

THE  
**PARLIAMENTARY DEBATES**

**OFFICIAL REPORT**

IN THE THIRD SESSION OF THE FIFTH PARLIAMENT OF THE REPUBLIC OF TRINIDAD  
AND TOBAGO WHICH OPENED ON NOVEMBER 27, 1995

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**SESSION 1997—1998**

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**HOUSE OF REPRESENTATIVES**

*Monday, May 04, 1998*

The House met at 10.00 a.m.

**PRAYERS**

[MR. SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. Speaker:** Hon. Members, I wish to advise that I have received communication from the Leader of the Opposition, the Member for Port of Spain North/St. Ann's West and the Member for St. Joseph, who have asked to be excused from today's sitting.

Also, a few minutes ago, I saw the Member for Ortoire/Mayaro who, actually, was here in the Chamber but was feeling very unwell and who has, in fact, left for the doctor but he may well be returning. If he does not return, he is excused from today's sitting.

**PAPERS LAID**

1. Report of the Auditor General on the Accounts of the Princes Town Regional Corporation for the year ended December 31, 1992. [*The Attorney General (Hon. Ramesh. L. Maharaj)*]
2. Report of the Auditor General on the Accounts of the Princes Town Regional Corporation for the year ended December 31, 1993 [*Hon. R. L. Maharaj*]
3. Report of the Auditor General on the Accounts and Financial Statements of the Environmental Protection and Rehabilitation Programme for the year ended December 31, 1995—IADB Loan Contract No. 857/SF-TT. [*Hon. R. L. Maharaj*]
4. Report of the Auditor General on the Accounts and Financial Statements of the Rehabilitation of Access Roads and Reconstruction of Bridges Programme for the year ended December 31, 1997 as required by Loan Contract No. 700/OC-TT between the Government of the Republic of Trinidad and Tobago and the Inter-American Development Bank. [*Hon. R. L. Maharaj*]

*Papers Laid*

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5. University Students Guarantee Loan Fund—Statements of Activities and Audited Financial Statements for the year ended December 31, 1995 and December 31, 1996. [*Hon. R. L. Maharaj*]

*Papers 1 to 5 to be referred to the Public Accounts Committee.*

**NEGOTIABLE INSTRUMENTS (DISHONOURED CHEQUES) BILL**  
**Senate Amendments**

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move,

That the Senate amendments to the Negotiable Instruments (Dishonoured Cheques) Bill, 1997 listed in the Appendix be now considered.

*Question proposed.*

*Question put and agreed to.*

*Clause 2*

*Senate amendments read as follows:*

- “2 A. In subclause (1), in the definition of ‘cheque’, delete the words ‘which is not post-dated with respect to the time of utterance’; and,  
B. In subclause (3), after the word ‘he’, insert the words ‘endorses and’.”

Mr. Speaker, in respect of this amendment, it is purely consequential because it is to delete “which was not post-dated with respect to the time of utterance”. The amendment was to cover even post-dated cheques; it was not seen in the House because the amendment was done subsequent to clause 2 being passed.

Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

*Question proposed.*

*Question put and agreed to.*

**Mr. Maharaj:** Mr. Speaker, I seek leave of the House, instead of the Clerk reading the entire clause to just refer to the clause itself in the Senate amendments in the interest of time.

**Mr. Valley:** Wait, Mr. Speaker, are we doing all clauses together?

**Mr. Maharaj:** I made that request; if you have any objections—

**Mr. Speaker:** Just before you came in the Attorney General asked whether in the interest of time, there could have been agreement with respect to dealing with all of them at the same time.

**Mr. Valley:** Mr. Speaker, you would know that we have just got this Order Paper; we are now seeing the amendments. If the hon. Attorney General would defer this matter, because I would really want to look at that. Okay?

*Assent indicated.*

*Clause 3*

*Senate amendments read as follows:*

- “3 A. In subclause (1), delete the words ‘A person’, and insert the words ‘Notwithstanding any other written law, a person’;
- B. In subclause (2)(a)(ii) and (2)(b)(ii) delete the words ‘shall’ and ‘may’ respectively and insert the word ‘will’; and
- C. In subclause (2)(b), delete the words ‘representative drawer’ and insert the words ‘payee, holder or bearer’.”

**Mr. Maharaj:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendments.

*Question proposed.*

*Question put and agreed to.*

*Clause 4*

*Senate amendments read as follows:*

- “4 Delete clause 4 and insert the following new clause—
- |   |  |
|---|--|
| Presumptions<br>and prima<br>facie evidence | 4. (1) Where the drawer of a dishonoured cheque is charged with an offence under this Act, the following provisions shall apply—   |
|   | (a) when the drawer or representative drawer of a cheque has insufficient funds with the drawee to cover it and other outstanding cheques at the time of its utterance, the drawer or representative drawer, as the case may be, is presumed to know of the insufficiency; |
|   | (b) a drawer or representative drawer, as the case may be, of a dishonoured cheque is presumed to have intended or believed the cheque would be dishonoured upon presentation by a person if—  |

