employees in the event of a fire at that place. *[Desk thumping]* The workers must be able to escape from the area quickly and safely. The Bill contains penalties for those who do not provide such facilities. We all know of instances where accidents occur at industrial plants, resulting in injury and even death of the nationals of this country.

Mr. Speaker, Part VIII of this Bill seeks to address this by having the accident reported to the Chief Inspector within 24 hours. Additionally, in instances where a critical injury or death occurs, the site of the accident will be preserved. *[Desk thumping]* Mr. Speaker, this Bill seeks to provide an avenue where scientific, forensic techniques can be used in investigating accidents which may occur.

Part XI of the Bill introduces two innovations. Firstly, that every existing factory be registered and, secondly, that all plants for all new factories and warehouses be submitted to the Chief Inspector for approval. Thus, a database can be established, containing specifications of all factories in Trinidad and Tobago. This can be used to assist in investigations in addition to ensuring that all new factories satisfy the necessary safety requirements. *[Desk thumping]*

Mr. Speaker, the Bill establishes the Occupational Safety and Health Agency. The functions of the agency are mainly advisory in nature, in addition to conducting research. The Bill also provides for the approval of codes of practice by the agency, for the purpose of providing practical guidance with respect to the requirements of the proposed legislation. *[Desk thumping]*

Mr. Speaker, as Parliamentary Secretary in the Ministry of Local Government and as the Member of Parliament for Ortoire\Mayaro, I am totally in support of the Bill since it will protect not only those who work on industrial estates, but those who live and work in close proximity to these estates. The municipal corporation of Couva\Tabaquite\Talparo is located quite close to the Point Lisas Industrial Estate. *[Desk thumping]* This will bring peace of mind to me, my Minister, as well as all the corporations which are and will be situated near to industrial estates in the near future.

Mr. Speaker, this Bill comes at an opportune time, since the Ministry of Local Government is involved in the development of several administrative complexes to house its staff. The administrative complexes will be built in such a fashion that they will not only be aesthetically pleasing and functional, but also safe for those who work in them.

Mr. Speaker, as you may be aware, current organizational theorists and practitioners have demonstrated that there is a direct correlation between the

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employees' feeling of safety and security and their productivity. [*Desk thumping*] The Ministry of Local Government is confident that the feeling of security that this Bill will engender will be translated into improved worker morale with a resultant increase in productivity, with more efficient and effective delivery of services to the citizenry of our nation.

With this in mind we whole-heartedly support this Bill. I want to implore my colleagues of the Opposition to support this most important piece of legislation that has been brought to this House which will, of course, benefit the workers of this country.

Mr. Speaker, I thank you.

Mr. Roger Boynes (*Toco/Manzanilla*): Mr. Speaker, let me take the opportunity to compliment the Member for Ortoire\Mayaro very sincerely for his contribution on this particular Bill. [*Interruption*] I understand it was his maiden contribution, if I am not mistaken. The Member, without a shadow of a doubt—and I am sure that all will join me in saying this—has demonstrated who the Minister should really be. [*Desk thumping*]

Mr. Speaker, I rise here to participate in the debate on the Occupational Safety and Health Bill, 1997. I will just skip all the stories, poetry and the temptation to get into vague, nice rhetoric like the Member for Couva North always does. Instead, let me immediately deal with this proposed piece of legislation that is before us here today.

The personal duty of an employer at common law states:

“Every employer has a duty at common law to provide:

- (i) A competent staff of men.
- (ii) Adequate plant and equipment.
- (iii) A safe place of work.
- (iv) A safe system of working, with effective supervision.”

That is common law principle. Without a doubt it has been appreciated over many a year, that the safe workplace of the workman is of paramount importance.

3.10 p.m.

Mr. Speaker, I listened to the hon. Member for Nariva and he, in fact, said that this piece of legislation took a number of years before it came here because of the

need to do thorough research and consultation. I am submitting that this Bill should be referred to a committee because there is still much work to be done on it. [*Desk thumping*]

I join with my colleague who spoke before me to indicate that the Bill provides for the revision and extension of present law regarding safety, health and welfare of persons at work. The Bill repeals the Factories Ordinance, 1948 and the Employment of Women (Night Work) Act. It is also instructive to note that the current ordinance applies only to persons employed in factories. However, it is the intent and purport of this Bill to embrace all employees.

Mr. Speaker, I direct your mind to the definition of one of the clauses that we have a problem with—industrial establishment. We, on this side, are asking that consideration be given to redefine that definition, because it would take into consideration offices—and as my friend mentioned earlier—this Parliament, law offices and every office in Trinidad and Tobago, and that cannot be so. We are asking that this definition clause be redefined.

Between 1993 and 1996 there were approximately 1,432 industrial accidents. Six persons died last year and the Members of this House would, no doubt, remember the death of these persons. Also there were 600 reported injuries.

Mr. Speaker, it is important to understand that occupational health and safety is of paramount importance in any developed country. What we have chosen to do on this side—and that is why we are also suggesting that this be referred to a committee—is to take legislation from various parts of the world in order to ensure that the clauses in this Bill are on par with international standards. We have looked at Hong Kong and their situation is reflected in the Occupational Safety and Health Council Bill, 1988. It deals specifically with all aspects as it affects the health and safety of the workers. We also looked at the New Zealand and Australian situations.

One of the recommendations coming out of Australia was the setting up of a Workers' Compensation Scheme whereby industrial establishments would register and put funds into this scheme, so that when a worker is damaged, he can be swiftly and adequately compensated rather than relying on private insurance. That is one of the recommendations that came out of Australia.

Mr. Speaker, we have looked at St. Lucia and its Employees Occupational Health and Safety Bill, 1985. This provides, among other things, the question of health. I quote:

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“The question of health is gone into some detail and the Bill seeks to provide for the cleanliness of workplaces, the effective disposal of waste and effluents, ventilation, avoidance of overcrowding, provision of wholesome drinking water, provision of sufficient latrine and urinal facilities, good lighting, first aid appliances ...”

The point of the matter is that there are several important clauses that are vital to Trinidad and Tobago that we, if given the opportunity to sit and discuss with the Members of the other side, would include in our recommendations.

Mr. Speaker, if I may just indicate, clause 65 provides for the setting up of an agency. As the hon. Member for Nariva and more clearly the hon. Member for Ortoire/Mayaro advocated in this honourable House and stated emphatically, that agency's function is to provide advice and to ensure that this Bill is actually implemented. I am also suggesting that you look at advice because, at present, there are approximately five inspectors in Trinidad and Tobago.

If this Bill is to work in the manner in which hon. Members of Parliament contemplate it should, that agency must have adequate staff, its portfolio must be set up in the correct manner and must be clearly defined because that agency is of such utmost importance to ensuring and implementing health and safety of workers in their workplaces throughout this country. [*Desk thumping*]

Mr. Speaker, I am suggesting that advice and guidance must be given by this agency on a range of specialist health and safety topics, including hazardous substances, noise, occupational hygiene, occupational health, fire, machinery safeguarding and construction. Advice and guidance must be given on key issues of modern health and safety health. Examples of these are:

health and safety policies must be developed by this agency;

health and safety training;

development of health and safety standards must be observed;

health and safety auditing and monitoring;

advice and assistance must be given on planning and implementing appropriate health and safety controls;

accident and incident investigation;

development and implementation of safe systems of work;

liaison with the enforcement authority—the Ministry of Labour and Co-operatives; and

developing and delivering appropriate health and safety training.