- (i) the drawer or representative drawer had insufficient funds with the drawee at the time of its utterance to cover it and other outstanding cheques; and
  - (ii) the drawer or representative drawer had insufficient funds with the drawee at the time of presentation.
- (2) Where a cheque is dishonoured because the drawer has insufficient funds, a notice or protest may be issued and duly served by the drawee to the drawer of the cheque with a copy to the person who presented the cheque through his drawee.
- (3) Where the drawer of a dishonoured cheque is charged with an offence under this Act, the prosecution may seek to prove the dishonour by the production in evidence-
- (a) of the notice or protest of the dishonoured cheque; or
  - (b) of an affidavit of the drawee or the authorised representative of the drawee together with a copy of the notice or protest declaring the dishonour, and this shall constitute prima facie evidence that the cheque is a dishonoured cheque.
- (4) Where a drawer or representative drawer, without the consent of the payee, stopped or countermanded the payment of a cheque, or otherwise caused the drawee to disregard or dishonour the cheque, and failed without reasonable cause to return or tender the return of the property obtained or the value of services rendered within a period of three working days from the date the cheque was

stopped or countermanded, or otherwise caused to be disregarded or dishonoured, this shall constitute prima facie evidence that the drawer or representative drawer had the intention to stop or countermand payment or otherwise to cause the drawee to disregard or dishonour the cheque at the time of its utterance.”

**Mr. Maharaj:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

*Question proposed.*

*Question put and agreed to.*

*Clause 5*

*Senate amendments read as follows:*

“5 Delete subclause (2) and insert the following new subclause—

‘(2) A drawee who recklessly—

- (a) issues a notice or protest under section 4(2); or
- (b) swears to an affidavit under section 4(3)(b), commits an offence and is liable on summary conviction to a fine of ten thousand dollars.”

**Mr. Maharaj:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

*Question proposed.*

*Question put and agreed to.*

*Clause 6*

*Senate amendments read as follows:*

“6 In subclause (1)(b)—

- A. After the word ‘order’, insert the word ‘the’; and
- B. After the word ‘which’, insert the word ‘may’.”

**Mr. Maharaj:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

*Question proposed.*

*Question put and agreed to.*

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*Clause 7*

*Senate amendments read as follows:*

- “7 1. In subclause (1)—
- A. Delete the words ‘only by the false representation’ and substitute the words ‘by the bona fide belief’;
  - B. Insert after the words ‘cover the cheque’ the words ‘and the cheque is dishonoured’; and
  - C. In paragraph (b), after the word ‘with’, insert the words ‘and satisfactory to’;
2. In subclause (2)—
- A. Delete the words ‘A person’ and substitute the words ‘Subsection (1) does not apply to a person’; and
  - B. Delete the words ‘may be prosecuted immediately under this Act or any other law’.”

**Mr. Maharaj:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

*Question proposed.*

*Question put and agreed to.*

**PHARMACY BOARD (AMDT.) BILL**

*Order for second reading read.*

**The Minister of Health (Dr. The Hon. Hamza Rafeeq):** Mr. Speaker, I beg to move,

That a Bill to amend the Pharmacy Board Act, Chap. 29:52, be now read a second time.

Mr. Speaker, briefly, the purpose of this Bill is to amend the Pharmacy Board Act to allow for shops and supermarkets throughout Trinidad and Tobago on being licensed by the relevant authority, to be able to sell certain non-prescription drugs. Throughout the world there are many classifications of drugs, and in Trinidad and Tobago there is no exception. However, for the purpose of the Pharmacy Board Act, drugs are classified in three Schedules: First, Second and Third.

Drugs listed in the First Schedule which contain items such as glucose and petroleum jelly, *et cetera*, are available for free sale. That is, they can be sold by any establishment once they satisfy the conditions for sale as laid down by the Food and Drugs Act and other relevant legislation. Drugs listed in the Second Schedule and which contain items such as paracetamol, epsom salts, listerine, vicks, *et cetera*, can be sold without prescription at pharmacies and specially licensed shops situated at least two miles from the nearest pharmacy. Drugs listed in the Third Schedule and which contain poisons to a certain extent, are only to be sold in pharmacies under certain restrictions.

Mr. Speaker, the Bill before us seeks to amend the conditions for sale such that shops and supermarkets can sell the drugs listed in the Second Schedule. I would like to go through the Bill itself.

Clause 3 of the Bill seeks to amend section 2 of the Act by deleting the word “rural” so as to enable shops to become eligible to sell Second Schedule drugs. Clause 4 sets out the procedure by which these shops should be licensed. The application must be made on a prescribed form and an annual fee of \$250 must be paid to the Government. The Minister may issue the licence or may authorize the County Medical Office of Health to act on his behalf. Clause 5 sets out the penalty for anyone selling Second Schedule drugs without a valid licence—\$5,000. Clause 6 sets out the penalty for selling Second Schedule drugs to a shopkeeper who does not have a valid licence. Clause 7 sets out the procedure for amending any of the Schedules to the Act.

The Bill before this honourable House deals with drugs listed in the Second Schedule. As I said, the present law provides for drugs listed under this Schedule to be sold without prescription by pharmacies and by certain shops situated outside a two-mile radius of a pharmacy and which have been licensed by the Pharmacy Board. Mr. Speaker, it must be recognized that we now live in a liberalized environment. It is the policy of the Government to encourage free competition in trade, once it can redound to the benefit of the population.

The pharmacy trade at this point in time, is fairly restricted in that most pharmaceuticals can now be sold only in pharmacies. Having looked at the list and profile of the drugs in the Second Schedule, having looked at international trends and having looked at our own situation in Trinidad and Tobago where these Second Schedule drugs have been sold in shops in some areas without harmful or deleterious effects, the Government is of the view that the population can benefit from opening up the trade by allowing shops and supermarkets to sell non-prescription drugs.

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Mr. Speaker, we expect that citizens of this country would derive two main benefits from this measure. We expect that instead of having about 250 outlets selling non-prescription drugs, that when this legislation is enacted, there would be between 1,000 and 2,000 outlets selling these drugs. We expect that with the structure of the supermarket trade and the competition for business, the cost of drugs to the population will be reduced. This is the first significant benefit to citizens.

Secondly, Mr. Speaker, at present, as I said, there are a little over 250 pharmacies in Trinidad and Tobago. A large percentage of these pharmacies are situated in the town areas of the country. This means that even with the licensed shops, there are thousands of persons in our population who have to travel at least two miles to buy a Paracetamol tablet, or a pack of Andrews Liver Salts.

**10.15 a.m.**

It is a fact that a certain amount of self-medication takes place among people all over the world and Trinidad and Tobago is no exception. Taking two Paracetamol tablets for a headache; a pack of Eno or Andrews for indigestion; using a little flavine and a plaster for a minor abrasion or a cut; gargling with Listerine; or rubbing a little Vicks on one's chest for a cold are common self-treatments that our population uses and, many times, with good results. By being able to go to the nearby grocery or shop to get these items in times of need will certainly be a great benefit to thousands of people.

This is in no way intended to devalue or diminish the role, function and importance of the pharmacist and, indeed, the pharmacies. This measure is in no way intended to replace the pharmacists, or the pharmacies, but rather to complement the services offered by them. The pharmacist is a professional and has a critical role to play in dispensing most of the medications and counselling of patients. However, we feel that among the drugs in the Second Schedule, their role is not as critical.

Having said all this, there are some issues that have been raised by members of the pharmacy profession which I would like to address. In letters of communication which I have received from them from time to time, they have raised, among others, the following issues, which are, indeed, very relevant and I would like to thank them for their advice and guidance.

Firstly, quality of drugs which would be sold in the supermarkets and shops. Mr. Speaker, supermarket and shop owners will only be able to sell those drugs



that are registered by the Food and Drug Department and which have been cleared for sale by the Food and Drug Inspectors. Any sale of drugs outside the system will be illegal and they will be dealt with by the law. May I mention that the Food and Drug Department is at present being strengthened to increase surveillance of the system.

Secondly, they have raised concerns about certain items on the Schedule, like aspirins and cough and cold mixtures, and they offered certain approaches. We have taken their advice on board and will be amending the Schedule accordingly. An amended version of the Schedule will be circulated shortly.

Thirdly, they have raised the issue of labelling. This is extremely important, however, regulations exist at this point in time under the Food and Drugs Act which spell out in great detail, the manner in which drugs should be labelled. For the record, I would like to quote these regulations. This is from the Food and Drugs Act, Chap. 30:01, section 34, which says:

“Except as provided in this Part, the label of a drug shall carry—

- (a) on the main panel of both the inner and the outer labels—
  - (i) the proper name and standard under which the drug was manufactured which, if the standard is contained in any publication mentioned in the Second Schedule to the Act, shall be stated in full or by the abbreviation therein provided; or
  - (ii) if there is no proper name, the common name;
- (b) on both the inner and outer labels—
  - (i) the name of the manufacturer or distributor of the drug;
  - (ii) the address of the manufacturer or distributor, except that where the immediate container contains five millilitres or less, this statement need not be made on the inner label;
  - (iii) where a drug is intended for internal or parenteral use, the lot number or batch number, the number being preceded by the words ‘Lot number’, or ‘Lot’, ‘Batch Number’ or ‘Batch’, or by an abbreviation of the words ‘lot’ or ‘batch’, except on labels of Patent or Proprietary Medicines;
  - (iv) adequate directions for use in the English Language;

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- (v) the proper name, or, if there is no proper name, the common name, of each medicinal ingredient contained therein, except on official drugs, and Patent or Proprietary Medicines;
  - (vi) an expiry date if applicable or if required by these Regulations; and
  - (vii) directions as to the type of storage necessary to maintain the potency, efficacy, safety or properties of the drug, if applicable or if required by these Regulations;
- (c) on the outer label—
- (i) a correct statement of net contents in terms of weight, measure, or number; and
  - (ii) where the drug is intended for parenteral use, the name and proportion of any preservative present therein.”

Mr. Speaker, label on bulk package, section 35 states:

“The label on the bulk package of any shall carry—

- (a) the proper name and standard under which the drug was manufactured; if the standard is contained in any publication listed in the Second Schedule of the Act, the standard shall be stated in full or by the abbreviation provided in the publication;
- (b) the common name of the drug if there is no proper name;
- (c) the name and address of the manufacturer or distributor of the drug;
- (d) the lot number or batch number which shall be preceded by the words ‘lot number’ or ‘lot’, ‘batch number’, or ‘batch’ or by an abbreviation of the words ‘lot’ or ‘batch’ where a drug is intended for internal or parenteral use;
- (e) a correct declaration of the net contents in terms of weight, measure or number; and
- (f) an expiry date, if applicable or if specified by these Regulations; and may carry—
  - (i) adequate directions for use, in the English language, or a statement of dosages;

- (ii) directions on the kind of storage required to maintain the potency, efficacy, safety or properties of the drug.”

These regulations do not apply in full in the case of the drugs that are dispensed by the pharmacist in a pharmacy.

In addition to this, there is the Drug Advisory Committee established under the Food and Drugs Act to protect the interest of the public health and advise the Minister accordingly.