In other words, it is very important that the agency develops the requisite policies in order to adequately effect the intent and purport of this piece of legislation. [*Desk thumping*]. This agency must have aids, asbestos distribution, bio-waste, electrical, emergency, high protection and smoking policies, along with policies and procedures to deal with unsafe conditions.

Mr. Speaker, this agency, in my humble opinion, is very important in order to effectively implement this piece of legislation that is before this honourable House. I wish also to look at clause 66 of this legislation which states:

“(1) The Agency shall consist of—

- (a) a Chairman appointed by the Minister;
- (b) a Director who shall be a public officer;
- (c) a representative of the Ministry responsible for occupational safety and health;
- (d) a representative of the Ministry responsible for health;
- (e) a representative of the Ministry responsible for energy industries;
- (f) nine other members appointed by the Minister in accordance with subsection (2).”

Mr. Speaker, from (b) to (e), nowhere in this provision does it state who will appoint these members. It does not. The chairman will be appointed but from (b) to (e) there is no mention, in this piece of legislation, as to who will appoint these officers. I understand that members would come from the Ministry of Health, the Ministry of Energy and Energy Industries and the Ministry of Labour and Co-operatives. The fact of the matter is that it must be spelt out how those members would, in fact, be appointed.

3.20 p.m.

Mr. Speaker, there is another point that is of utmost concern. Make no mistake about it, we on this side understand the need to ensure that proper safety and proper health requirements are established for the workers in the workplace. However, when we look at the costs of the medical examination—and my friend

before me referred to clause 37 which dealt specifically with the need for medical examinations—in certain circumstances, the Minister would exempt some of the shops, offices or industrial establishments as the case may be, from having to pay to undergo these types of medical expenses.

I am simply suggesting that it needs to be properly organized. You cannot have a situation where you have the Minister himself authorizing who would be exempted from having to pay for medical examination on behalf of its employees. I, for one, will send a letter forthwith to the Minister. I do not feel that in an office or in Parliament we should have to be paying for the medical examination of the employees.

Mr. Speaker, I also look at the cost to the employer of this medical examination. We must weigh the cost of all of these things with respect to the need for better conditions of the workers in the workplace. One looks at the cost of the medical examination; at the cost factor to the employer to maintain and to keep the level of radiation in one's establishment at an acceptable level; one looks at the cost of bringing plant and equipment to an approved standard. Where is this? Who dictates the standard that the equipment must reach up to? Nowhere in this piece of legislation have I seen exactly—would it be referred to the Bureau of Standards? What in this Bill dictates what the standard would be? One looks at the cost of bringing it to that standard and we weigh that against the aspect of several bits of litigation which would cost the employer more or which would cost the employer less. The fact of the matter is that in this present scenario there will be a lot of cost to the worker.

I listened to the Member for Nariva on the television a couple days ago and he had mentioned that he understands and sympathizes with the employers because of the fact that they would have a lot of expense in order to bring their workplace up to this standard. However, he also mentioned that there would be a grace period, a moratorium period. I looked throughout the length and breadth of this piece of legislation and there is no mention whatsoever of any moratorium or grace period. There is a need for it.

Mr. Speaker, I now move on to clauses 15, 16 and 17 of this proposed Bill. They all deal with the right of the employee to refuse to work in instances where the plant and equipment are not up to a certain standard or it may be hazardous to their health; in instances where the place will generally be unsafe for the continued working of the employee. It deals with the fact that if an employee is of the opinion that his workplace is not suitable or it will affect his health, he has the right

to report it to the employer; he has the right to take it to an inspector. What happens? An inspector now comes with his team, members from the trade union and so forth, and what they do is investigate the complaint. I am asking the question—nowhere in this piece of proposed legislation have I seen a time-frame for deciding on that complaint. If that complaint is investigated for three months, six months or a year, would an employer have to close down his business for a year until that complaint can be determined? What if the complaint has been found to be frivolous? Who pays for that? So, whereas on the one hand we have to be mindful that we have to bring the workplace to an acceptable standard for the workmen, we also cannot do it in such a Draconian manner that it is very unfair to the employer. This is our concern.

I listened to the Member for Ortoire/Mayaro a short while ago and he mentioned that clause 6(6) deals with the health of the unborn child. And he did well today. I am also asking what about the health of the pregnant mother? He did mention in his second address to this honourable House that clause 6 deals with the mother and the unborn child in a workplace. If, for instance, the conditions would affect the unborn child or the mother, then the mother can thereby report it to her employer and it will be dealt with according to this proposed legislation. But I have to inform the Member that nowhere in clause 6 does it deal with the pregnant mother. It deals with the unborn child alone. I am suggesting that even though they are inextricably linked it must be mentioned specifically in the legislation about the health and safety of the pregnant mother.

Mr. Speaker, if I may read clause 7 to hon. Members, they will no doubt appreciate the need to rethink this piece of legislation and come again. Clause 7(1) states and I quote:

“It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their safety or health.”

What is he talking about? Affected thereby with what? This clause just does not make sense. I am asking the hon. Member for Nariva to look at this clause and put what he really means in the clause and do not come before this Parliament with a piece of legislation-leaflet. You come naked before this Parliament.

I am also asking the hon. Member to look at clause 8(2). If I may just read—and you need to follow me with this, Mr. Speaker, because it is a bit lengthy—it states:

“an occupier shall, upon the direction of the Chief Inspector, prepare or revise, in consultation with worker representatives in the industrial establishment-”

It then goes on.

3.30 p.m.

The point I am making is, it does not flow. The introductory words must be read with the other parts of the legislation, so one has to take into consideration what the introductory words say. This is just a piece of drafting, but I would want the Member for Nariva to take note of that. Similarly in clause 16, the same thing obtains. The clause is not read with the introductory words. Clause 16 states:

“Upon refusing to work or do particular work the employee shall promptly report the circumstances of the refusal to the employer or his representative who shall forthwith investigate the report in the presence of the employee and in the presence of -”

And we go on to:

“(b) if there is no trade union...”

I am simply suggesting that one has to be cognizant of the introductory words. It just does not make for proper drafting.

In clause 9 they have brought in the *Ryland v Fletcher* doctrine, in terms of occupier’s liability. I heard the Member for Ortoire/Mayaro refer to the fact that they also included occupier’s liability as well as employer’s liability in this piece of legislation. The whole doctrine deals basically with noxious substances emanating from an establishment and causing difficulty to persons in the surrounding environment. However, one has to look at this particular clause very closely. Clause 9 states:

“The occupier of every industrial establishment shall be under a duty to take steps to protect the safety and health of the public in the vicinity of his industrial establishment...”

I have a difficulty with “in the vicinity of”, because depending on one’s type of business, “in the vicinity of” will vary from industrial establishment to industrial establishment. So some sort of yardstick has to be put in place in order to deal with a particular business and to ensure where the vicinity would lie. This is very critical, because someone may be passing by an industrial establishment and not be

affected at all, but someone may be passing 100, 200, 300 metres and he would say that he is affected. One has to understand, when one talks about, “in the vicinity of” it will vary from business to business and one must be mindful of that.

Clause 18(4) states, and I quote:

“A person who fails to comply with the decision of an inspector in accordance with subsection (2) or the decision of the Chief Inspector pursuant to subsection (2) commits an offence.”

What is the penalty? Subsection (2) states:

“The inspector shall, following the investigation, decide whether the machine, plant, device or thing or the workplace or part thereof is likely to endanger the employee or another person and shall give his decision in writing as soon as practicable to the employer, the employee and the person mentioned in section 16(a) or (b)...”

I now do a cross-reference because it does not mention what the penalty is in this clause. If, for instance, a device or a thing is not repaired, according to the dictates of the inspector, I now cross-reference with clause 86, which states:

“Subject to the provisions of this Act, any person who commits an offence under this Act for which no penalty is expressly provided,...”

As was the case in clause 18:

“...is liable, on summary conviction, to a fine of twenty thousand dollars and to imprisonment for one year, and if the offence in respect of which he was convicted is continued after the conviction, he is liable to a further fine of ten thousand dollars...”

Clause 18(2) and (4) deal specifically with the repairing of a device or a thing and if the penalty of \$20,000 is not really contemplated for the breaching of this particular clause, then the penalty should be expressly stated in that clause so it would not be caught up in clause 86.

We, on this side, have absolutely no difficulty in ensuring that the workplace is proper and safe. We are saying, emphatically, as we have said before, that in order to provide legislation which would augur well and in the best interest of development for Trinidad and Tobago, it needs to be tight and well thought out. I am asking the other side to re-think its position as it did with previous legislation brought to this honourable House and ensure that this matter be sent to a committee.

I thank you, Mr. Speaker. [*Desk thumping*]

The Minister of Labour and Co-operatives (Hon. Harry Partap): Mr. Speaker, I thank those Members opposite as well as those on our side who spoke on this Bill. The one thing we have agreed upon this afternoon is that there is need to have legislation to protect workers at the workplace. We have accepted that. From there, we can move on.

There are several things in the Bill which are very important and on which we need to focus and internalize. The broad objective of the Bill had been to repeal the current Factories Ordinance and the Employment of Women (Night Work) Act. I think that these are two very important aspects which we fail to recognize, because in repealing the Employment of Women (Night Work) Act, we open up the system so that women will be able to work without any hindrance.

We have known cases in Trinidad where, because of the Employment of Women (Night Work) Act, women could not work beyond 10.00 p.m. and we know that many businesses had been flouting this rule. It was not in operation, as it were. So too, we know of instances where, because of that same Act, women sometimes were denied work after 10.00 p.m.

3.40 p.m.

In fact, I know of an industrial firm in the south which wanted to set up a computer department, and because they would have needed women to work beyond 10.00 p.m. it had to be abandoned. So we have had people suffering because of this Act.

The Member for Toco/Manzanilla mentioned that women were not protected. In fact, the Member referred to pregnant mothers, and I could not understand why he specified pregnant mothers, because I think once a woman is pregnant eventually she will become a mother.

Nevertheless in clause 6, women are being protected in the workplace. For the benefit of the Member for Toco/Manzanilla, may I state that the female employee who becomes pregnant—according to the Bill—has to be protected against hazards to her offspring and that is very important. The law will require that the employer must be able to adapt the working conditions to assist in the implementation of this particular requirement in the Bill. The Bill also has several important clauses particularly for the protection of young people. The Member for Ortoire/Mayaro did, in fact, elaborate on it. It is a very innovative approach and, therefore, we wanted to put this in as well.

Many discussions took place around the approval to work. I have taken the suggestion made by the Member for Diego Martin East and, perhaps, we may have to look at that and put some specifics into it. For the first time a Government is protecting the public in terms of industrial accidents. Previously, the Factories Ordinance had specifically dealt with workers in the factories, not outside of the factory. Presently, a person who is a visitor to the factory and who got injured cannot seek relief. For example, the Bill has included all workers, agricultural workers and so forth. The Member for Diego Martin East made some valid points and we are going to look at them.

This Government is committed to the committee system of Parliament. We have always expressed that. In fact, when the hon. Member for Couva North was in the last Parliament, he made that suggestion over and over again and which, of course, the other side did not accept.

Mr. Manning: Mr. Speaker, I thank the hon. Member for giving way. I wonder if the hon. Member is espousing the view merely because this Bill is inconsistent with sections 4 and 5 of the Constitution and requires a special majority.

Hon. H. Partap: Mr. Speaker, we have been doing this all the time. We have always listened to the other side, we weigh suggestions and we have always been amenable to that. We have always displayed that kind of democratic system. We are committed to the committee system. Today, this side has a chance to put it into action. The Government feels that, whether here or in the Senate, both sides must have an opportunity to have an input into the Bill. This Bill, as Members on the other side have said, is an important piece of legislation. In fact, I believe it is a very important piece of legislation on which we must hear from all sides. The Government has done its consultation outside of the House and now it is going to involve the entire parliamentary process into making some suggestions.

Mr. Speaker, the Government is going to accept the suggestion and, at the appropriate stage, I will move a motion to refer the Bill to a Joint Select Committee of Parliament to examine the clauses, principles and merits of the Bill. I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Hon. H. Partap: Mr. Speaker, in accordance with Standing Order 51(1), I beg to move,

That this Bill be referred to a Joint Select Committee of Parliament whose mandate would be to consider this Bill and to report to the Parliament at the earliest opportunity, and that this Joint Select Committee be empowered to discuss the general merits and principles of this Bill, as well as its details.

Question put and agreed to.

EXCISE DUTY (COMPRESSED NATURAL GAS) ORDER

The Minister of Planning and Development and the Acting Minister of Finance and Minister of Tourism (Hon. Trevor Sudama): Mr. Speaker, I beg to move the following Motion:

Whereas it is provided by subsection (2) of section 13 of the Excise (General Provisions) Act, Chap. 78:50, that the Minister may by Order impose any new excise duty or increase any excise duty and from the date of publication of the Order in the *Gazette* and until the expiry thereof the duties specified in the Order shall be payable in lieu of the duties payable prior thereto;

And Whereas it is provided by the said subsection that every Order issued under that subsection shall, after four days and within twenty-one days from the date of its first publication, be submitted to the Senate and House of Representatives and the Senate and House of Representatives may by Resolution confirm, amend or revoke such Order, and upon publication of the Resolution of the Senate and House of Representatives in the *Gazette* the Resolution shall have effect and the Order shall then expire;

And Whereas the Excise Duty (Compressed Natural Gas) Order, 1977 was made under subsection (2) of section 13 of the Excise Duty (General Provisions) Act, and first published in the *Gazette* on the 29th day of April, 1997;

And Whereas it is expedient to confirm the said Order:

Be It Resolved:

That the Excise Duty (Compressed Natural Gas) Order, 1997 be confirmed.