The Pharmacy Board also expressed concerns as regards the full-scale dispensing by doctors, dentists and veterinary surgeons. We have given serious consideration to this and we have decided to remove that provision from this Bill and an amendment to this effect will be circulated shortly. The parent Act, at this point in time, says and I will quote from section 38 of the amended Act:

"Nothing in this Act—

- (b) shall render unlawful the compounding, supplying in reasonable quantities or administering by a medical practitioner or dentist of such drugs or devices as may in the course of the practice of his profession be rendered urgently necessary for the treatment of his patient;
- (c) shall render unlawful the compounding, supplying or administering by a medical practitioner of such drugs or devices, as he may require for the purpose of carrying out medical research;
- (d) shall render unlawful the compounding, supplying in reasonable quantities or administering by a veterinary surgeon of such veterinary medicine as may in the course of the practice of his profession be rendered urgently necessary for the treatment of an animal;”

Mr. Speaker, we have retained this and, as I said, an appropriate amendment will be circulated shortly.

The Pharmacy Board has suggested to us that it would like to have an input into the amending of the Schedule. We have also agreed with this suggestion and, as I said, the amendment to this effect, will be circulated shortly.

We have, therefore, sought to address most of the concerns and, again, I want to thank them for their valuable advice and for the responsible manner in which they have acted in this matter and the maturity they have demonstrated.

We realize that for the citizens of this country to reap the full benefits of this measure that there must be a campaign of public education and public awareness.

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The Ministry of Health and the Ministry of Consumer Affairs will be embarking on a programme to educate the consumers, so that they will not only be educated on matters concerning their health, but also on their right to demand proper standards from the sellers. They must help us to monitor the system, so that it can work for their benefit.

The system under which we have operated has been so for many years, but we must be able to shift the paradigm. If we do not, then we do not give ourselves the opportunity to broaden our vision. We need not be afraid of change. At present, we are in the midst of health sector reform in which many changes are taking place.

Recently, I had the opportunity to interact with Ministers of Health from the entire Caricom area and most of them were surprised to learn that over-the-counter drugs, as they are called, can only be sold here in Trinidad and Tobago in pharmacies. In almost all the CARICOM countries, there is almost free sale of over-the-counter drugs in shops and supermarkets. Even in developed countries, many items in our Second Schedule are now sold in outlets outside of pharmacies. We feel certain that we have among our population a certain degree of maturity to institute this change with success.

Mr. Speaker, if there are any queries that arise during the debate, I will be only too happy to address them in my winding up.

I beg to move.

*Question proposed.*

**Mr. Barendra Sinanan** (*San Fernando West*): Mr. Speaker, I wish to congratulate the Member for Caroni Central on his presentation of this Bill, the Pharmacy Board (Amdt.) Bill, 1998.

The signal for this amendment coming to us today, was made by the hon. Minister of Finance way back in his presentation of the 1997 budget speech. In that, the hon. Minister of Finance declared the Government's intention to address the problem of monopolies and, as an interim measure, to address certain industries and activities which have remained virtual closed shops. In his presentation, he went on to state and I quote:

“A case in point is pharmacies. Section 31 of the Pharmacy Board Act operates a partial monopoly in favour of pharmacies with respect to the sale of non-prescription drugs.

The Act already permits shops, two miles away from a pharmacy in a rural district, to sell non-prescription drugs without the supervision of a pharmacist, and there is no reason why this should not be extended more generally as applies in other jurisdictions. We believe that free competition in the sale of non-prescription drugs will benefit the consumer. I propose, therefore, to introduce the necessary legislation in the first quarter of 1997."

This is the Minister of Finance signalling the intention of the Government to introduce this piece of legislation.

While the legislation appears to be favourable to the consuming public, the important point that one has to maintain in all this is the protection of the consumer in the sale of over-the-counter drugs in shops.

Now, I have looked for a definition of "shop" in the parent Act and also in this amendment and I see no definition of "shop". Therefore, it is possible that a shop could mean a parlour; it could mean a wayside vendor. What is the definition of "shop" and, in this regard, I am suggesting to the hon. Minister that he considers an amendment to include a definition of "shop".

**Dr. Rafeeq:** That is in the amendment.

**Mr. B. Sinanan:** That is in the amendment. Okay, I did not hear you say that, but I am glad that there is, in fact, an amendment to define the word "shop". Also, while on that point, I wish to state that we on this side support the two amendments, that is the deletion of clause 6, pertaining to doctors, dentists and veterinarians and, also, the other amendment that the Minister alluded to which was the fact that he will consult with the Pharmacy Board in listing Second Schedule items.

Mr. Speaker, the idea behind this Bill is to make drugs easily available or more readily available to the consuming public. I do not think there is any empirical evidence to show that the general public is not being adequately served by existing pharmacies. There are over 261 pharmacies all over Trinidad and Tobago. I think the only two areas not served properly would be Cedros and Toco.

If the idea really is to make drugs readily available, one has to consider that shops in Trinidad and Tobago are generally closed for business between the hours of 6.00 and 8.00. I do not think you would find a shop or a supermarket opening beyond that time. The latest may be 9.00, but that is a rare case. We do, in fact, have pharmacies, some of which are open on a 24-hour basis and some of which open as late as 11.00 to 12.00 midnight. So that in terms of accessibility, the

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pharmacy would be more accessible, certainly during that period of time. During the period of say 8.00 p.m. to 12.00 midnight; you would find most pharmacies open and most shops or supermarkets closed.