3.50 p.m.

Mr. Speaker, this is a simple matter before this House to which the Minister of Finance referred earlier in the Finance Act of 1997, and I beg to move that this Excise Duty (Compressed Natural Gas) Order be confirmed.

One may recall that an Excise Duty and Compressed Natural Gas Order was imposed by the Finance Act of 1997 which came into effect on April 29, 1997. The Order, which is the subject of this Motion, was published in the *Gazette* on that same day. The excise duty on compressed natural gas, together with the excise duty on gasoline and diesel are intended to partially compensate for the loss in revenue arising from the removal of the annual licence fees for all classes of vehicles and this is really the rationale for this imposition.

The loss in revenue from the annual collection of licence fees was estimated to be in the sum of \$50 million. In order to partially compensate for this revenue loss, the Minister of Finance had noted in his 1997 budget speech that the retail price of gasoline would be increased by ten cents, diesel by three cents, and CNG by two cents per litre. Two separate legal instruments were issued by the Minister of Energy and Energy Industries in respect of the increase in the price of gasoline, diesel and CNG. One Order was issued in respect of the petroleum products, gasoline and diesel pursuant to section 31 of the Petroleum Act, while another Order was issued in respect of CNG pursuant to section 31A of the same Petroleum Act.

It should be noted as well that section 31A of the Petroleum Act was introduced in 1995 to empower the Minister of Energy and Energy Industries to fix the price at which CNG will be sold. The earlier provisions of the Petroleum Act dealt only with petroleum products and since CNG is not a petroleum product, this had to be done.

Prior to the Finance Act of 1997, the Minister of Finance was only authorized to impose an increase in the excise duty on articles which were manufactured in Trinidad and Tobago. Whereas gasoline and diesel would fall under the category of manufactured articles for the purpose of the imposition of excise duties, CNG could not be similarly described since compressed natural gas is not a petroleum product in the true sense of the word. As the name suggests, it is a compressed product and does not go through a chemical process.

Mr. Speaker, the definition of "excise duty" in the Excise Duty (General Provisions) Order was therefore amended in the Finance Act, 1997 to include CNG, and the definition for the purposes of the Excise Duty (General Provisions) Order is now defined to mean any duty other than an export duty that customs impose on any articles manufactured in Trinidad and Tobago and includes CNG.

Mr. Speaker, in light of the fact that export duty on CNG could only have been imposed on April 29, 1997 when the Finance Act, 1997 gave the Minister the

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authority to impose it, the estimated revenue which was collected during the period April 29 to June in respect of excise duty on CNG is \$0.9 million, which is a very small amount.

With regard to diesel, the estimated revenue collected in respect of the incremental increase in revenue based on the subsidized volume of sales on this product during the first six months of this year—January to June—is in the sum of \$3.44 million, and the estimated incremental increase in revenue in respect of gasoline during the same period—January to June 1997—is in the sum of \$19.13 million. The total incremental increase in revenue of CNG, gasoline and diesel is therefore estimated at \$22.66 million and it is expected that at the end of the year, the revenue loss of \$50 million from the previous collection of annual licence fees would be defrayed completely.

Mr. Speaker, pursuant to section 13 of the Excise Duty (General Provisions) Act, the Minister imposes a new excise duty by way of an Order, which after four days and within 21 days from the date of the first publication, must be submitted to the Parliament. Where the Order is submitted to Parliament within the specified time, Parliament may, by resolution, confirm, amend or revoke the Order and upon publication of the resolution of Parliament, it shall have effect and the ministerial Order shall then expire.

On the other hand, where the published Order is not presented to Parliament within the specified time, which is not the case in this instance, the Order shall cease to have effect and any excise duties paid by a consumer after the expiration, the sum shall be refunded to the consumer.

Mr. Speaker, as I mentioned earlier, the Excise Duty (Compressed Natural Gas) Order 1997, was first published in the *Gazette* on April 29, 1997 and it was submitted to Cabinet well within the specified time required by the legislation. The said Order was confirmed by the Senate on May 15, 1997 and it is now before this House for confirmation.

As I said in my opening remarks, this is a rather simple matter for confirmation which has already been confirmed in the other place, and I beg to move.

Question proposed.

4.00 p.m.

Mr. Kenneth Valley (*Diego Martin Central*): Mr. Speaker, this afternoon my heart goes out to the acting Minister of Finance. [*Interruption*] Unlike you, I have

one. You see, Mr. Speaker, the Minister is sent here this afternoon in a very embarrassing situation. This was not his doing, but he has come here to attempt to defend it. The Minister of Finance has been “breaksin” this matter for some time and he is now out. Mr. Speaker, I want you to understand what has happened, because I am sure you are aware, that this is not the first time this matter is before this honourable House.

The Finance Act of 1997 did not, as far as I am aware, approve any Order with respect to CNG. As a matter of fact, as you would see later in my contribution, while the Minister came to this honourable House to validate the collection of revenues between the period January 1 to April 28, or the time of the Finance Act, from CNG, in fact, that validation was deleted based on submissions on this side.

I start by looking at the provisions of the Act. As the Minister said, one is entitled to come with an Order and it must be submitted and confirmed within a 21-day period. I want to read section 13(2) of the Act which says:

“The Minister may by Order impose any new excise duty or increase any excise duty and from the date of publication of the Order in the *Gazette* and until the expiry of the Order the duties specified in the Order shall be payable in lieu of the duties payable prior thereto provided that every Order issued under this subsection shall after four days and within twenty-one days from the date of its publication be submitted to Parliament and Parliament may by resolution confirm, amend or revoke the Order and upon publication of the resolution of Parliament in the *Gazette*, the resolution shall have effect and the Order shall then expire. If the Order is not submitted within such period of twenty-one days to Parliament for confirmation it shall *ipso facto* expire.”

Mr. Speaker, the Member is contending that as long as it is submitted to Parliament, it can be confirmed perhaps 12 months or two years afterwards, and I am submitting that it is not correct. It is not logical. That was not the intent of the legislation. I submit further that the Member does not believe that. You would note that this Order was issued on April 29, confirmed in the Senate on May 15 within the 21-day period, because they know that they cannot go up there with that argument.

They feel they can come to the Lower House and do whatever they please. It is not the first time we have seen that, because the same thing occurred with respect to the Petroleum Products Order, which, up to now, is not confirmed legally. In fact, the Government has been collecting revenues under that Order, or at least for

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that period, illegally. *[Interruption]* Mr. Speaker, the Order was not confirmed according to the law, and at some point, the Government may have to refund persons those sums collected.

Similarly with this Order, given that the Order was made on April 29, coming in August to seek confirmation outside of that 21-day period—even if it is confirmed here today—because they have the majority, it would not be done legally. I want to put that on the record. Mr. Speaker, do you remember when we were dealing with the Finance Bill there were two obnoxious clauses in it? What had happened pertaining to this matter is that there were two orders which were required to be made; one, with respect to petroleum products and two, with respect to CNG. The Minister made the Order with respect to petroleum products on February 02, although the budget had been passed since in December, and although he started collecting that tax as of January 01, it was not until February 02 that the Order was made, which meant that for the period January 01 to February 02, that money was collected illegally. More than that, even though the Order was made on February 2, that Order was not confirmed in this honourable House until April. So that he continues to collect the revenues illegally and at some point, somebody is going to take up the issue.

Mr. Speaker, with respect to the CNG Excise Order, the Minister just simply forgot; in one case he was late. You see, the Minister is a busy fellow, he cannot be concerned with his responsibility which is the overall management of the economy. He cannot be concerned about that. He is concerned with too many other things, making deals up and down the place. Where is he today? Perhaps making a deal wherever he is. *[Interruption]*

Mr. Speaker: We must be careful about the use of language. The term “making a deal” has certain connotations. One could make a good deal, a bad deal, but just to talk about somebody making a deal, suggests impropriety. I suggest that the word be withdrawn.

4.10 p.m.

Mr. K. Valley: Mr. Speaker, I understand what you are saying. All I was doing is simply expressing views from the street.

Mr. Speaker: I guess what I put was too polite. What I was trying to suggest to you is that I would not accept as proper parliamentary language in the circumstances, the use of your term that, “perhaps he is too busy making deals”. I would ask that you withdraw that and use more acceptable language.

Mr. K. Valley: Thank you, Mr. Speaker. I withdraw that. I will say, that perhaps the Minister is out there doing his own business. *[Interruption]* If that is the Government's business, so be it.

Mr. Speaker, I was making the point that we have a Minister who does not appear to have the time to take care of what he is supposed to be doing. In the Finance Bill there were two clauses, 14 and 15, which sought to validate the collection of moneys. One, in respect of compressed natural gas and, two, with respect to petroleum products. What the Minister had come to the House to do was say, "Listen, I had forgotten to do my work, I passed this Order on February 2, 1997, when I should have done this since January 1, 1997. I collected moneys from persons for that period. I failed to have the Order confirmed within the due period, nevertheless, I want you to allow me to keep those revenues". Also, with respect to CNG, in which case he did not even bother to come with an order. We argued at that time, that the Minister just could not do that. One could not have a tax retroactively and so forth. The Minister did not take our point. He contended that, perhaps the moneys were already collected and he wanted to keep the money. We would see from that debate, because they had the majority, it was passed here.

Mr. Speaker, subsequent to that, as though wisdom prevailed, when the Minister went to the Senate—because he knew he could not have gone to the Senate with that kind of argument—you would note that the Minister indicated, and I would read that part from the other place. He says in his presentation, and I quote from the *Hansard*:

"Finally, Part XIV of the Bill seeks to validate the receipt of moneys in respect of the excise duty on petroleum products from January 1, 1997 to February 2, 1997 and on compressed natural gas from January 1, 1997 to the date of the coming into force of the Finance Act, 1997. However, at the appropriate time, I wish also to propose an amendment which would allow me to delete Part XIV of the Bill and, as a result, clauses 14 and 15."

Mr. Speaker, while the Minister feels he can get away with anything in the Lower House because of the majority, he knows that it is a different situation in the Senate. I want to put on record that given that amendment at the other place, the Bill was returned to the Lower House, the Minister of Legal Affairs presented the amendments made in the Senate. I simply want to put on the record, just part of what the Minister said with respect to those amendments, which deleted clauses 14 and 15. It says:

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"This amendment was unanimously agreed to in the other place. That part of the Bill sought to validate the collection or receipt of moneys on account of excise duty and petroleum products from January 1, 1997 to February 2, 1997, and on compressed natural gas from January 1, 1997 to the date of the coming into force of the Finance Act, 1997. We are proposing that the Bill be amended by deleting those provisions.

I have been advised that Part XIV of the Bill did not seek to impose a tax, but merely to validate the collection or the receipt of moneys. Because of the concerns expressed in the House when this matter was being debated, Government has taken the decision to excise Part XIV of the Bill. I have been advised that that Part is not needed to validate the collection or receipt of the moneys as it was sought to do, since the wholesale and retail prices of gasoline, diesel and compressed natural gas were validly fixed by orders issued by the Minister of Energy and Energy Industries, in December 1996, to take effect in January, 1997."

The net result is that the money would have been kept by National Petroleum. So that was that and we thought that was the end of the matter.

We made the point at that time, when they attempted to confirm the excise duty, that it was not legally before the House. One, because the first one had lapsed and, secondly, there was no other. We made the point further, that even with the validation it meant that the Minister could not have continued the collection of the tax on CNG—even if he validates, because he did not bring an order, there is nothing in his authority to continue collecting the tax on CNG.

Given that submission, we saw, subsequently, the Excise Duty Order that is now before the House. It appeared on the Order Paper of April 29, 1997. I even made the point that the Minister seemed to be busy with other things. He comes to the House and we say, "Well listen, even if you validate now, how are you going to continue collecting this tax? Because there is no order, you never brought an order". So he brings the order on April 29, 1997, but he knows that he would face certain difficulties in having it passed in the House. He makes sure that it is passed within the 21-day time-frame in the Senate, but he treats this House—the built-in majority—with contempt. So he says that as long as it is submitted, I can pass it next two years. Now that it is before the House, he is not even here. I submit that this is not properly before the House, that it is illegal, that the time has passed, that the lodging of the section must clearly be submitted and confirmed within the 21-day period.

Mr. Speaker, we see a similar pattern with respect to the operations of that Minister. The Minister is somewhere around the world while our exchange rate is in real difficulty. I do not know whether you had a chance to look at the information coming out from the Annual Economic Survey of the Central Bank for 1996, as well as the first quarter. I am waiting to see what is happening in our second quarter report. If one looks at the information coming out here, one will see that every major economic indicator has been turned down, every one of them. Economic growth as at December 1995, the IMF is saying that economic growth in 1995 ought to be 4.5 per cent. Mr. Speaker, you know what was the economic growth in 1996? It was 2.8 per cent. In 1994 the economic growth was 5.1 per cent. In the same Central Bank report, real output expanded by 2.8 per cent, following increases of 3.1 per cent and 5.2 per cent in 1995 and 1994 respectively.

Mr. Speaker, when we left government—and one would see in our manifesto document—the projection for economic growth for 1995 was 4 per cent. That was based on the IMF report around September of 1995.

4.20 p.m

How is it that it was 3.1 per cent and has now declined to 2.8 per cent? That is not all. When we look at national saving which was 16 per cent in 1992, growing to 19.1 per cent in 1994, getting to 21.7 per cent in 1995, it is now down to 16.4 per cent. It is not only economic growth but our level of saving as a country has gone down, because you have a Minister of Finance who is busy.

Mr. Panday: Extra-curricular.