Also, Mr. Speaker, the sale of the over-the-counter drugs is extremely important to the survival of the existing pharmacies. My information is that they account for between 50—60 per cent of the sales of these pharmacies. If such is the case and you now have competition in the sale of over-the-counter drugs, it is very likely that some of these pharmacies may have to be closed.

Pharmacies in Trinidad and Tobago employ a fair amount of people and one of the side effects of this amendment which is before the House is as stated in the Price Waterhouse Report which was commissioned by the Pharmacy Board. I am going to quote certain statements made in this report. It says:

“Our research has revealed that several negative implications are likely to result from the freeing up of the retail sale of non-prescription drugs more commonly referred to as ‘over the counter drugs’.. These negative implications in our view are likely to outweigh any benefit which may result from ‘de-monopolisation’.”

They go on to list certain side effects as it were, and I quote:

**“1. Increased Unemployment**

There are approximately 261 pharmacies operating in Trinidad and Tobago at present with an average of 8 employees per pharmacy. This amounts to employment for approximately 2000 persons. In an environment where unemployment and the attendant ill-effects are rampant, the Government ought not to lightly put a collective employer of 2000 persons in jeopardy, especially where that employer is to be replaced by supermarkets which are not likely to need to hire additional staff to offer what, to them, will be just an additional range of products. In this regard it should be noted that approximately 119 of the 261 pharmacies are marginal operations. That is, they are extremely susceptible to any change in the market which will have an impact on their revenues or cost of sales. We have seen in the past the effect of currency fluctuations and changes in the mark-up, on the operations of some of the marginal pharmacies. This move is just one further blow that is likely to significantly impact on them and probably lead to their closure.”

So here it is that Price Waterhouse, having done some research into this matter, is saying that allowing supermarkets and shops to sell over-the-counter drugs, has the potential of causing existing pharmacies to close, as a consequence of which there is every likelihood that there would be unemployment.

It goes on:

“To understand the full impact of this move, it is essential to have a fuller understanding of the industry. An important fact to note for example is 70% of a pharmacy’s pharmaceutical business is comprised of OTC sales without which most pharmacies will not survive, or at best will not be in a position to continue offering the depth of services which they now offer and which they have been proposing to expand.”

**10.30 a.m.**

**“Fewer Pharmacies and Pharmacists**

Supermarkets and other retailers can only properly be viewed as a viable substitute for pharmacies if the latter are regarded merely as retail outlets, which would be a fallacy. In fact pharmacies offer many vital services to the community which have been taken for granted over the years, but the absence of which could cause untold hardship and expense.

Pharmaceuticals, including OTCs, are not ordinary consumer goods since they need to be chosen and used with proper care if they are to be safe and effective. Pharmacists are present in pharmacies to aid customers in the proper selection of pharmaceuticals to be used for self-medication. They advise on the best available drugs for use for the particular complaint as described, as well as effective but more affordable alternative selections. They caution persons on proper dosage and use of the particular drug. They counsel persons on the issue of drug on drug reactions, allergies and negative side effects and also indicate where the problem warrants a visit to the physician rather than self-medication. These myriad of services will not be present in supermarkets and more significantly will become less available generally with the closure of several of the now operating outlets.”

Mr. Speaker, here we have a situation where over-the-counter drugs are to be sold in supermarkets where the attendants there are not likely to have any training in terms of a degree in pharmacology, or training in the dispensing of drugs and their use, which is perhaps putting the public at risk.

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The Price Waterhouse Report goes on to state under the caption "Less Stringent Control":

"The role of the Pharmacist is to know and advise on the drugs within his domain. This includes not only prescription drugs, but also OTCs, for while a layman may and often does assume that OTCs are harmless this is a dangerous assumption. All drugs have the potential for unpleasant and possibly dangerous side effects. Moving them out of an arena where potential users can be counseled on their proper use is opening the door for a rush of unanticipated medical problems."

Earlier on the Minister had alluded to Caricom and some other metropolitan countries where, I think, he indicated that this was the trend to have over-the-counter drugs sold in places other than pharmacies. Price Waterhouse Report has stated otherwise. The report goes on:

"This has been actually experienced in the United States of America (USA) and the United Kingdom (UK) where there was a move afoot to make OTCs more readily available by opening up the market to retailers other than pharmacies. However, the policy-makers in these countries have noted the negative fall out, including unexpected illnesses resulting from the indiscriminate use of freely available drugs, and have started to reverse the trend of opening up the market. It would be inadvisable for Trinidad and Tobago to follow in the footsteps of the developed countries at a time when the said countries have begun to acknowledge the error of their ways.

Pharmacists are vigilant in locating and disposing of expired drugs so as to provide protection to often careless shoppers. Supermarkets often operate on the principle of 'let the buyer beware' as many of us have found out to our detriment when we arrive home with the expired carton of milk or yoghurt. While it is easy to detect expired food and therefore desist from its consumption, expired drugs are less easy for the layman to detect. He may therefore proceed to apply same to his peril."

In the case of a pharmacy

"The pharmacist is there to guard against this.

Control is also likely to be relaxed in the area of storage of drugs."

Mr. Speaker, I have not seen the amendments with respect to the definition of "shop", but in the case of a pharmacy there are certain stringent controls that have



to be observed in terms of its location, hygiene of the location with running water and so forth, which may almost certainly not be available in a shop, and certainly not in a supermarket.

**10.40 a.m.**

There are cases where drugs are exposed to foodstuffs. The drug in itself is absorbed in the food, so that one may be eating and purchasing foods that taste of medicine. The report goes on:

“Drugs may absorb properties from adjacent substances and thereby become tainted. As such, if they are improperly stored and thereafter consumed, negative consequences may result. However, a pharmacist who understands the many drugs under his control can monitor this situation and guard against supermarket personnel who will not have that knowledge.”