Mr. K. Valley: I do not know. The Prime Minister still seems to have a lot of confidence in that individual. I want to tell him that what is happening with the exchange rate is a loss of confidence that the business community has in his Minister of Finance. [*Desk thumping*]

He can say that the exchange rate is the responsibility of the Central Bank from now until "neverweary" or the year 2015. In the meantime the exchange rate will continue to go south, because the business community has lost confidence. The exchange rate is a mirror image of the future reality. Therefore, when it went to \$6.21 and they try to talk to Saith Enterprises—

Mr. Speaker: One does have to allow a certain amount of latitude in talking on any topic and on this matter which has to do with compressed natural gas. It is permissible to touch on one or two things, but it must not appear that one takes an opportunity to raise the very same matter that was not allowed as a definite matter of urgent public importance.

Mr. K. Valley: I want to assure you that I have no such intention. My whole argument is that we have a Minister who is busy doing other things. I attempted to point out that it was owing to his incompetence that we are in a situation today where he is bringing an order for confirmation way after the time period. I am showing that that was done previously and had to be corrected. We will see a similar trend in other areas and there is need to take action. That is the point I was making. I thought that was the argument and it was logical in that line, but I am going to be guided by you, Mr. Speaker. I do not want to dwell on the exchange rate because I know I attempted to raise that. I am going on. I shall move from that point.

Mr. Speaker: Order please!

Mr. K. Valley: If we look at our revenues, the *Quarterly Economic Bulletin* of the Central Bank reports that in terms of our current revenue we are \$300 million down from the similar period last year. The Minister is talking about the surplus of \$127 million; he can forget that. You do not have to believe me, look at information and see whether you have a Minister of Finance who is serving the country's interest. [*Desk thumping*].

We all have a vested interest here. You have to understand that the Minister of Finance is a person with whom I worked for some time but I love my country more than I love any individual. Look at the information, get your economists to look at it, see what it is telling you and determine whether you want to keep that individual as your Minister of Finance.

Mr. Speaker, let me read this part of the Central Bank's *Quarterly Economic Bulletin*. It is talking about what is happening on the inflation front:

"However, the year-on-year increase of 4.3 per cent seemed to indicate some acceleration in underlying inflationary pressures as the comparable rate to the twelve months to March 1996 measured 3.5 per cent."

A build up of inflationary pressures; fall in current revenues \$300 million; reduction in the current account balance—look at what is happening! Look at the current account balance, it is all there! The current account balance in 1992—and this is US dollars—\$32.5 million; 1993, minus \$107.8 million; by 1994, US \$221.4 million and by 1995 it had grown to \$269.9 million. Do you know what it was in 1996, Mr. Speaker, \$44.5 million. From \$269.9 million in 1995 to \$44.5 in 1996, that is what is happening.

When you look at the trade situation—

Mr. Panday: A sign of growth.

Mr. K. Valley: A sign of growth! No, that is not what it is. I can give you some figures. It is not imports, it is exports.

Mr. Panday: Economic expansion.

Mr. K. Valley: Mr. Speaker, exports. In 1993 this country exported—and this is US dollars—\$1,662.2 million; in 1994, \$1,971.9 million; 1995, \$2,477.4 million; 1996, \$2,504.9 million. Let us look at the rate of growth. While exports grew by 18.6 per cent between 1993 and 1994, and 25.6 per cent between 1994 and 1995, the growth in exports between 1995 and 1996, was .01 per cent!

Mr. Hinds: What a proud record for that Government!

Mr. K. Valley: From \$2,477.4 million to \$2,504.9. The year before it grew to 25.6 per cent and the year before that 18.6 per cent. I am waiting on the second quarterly report. If this trend continues, all our gains achieved between the period 1992 to 1995—

Mr. Breaux: Gone.

Mr. K. Valley: —a squandering of your inheritance.

I rest my case. This matter before the House is just the tip of the iceberg that there is a Minister of Finance who is concerned with his own matters and not doing the job for which he was appointed. We have a Prime Minister who is sitting back and doing nothing.

At the risk of being called, I just want to say quickly that at present there is a crisis in the foreign exchange market. Business people are calling me. I checked with the banks this morning, they cannot even fill a US \$100,000 order! Any one of them can ask any bank to get US \$100,000 at this time and they cannot.

Right now we have a governor of the Central Bank in whom the country has confidence. What we need is a Minister of Finance in whom the country can repose confidence, because the fundamentals of this country continue to be strong. We need a person at the head of the Ministry of Finance in whom the business community can have confidence, until that is done the slide will continue.

Thank you. *[Desk thumping]*

4.30 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

The Minister of Planning and Development and the Acting Minister of Finance and Minister of Tourism (Hon. Trevor Sudama): Mr. Speaker, I rise to respond to some of the points raised by the Member for Diego Martin Central. Most of what he said really was not related to the Order before us. I have a few things to say on the extraneous matters which he raised in his contribution.

I first deal with the point that this Order should have been submitted and approved by the Parliament not less than four days after and within 21 days from the date of its first publication. The law is clear. The law says:

“...that every Order issued under that subsection shall, after four days and within twenty-one days from the date of its first publication, be submitted to the Senate and House of Representatives and the Senate and House of Representatives may by Resolution confirm, amend or revoke such Order...”

It did not say that the Order had to be approved by the Parliament within 21 days. That was never stated here and, therefore, this whole issue of whether this is validly before us, is a non-issue.

This Order was submitted to the Parliament—and for the information of the Member for Diego Martin Central, Parliament includes the Senate. It was submitted and approved by the Senate on May 15, 1997. It was submitted to Parliament within the 21 days as prescribed by the law. The interpretation of the law by the Member for Diego Martin Central—he is not a lawyer, and neither am I—is wrong and is not supportable by the written word of the Act.

Mr. Valley: I would really like to believe what the hon. Member is saying, but not being a lawyer himself, in my case, I would have appreciated if that statement came from the Member for Siparia or the hon. Attorney General. It is a pity that they have opted to stay out of this debate on such an important issue.

Hon. T. Sudama: Mr. Speaker, I would not have made that statement without seeking advice. That has been concurred with, the hon. Attorney General and the Minister of Finance. [*Desk thumping*]

The other issue that this Government has been collecting money illegally and without authority, surely, if that is the case, I am sure that there are many friends on the other side who would have taken the issue to the court to decide whether this Government, by its various acts, has been collecting money outside of the limits of the law and, in fact, illegally. That is another non-issue that they have come up with.

Mr. Speaker, I would not be very long this afternoon because really, from what the Member for Diego Martin Central said, there is very little to which to respond. He did make certain remarks about the economy which I cannot allow to pass. He spoke about the International Monetary Fund dictating economic growth of 4.5 per cent for Trinidad and Tobago in 1996, when we achieved a growth of just under 3 per cent.

Mr. Speaker, it is not the first time that the IMF is wrong and it would not be the last time that it has estimated wrongly. Therefore, this is a mis-estimate on the part of the IMF.

The hon. Member spoke about the level of saving and how it has been reduced. I tell this honourable House that under the PNM regime of 35 years, the level of saving in Trinidad and Tobago, as a developing country, has been one of lowest of all developing countries. Very rarely did it exceed 12 or 13 per cent as a saving ratio.

Mr. Speaker, in the boom years when we had much oil money and public sector saving was at its highest level, we could only achieve a 17 or 18 per cent ratio—in all these years under the PNM regime. Now, he comes to talk about the saving ratio under this regime. Saving is a function of consumption. Saving is also a function of income. What that government had promoted over its 35 years in office, was gross and criminal profligacy in both the public and private sectors. This is why it was never able to show a satisfactory rate of saving in this country.

Now, we are putting things in place to improve our rate of saving so that we can finance our development from our own resources. That is the policy of the Government and that is the objective that we are embarking upon.

Again, for a government which has promoted lack of saving in the society, a government that has promoted an unsustainable consumption pattern in Trinidad and Tobago, for its members to come here and talk about lack of saving and decreasing saving rates, does not carry any water.

Mr. Speaker, I now come to a matter which I consider to be one of gross irresponsibility on the part of the Member for Diego Martin Central and the whole Government. *[Laughter]* I was talking about the former government.

5.15 p.m.

Nobody who is a responsible citizen of Trinidad and Tobago will speak about a crisis in the economy and the foreign exchange rate because by merely speaking

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about it you are trying to precipitate a crisis; a gross lack of responsibility. How can you say in one breath that the economic fundamentals of the economy are strong and in the other breath you are saying there is a crisis in the foreign exchange market. How can you make such inconsistent and contradictory statements?

Mr. Manning: Mr. Speaker, I thank the hon. Member for Oropouche for giving way. I think the hon. Member for Oropouche ought to make a distinction between a fixed exchange rate and a floating exchange rate. The allegation that he has just made is very applicable to the fixed exchange rate but not as applicable when the exchange rate is floating.

Hon. T. Suduma: It is the other side that is saying that the exchange rate is depreciating and it is in crisis; this is what you are saying and, therefore, if you are telling me now that the exchange rate in Trinidad and Tobago is determined by supply and demand and therefore it will appreciate, depreciate and fluctuate, then whence does the crisis come from? How could you tell me that the people of this country have confidence in the Government with the exception of one person?

Mr. Valley: Who said that?

Hon. T. Suduma: You said that there is no confidence in one man. They have confidence in the Governor of the Central Bank; they have confidence in the Government; the investors have confidence in the economy and yet, at the same time, you are claiming that there is—*[Interruption]*

Mr. Valley: This Opposition has no confidence in this Government, especially the Minister of Finance. The country has no confidence in this Government. *[Desk thumping]* That is what the exchange rate is showing.

Hon. T. Suduma: Mr. Speaker, I want to tell you the dangerous road along which the Opposition has embarked and that is, if the economic fundamentals are strong—*[Interruption]* Mr. Speaker, may I come back to the argument: if the economic fundamentals are strong, and they are admitting that they are strong, there is only one reason that they claim that there is a crisis in the foreign exchange rate and that is that there is speculation with respect to the foreign exchange rate. What they are doing is further aggravating the speculative system which they are implicating. If they are saying that there is a crisis, there is a depreciation and the fundamentals are wrong, then it means that somebody is engaging in speculation. What this Government is trying to do is act in a responsible manner.

I want to quote some figures to show you where we are, Mr. Speaker. In June of 1996 our net—*[Interruption]*

Mr. Valley: *[Inaudible]*

Hon. T. Sudama: Yes, I could start in 1995. Let me start with 1992 under that regime. In 1992 the net official reserve of this country was minus US \$83.3 million; in 1993 the net official reserve of this country was \$74.3 million; in 1994 the net official reserve was \$261.9 million; in 1995 the net official reserve was \$296 million. You know what it was in 1996? It was \$509.6 million *[Desk thumping]* *[Interruption]*

Mr. Speaker, I am not giving way. When he was speaking there was no interruption. *[Interruption]*

Mr. Speaker: We know that one may try to persuade the Member to give way and if he does not give way we know that one is not yet entitled to shout one's point of view so that one can be heard so that that aside is really to be expunged.

[Mr. Valley rose] *[Interruption]*

Hon. T. Sudama: Mr. Speaker, I cannot understand this. The Member does not want anybody to speak in this House? He alone must speak?

Mr. Speaker: One minute please. All I am saying is, for the sake of good order, we have been playing according to the rules that one tries to get a Member to take a seat and give way and if he does not, that is the luck of the draw.

Hon. T. Sudama: Mr. Speaker, I am not giving way. When he spoke I did not ask him anything. I have 1996—the net official reserve—and let me explain to Members of this House the net official reserve is the net position of the Central Bank and the Central Government of Trinidad and Tobago, that is the net financial reserve. In 1996, the year in which this Government was in charge, US \$509.6 million. They talk about crisis in 1997; in January 1997 it dropped a bit, \$494.9 million; February—\$498.4 million; March—\$521.7 million; April—\$543 million; and June 1997—\$691 *[Interruption]* million. So, you are correct. The fundamentals have never been stronger in this country as reflected by the net official reserve.

Let me go to the commercial banks' net position. In 1992, under the PNM regime the net foreign position of the commercial banks was minus \$36.7 million. It improved a little in 1993 to \$206.3 million. In 1994 it improved somewhat to \$540 million.

Hon. Member: *[Inaudible]*

Hon. T. Sudama: One does not play with figures. In 1995 it dropped to \$416 million. You know what it was in 1996, Mr. Speaker, \$701.1 million. This is the crisis period they are talking about. January 1997—\$622.4 million; February 1997—\$603.6 million; March 1997—\$650.5 million; April—\$674.3; June 1997—\$784.5 million.

5.25 p.m.

They are going out there in the public and in the outside world and promoting crisis, which is unpatriotic and irresponsible. People do not play with the exchange rate, because the exchange rate affects everyone in the country. It affects them as it affects us and the whole population. So when you create hysteria in this country, it is to the detriment of everyone. A totally irresponsible behaviour on the part of the Opposition! If there is any speculation to which they allude, it is speculation on the part of themselves and their friends. That is the only area of speculation we have in Trinidad and Tobago which may affect the rate of exchange.

They talk about the depreciating rate of exchange. Let me deal with that. Mr. Speaker, you would recall that the PNM government liberalized the rate of exchange—it floated the rate of exchange.

Mr. Manning: What year was that?

Hon. T. Sudama: April, 1993.

Mr. Manning: Who did it, Sir?

Hon. T. Sudama: The PNM. But when it liberalized the rate of exchange, it was at the rate of \$4.25 to US \$1. When that government came to its demise in November 1995, two and a half years later, the same rate of exchange which was \$4.25 in April, 1993, went to \$5.85 in November 1995, and they are talking about depreciation. It depreciated by 38 per cent, in two and a half years.

When we took over in November 1995, at \$5.85, in two years' time the rate went close to \$6.30, a depreciation of 7.8 per cent. So 7.8 per cent in almost two years; 38 per cent under their regime in two and a half years, and they are talking about crisis—*[Desk thumping]*

They have admitted when one floats a rate of exchange, there will be ups and downs, depreciation and appreciation, and so forth. Now, when one looks at the long-term trend of depreciation, I wonder in whom the public did not have

confidence in November 1995, when they depreciated from \$4.25 to \$5.85. During those years, when there was a continuous depreciation of the rate of exchange, in whom did the people not have confidence? Was it the former minister, or the whole government? Since they were put out of office in November 1995, it must be the whole government in whom the country did not have any confidence.