Quality control is also likely to be diminished.

This is one of the effects.

“Generic drugs are now the order of the day because of their more attractive prices, and there are many of them which are very effective. However, there are also many such drugs of very questionable quality and effectiveness and in fact, there have been instances of the sale of placebos purporting to be useful for one thing or the next. One such instance involved the sale of placebos as birth control pills. Pharmacists are in a position to monitor the quality of drugs available on the market and to advise whether the absent properties on the drugs are critical to the treatment of a particular problem. On the other hand, supermarkets are likely to be heavily influenced by price, especially having regard to the fact that the stated intention of the de-monopolisation is to reduce the retail prices of these goods.”

It is my understanding that drugs are under price control. I am not sure in terms of the actual reduction in the price. I cannot see supermarkets or shops generally reducing the price to that which is below the stipulated mark-up price allowed by the authorities. The report goes on under the caption:

“Reduction in Availability of Drugs:

Paradoxically de-monopolisation is likely to result in fewer drugs being available on the market for the treatment of the ever-growing list of ailments.

At present, pharmacies use the profits generated from the sale of OTCs to finance the purchase of drugs which are slow moving, but which when needed

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are vital to the treatment of the relevant ailment. If pharmacies are deprived of these profits because of reduced sales and possibly reduced prices to counter the competition, they may cease to be in a position to carry these slow moving items which may result in serious medical problems for the sufferer.”

Mr. Speaker, in other words, the profit obtained from the sale of over-the-counter drugs is used to purchase drugs which are less in use on a daily basis. The profits are used to purchase drugs which are more expensive to purchase and more expensive to maintain but are available so that when the need arises, one can have these drugs. The pharmacists are saying that by removing over-the-counter drugs from their portfolio will cause them to be in a position not to store more expensive drugs so that when the need arises they may not be stocked up with the drug available for those who are in need of it. I continue:

“It is safe to say the profits from OTCs, especially the more popular ones which are the ones likely to be carried by any competitor who may enter the market, finance the operation of the prescription drugs segment of the business.”

In other words, they are saying that the profits from over-the-counter drugs finance the purchase of prescription drugs and if that profit element is removed, then they would not be able to finance the purchase of prescription drugs to the extent to which the market demands.

“It is doubtful that one can survive without the other unless there is a significant increase in the cost of prescription drugs. This needless to say will be counter productive and contrary to the stated intention.”

Mr. Speaker, in clause 4 there is no definition of “shop” and I hope that when the Minister comes to the licensing of the shops, attention is paid to such things as: storage, sanitation, running water, all of which conditions apply before a pharmacy can be licensed.

We on this side have no great difficulty with the Bill. We have a great concern however, as to the protection of the consumer, and that is our main concern. How does this Bill afford protection to the consuming public?

To qualify as a pharmacist it takes some time to do that. To be a pharmacist, a student has to do at least four years of full time academic studies at the University of the West Indies and six months of pre-registration supervised by a licensed and responsible pharmacist. On completion the student pharmacist has to then do three years internship. So we are talking about seven years before one can be qualified as a pharmacist.

This academic training was put in place to provide competent and efficient service to the community and not for monopolistic reasons. There is a School of Pharmacology at the UWI where it costs upwards or in the vicinity of \$400,000 to be qualified as a pharmacist. One has to complete four years of academic training, three years of apprenticeship/internship. This piece of legislation could be considered unfair to those students who spend this amount of money and all these years in training to be put in a position where it is very likely that one may not be in a position to practise one's profession.

If it is that the Government wants to make over-the-counter drugs readily available to shops, why can supermarkets and shops not employ a pharmacist? In Trinidad and Tobago there are certain supermarkets—Hilo, Tru Valu—that have drug stores within the compound of the supermarket.

**Mr. Sudama:** What is the price of employing pharmacist? You want to pull down the supermarket.

**Mr. B. Sinanan:** That is not the point. The pharmacist is there to provide safety and some measure of advice to the consuming public. The point we are making is that without a pharmacist being present, one runs the risk of the sale of over-the-counter drugs having a negative impact.

The hon. Minister spoke of certain over-the-counter drugs. Perhaps, this might be a good time to enumerate some of them which are listed in Schedule II. Drugs as: Eno Fruit Salts, Andrews Liver Salts, Milk of Magnesia are found in antacids preparations and should not be taken at the same time as other drugs. For example, iron preparations, aspiration, Zantac. When one goes to a supermarket or shop, who is going to advise the consumer that he should not use Eno, Andrews and Magnesia if he is on Zantac or an iron preparation?

Mr. Speaker, aspirin is a common drug and is one of the most dangerous available over-the-counter drugs. It can cause ulcers in the stomach if used indiscriminately.

Paracetamol another drug which, if used without proper advise can, in fact, cause hepatic damage and which as the Minister would know, he being a medical practitioner it takes about four to six days before that comes to light. Epsom salts, which in days past was used readily, modern medicine has found that the indiscriminate use of Epsom salts and Senna leaves can, in fact, has serious effects on the elderly.

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The indiscriminate use of cough mixtures can, in fact, be dangerous to the consuming public.

**10.50 a.m.**

The Minister spoke about labelling. This is very important. Very often, in the supermarkets, one sees toothpaste, soap or drugs such as Phensic all labelled in Spanish. The law provides for labelling in English. Whilst the law provides for labelling in English, one can go to the pharmacies and shops in Trinidad and Tobago and find over-the-counter drugs which are not labelled in English. Therefore, the enforcement of the law is needed. In this Parliament we are passing a fair number of laws. It is all well and good to pass laws, but more importantly, having passed the laws, they must be enforced. I am not sure at this point in time whether the enforcement agencies are enforcing the laws which are passed in Parliament. In terms of labelling, it is very important that this be done in English as the law prescribes. As I said before, the authorities that enforce the laws in this regard must be more alert than they have been to date.

There is a danger in the use of over-the-counter drugs by the public without the advice of a qualified pharmacist. I have enumerated the use of Eno and Aspirin. When one goes to a shop one would not get the benefit of the advice of a qualified pharmacist. One would be sold a product and would be at risk in terms of the way it should be used. I am appealing to the Government, that while I understand the need to make over-the-counter drugs readily available to the wider consuming public, it should bear in mind a couple things.

The safety aspect of the consuming public ought to be paramount. The health of the citizen is of paramount concern. It is more important than making these drugs readily available. If shops and supermarkets want to sell over-the-counter drugs they can open a pharmacy on their compound. There is nothing in the law that prevents anybody from opening a pharmacy. Anyone who wishes to open a pharmacy in this country can do so. However, the law prescribes that there must be a licensed pharmacist who would be there to protect the public.

As I said earlier on, it is of tremendous cost in the vicinity of \$400,000 to train a pharmacist. It takes a period of seven years. The Government subsidizes the cost of the student at the University of the West Indies. Here we are subsidizing students to obtain a degree in pharmacology which is very good and admirable, but on the other hand, we are taking steps which would have the likelihood of making the same pharmacist unemployable. This could lead to a migration of pharmacists.

If they have no gainful employment they would not stay around. They would migrate and there could be a drain of pharmacists in the country.

I bring these concerns to the attention of the honourable Minister. In closing, I state that we on this side are very concerned about the safety of the health of the consuming public, when they go to shops to purchase these over-the-counter drugs.

Thank you.

**The Minister of Education (Dr. The Hon. Adesh Nanan):** Mr. Speaker, thank you for allowing me to make a contribution in support of the Pharmacy Board (Amdt.) Bill. I think it is appropriate to bring Members up to date in terms of the origin of pharmacies. The original pharmacy dates back to the Romans. In the autumn of Roman imperial power and culture, scholars began recording all medical knowledge acquired over centuries of study, the basis of pharmacology. I am sure Members are familiar with the famous book *De Materia Medica* by the military doctor Dioscorides describing more than 600 vegetable, animal and mineral remedies. He also produced a discourse on poisons and antidotes. It was not until the second century of the Christian era, that Galen Claudius Galenus who was born on September 22, 131 in Pergamum Asia Minor and died in Rome in 201, and was a Roman doctor, pharmacist and philosopher produced around 500 books. In fact, the word “galenic” is still used to describe drugs and medicaments made directly from vegetable or animal ingredients using prescribed methods.

Galen also helped to shape pharmacological science. In addition to running a thriving medical practice, he had his own pharmacy which stocked hundreds of medicine made from vegetable and animal ingredients. What is striking is that Galen catalogued countless remedies recording how each was made up. One striking feature of his work was the attention he paid to precise quantities of the various ingredients used in the preparation of each remedy and the doses which had to be given.

I listened to the Member for San Fernando West. It is unfortunate that he had to read from a document by Price Waterhouse to make a contribution in this debate.

**Hon. Members:** What are you reading from?

**Mr. Speaker:** Order please!

**Hon. A. Nanan:** Mr. Speaker, I am taking the opportunity to look at the revised Second Schedule attached to the Bill and to give Members some idea of what these terms mean and the active ingredients in these pharmaceutical products.

**11.00 a.m.**

The first drug on the revised Second Schedule is enteric-coated aspirin, not aspirin. The chemical name for aspirin is aceto-salicylic acid. My colleague, the Member for San Fernando West, talked about the side effects of aspirin. That is why it was put in this schedule as an enteric-coated aspirin. Everyone is familiar with the side effects of aspirin in terms of the bleeding it causes to the gastrointestinal tract. However, an enteric-coated aspirin is buffered, so the side effect is minimized in terms of the use of aspirin.

I make reference to another area—children, the use of aspirin and the familiar term Ryes Syndrome. Ryes Syndrome has as a symptom the enlargement of the spleen and liver. However, what the Member for San Fernando West missed, was that all these products, which are over-the-counter medications, will be in supermarkets but will be properly labelled in sealed packages. That is the difference between the pharmacy environment and that of the supermarket environment. As a former practising pharmacist, I will later inform this House of the environment in the pharmacy and the difference between the environment in the pharmacy and that of the supermarket.

In terms of the revised Second Schedule, I will go through the items to show how they will not be harmful to the population. I also made some notes in terms of the population, while the Member was speaking. He seems to be concerned, not so much with the population, but with the students and the workplace.

Later in my contribution, I will show, in terms of unemployment, that the putting of the over-the-counter drugs listed on the revised Second Schedule would not affect employment in pharmacies.

We go on to paracetamol. This is also called acetaminophen, depending on where one is in terms of the United States of America or the United Kingdom. The two drugs, aspirin and paracetamol, can be used as an analgesic and they also have anti-pyretic properties, that is they can be used for fevers. Again, the Member talked about the harmful side effects of an excessive dosage of paracetamol. Mr. Speaker, all drugs in large quantities can have harmful side effects. In fact, that is why, as I spoke in terms of the origin of pharmacies and their history, I mentioned that there are prescribed dosages and prescribed percentages.