I want to emphasize to this House that there is variation in the terms of trade. When, for example, petrochemical prices are high, as they were in the 1994 to 1995 period—you remember what methanol prices went to—there will be an increase in the volume and value of it. When methanol prices fall, there will be a corresponding decrease in the value of the export. They are making a big “song and dance” about the import increase over the last quarter. The statistics tell you clearly that the increase in imports was due primarily to the importation of machinery and equipment for the investment that is going on primarily in the energy sector. That is what has caused the rise and therefore would have affected the terms of trade.

I hope, without going into further detail, that I have dealt with this irresponsible argument on the part of the other side, that the economy is in crisis and that is reflected in the depreciation of the rate of exchange.

Then there was this other spurious argument which was raised by the Member for Diego Martin Central, that when you compare last year’s revenues for a certain quarter to this year’s revenues, there is a decrease of \$300 million. But what they do not understand is that in 1997 we further reduced taxation in Trinidad and Tobago. When you reduce taxation, do you get more revenues or less?

Mr. Manning: More!

Hon. T. Sudama: I know the Member for San Fernando East is an expert in “voodoo” economics so I would just leave him to his own devices.

All the arguments which the Member for Diego Martin Central sought to make based on statistics, were invalidated by me. Therefore, I have also invalidated his so-called legal argument. There is really nothing to answer, and I beg this House that we confirm this Order, which is the Excise Duty (Compressed Natural Gas) Order, 1997.

I beg to move.

Question put.

Excise Duty Order

Friday, August 15, 1997

The House divided. Ayes 20 Noes 11

AYES

Maharaj, Hon. R. L.

Panday, Hon. B.

Persad-Bissessar, Hon. K.

Lasse, Dr. The Hon. V.

Griffith, Dr. The Hon. R.

Humphrey, Hon. J.

Sudama, Hon. T.

Maraj, Hon. R.

Nicholson, Hon. P.

Khan, Dr. F.

Assam, Hon. A.

Rafeeq, Dr. The Hon. H.

Job, Dr. The Hon. M.

Singh, Hon. G.

Nanan, Dr. The Hon. A.

Partap, Hon. H.

Mohammed, Dr. The Hon. R.

Singh, Hon. D.

Sharma, C.

Ali, R.

NOES

Valley, K.

Manning, P.

Imbert, C.

Robinson-Regis, Mrs. C.

Excise Duty Order

Friday, August 15, 1997

Narine, J.

Hart, E.

James, Mrs. E.

Joseph, M.

Boynes, R.

Hinds, F.

Williams, E.

Question agreed to.

Resolved:

That the Excise Duty (Compressed Natural Gas) Order, 1997, be confirmed.

5.35 p.m.

**SELECT COMMITTEE REPORT
(ADOPTION)**

Dharma Prakash Sabha (Inc'n.) Bill

The Acting Minister of Works and Transport and Parliamentary Secretary in the Ministry of Works and Transport (Mr. Chandresh Sharma):
Mr. Speaker, I beg to move,

That this House adopt the report of the Special Select Committee of the House of Representative appointed to consider and report on a Private Bill for the incorporation of the Dharma Prakash Sabha and for matters incidental thereto.”

Seconded by Mr. E. Hart.

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.

ROTARY CLUB OF PORT OF SPAIN WEST (INC'N.) BILL

The Acting Minister of Works and Transport and Parliamentary Secretary in the Ministry of Works and Transport (Mr. Chandresh Sharma):
Mr. Speaker, I beg to move,

Rotary Club (Inc'n.) Bill
[MR. C. SHARMA]

Friday, August 15, 1997

That a Bill for the incorporation of the Rotary Club of Port of Spain West, and for matters incidental thereto, be now read a second time.

Mr. Speaker, in moving this, may I say that the other Bills on the Order Paper bearing my name came to this House from the Senate. In that place, a Special Select Committee was appointed to examine these Bills and they recommended that all these Bills be approved. I appeal to all Members to give their fullest support.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 9 ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

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

House resumed.

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

MOUNT BEULAH EVANGELICAL BAPTIST CHURCH (INC'N.) BILL

The Acting Minister of Works and Transport and Parliamentary Secretary in the Ministry of Works and Transport (Mr. Chandresh Sharma):

Mr. Speaker, I beg to move,

That a Bill for the incorporation of the Mount Beulah Evangelical Baptist Church and for matters incidental thereto, be now read a second time.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 9 ordered to stand part of the Bill.

Mt. Beulah Baptist Church (Inc'n.) Bill

Friday, August 15, 1997

Preamble ordered to stand part of the Bill.

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

House resumed.

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

NATIONAL DANCE ASSOCIATION OF TRINIDAD AND TOBAGO (INC'N.) BILL

The Acting Minister of Works and Transport and Parliamentary Secretary in the Ministry of Works and Transport (Mr. Chandresh Sharma):
Mr. Speaker, I beg to move,

That a Bill for the incorporation of the National Dance Association of Trinidad and Tobago and for matters incidental thereto, be now read a second time.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 9 ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

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

House resumed.

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

5.45 p.m.

PREMIER VESTING BILL

The Acting Minister of Works and Transport and Parliamentary Secretary in the Ministry of Works and Transport (Mr. Chandresh Sharma):
Mr. Speaker, I beg to move,

That a Bill to vest of the undertaking in Trinidad and Tobago of Premier Oil plc formerly known as Premier Consolidated Oilfields PLC, a company incorporated

Premier Vesting Bill
[MR. C. SHARMA]

Friday, August 15, 1997

in Scotland, in Premier Oilfields of Trinidad and Tobago Limited, a company incorporated in Trinidad and Tobago, be now read a second time.

Question proposed.

Mr. Kenneth Valley (*Diego Martin Central*): Mr. Speaker, while I have no difficulty with Bills Nos. 2 and 4, I have a concern with Bill No. 3, an Act to vest the undertaking of the Trinidad and Tobago Premier Oil formerly known as Premier Consolidated Oilfields (PLC). I simply want to know the purpose of the vesting.

When this mechanism is used, stamp duty implications are avoided, we are vesting the undertaking of an entity into a new company and I am wondering whether that is the purpose of coming to Parliament to do this, rather than doing a normal transfer which would attract stamp duty. If that is the purpose of this legislation, then what is going to happen to other persons? One knows for example when we were dealing with Trintoc and Trintopec to form Petrotrin—*[Interruption]* Yes, those were state companies, but this is a private company and the question is whether this is appropriate for this company.

If this is done for this company, then what is going to happen to another private sector organization which may want to do the same thing and the vesting provision is not allowed so that they can avoid the stamp duty implications, will there be a discrimination charge? That is my concern, so while I have no difficulty with Bills Nos. 2 and 4, I suggest that we defer this Bill so we can look at it in more detail.

Thank you, Mr. Speaker.

Agreed to.

ADJOURNMENT

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move that this House do stand adjourned to a date to be fixed.

I have had discussion with the Opposition, and because of certain time-frames we are adjourning to a date to be fixed in order to give us some flexibility in the event that we may have to reconvene.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 5.53 p.m.