I just want to pick up quickly on one of the products listed in the schedule. I did an analysis of this particular product. Let us go to Tiger Balm, a familiar product in the country in terms of its usage. Tiger balm is made of paraffin, camphor, menthol, cajaput oil, peppermint oil and clove oil.

The menthol in tiger balm, when applied to the skin, causes the blood vessels to dilate and gives a cooling effect. It also has a mild analgesic effect. Camphor has similar properties. What is the role of Cajaput oil? It is a stimulant and mild rubifacient in rheumatism, again similar to the dilation of the blood vessels on the surface. Peppermint oil is added to the product as a flavouring. Mr. Speaker, the difference in quantity is important here. Clove Oil is part of tiger balm. It has local anaesthetic properties. In my other profession as a dental surgeon, clove oil is also used in combination with zinc oxide powder to form a temporary dental cement.

I am trying to show how different percentages of these products will make a difference. I come back to the confidence in the pharmacist. My colleague, the Minister of Health, spoke about recognition of the pharmacist and his role over the years in terms of how he has served the population. I congratulate the pharmacists in Trinidad and Tobago on their performance in this aspect of compounding of medication.

As I look at the formulation of tiger balm, it takes me back to when I was a student pharmacist operating under the supervision of a resident pharmacist. I was compounding medication for the removal of warts and corns, the ingredients of which were salicylic acid and resorcinol. Salicylic acid has the potential of a desloughing agent. Resorcinol has similar properties.

I remember that particular day, there was an Intercol match. I compounded the medication, but because there was an oily base, it could not be washed off properly. It was on the surface of my palms; I left the pharmacy and went to the match. Naparima College was playing Presentation College. Naparima College scored a goal and we were elated and I went into a frenzy of clapping for my team. Little did I know the penetration power of that ointment. [*Interruption*]

**Mr. Speaker:** Order! Order, please!

**Dr. The Hon. A. Nanan:** As I clapped my hands rapidly, the ointment penetrated the superficial layer of my skin. The next day, the skin was entirely peeling off my two hands. I just want to show the role of the pharmacist and the medicinal drugs under his care. That is why dosage and packaging is important in terms of over-the-counter medication.

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There are active ingredients in over-the-counter medication which can be used in other areas for other purposes, for example, clove oil in Tiger Balm. As I go down the chart, I will show active ingredients in other things being used elsewhere.

I would like now to go to Andrews Liver Salts and Eno Fruit Salts. I will deal with the sparkling lemon aspect of Eno, which is the flavoured one. The active ingredients in Eno are sodium bicarbonate, tartaric acid, citric acid granules and the dye, tartrazine. In Andrews Liver Salts, there is citric acid, sodium bicarbonate, magnesium sulphate. Both these preparations are used orally to neutralize acid secretions, that is the relief of dyspepsia.

**11.10 a.m.**

Mr. Speaker, let us analyze the active ingredients in Eno Fruit Salts. Sodium bicarbonate is the active ingredient which neutralizes the acid secretions in the gastrointestinal tract. Of course, there is also citric acid which causes the effervescence of the product.

Let us now look at Andrews Liver Salts which has sodium bicarbonate and magnesium sulphate. This can be used as an antacid and as a laxative. The sodium bicarbonate, as I said before, neutralizes the acids in the gastrointestinal tract, but the magnesium sulphate can also act as a laxative.

Mr. Speaker, take sodium bicarbonate, this is being brought forward in Eno Fruit Salt for the treatment of dyspepsia by reducing the amount of gastric acid secretion in the stomach, but in certain concentration, sodium bicarbonate can be used as ear drops to soften and remove wax, and in other concentrations, it can be used as a lubricating fluid for contact lenses, so I am just showing the relevance in terms of the pharmacist's role and the active ingredients in the product.

Epsom Salts, the chemical name, is magnesium sulphate and it is a saline laxative. Let us now go to Senna leaves and pods, this comes from the plant *cassia augustopholia*. What is important here is that senna is an anthroquinone laxative and it works. The anthroquinone has a delayed action so when taken orally, the active ingredient is liberated in the colon from colonic bacteria so these glycosides take six to twelve hours to act after administration.

Mr. Speaker, Optrex Eye Lotion which is another over-the-counter medication is used in large proportion for tired eyes and red eyes. The active ingredient in Optrex Eye Lotion is something called witch hazel. It is distilled witch hazel from the twigs of the plant *hamamelis*. Why was this active ingredient put in Optrex Eye Lotion? It is for its astringent properties and it also has a cooling application. So



the pharmacist would be aware of this particular product and he could advise if this is the product which the customer wants, or if it is another product in the environment of the pharmacy.

In the supermarket's environment, the customer would have already had the benefit of the experience prior to the treatment in terms of the lotion, so the customer will be going into the pharmacy knowing from his previous experience what he tried. However, if it is somebody who is new, he or she would seek the advice of the pharmacist. I just want to put that into perspective in terms of addressing this particular area.

I am jumping a bit because I want to go to another product which is calamine lotion, which is a very popularly used product in the country. And why is it being used so widely? It is especially popular in the treatment of measles and the active ingredient in calamine lotion is a basic zinc carbonate coloured with ferric oxide. Its properties are mildly astringent on the skin and the astringent properties precipitate proteins in small quantities to form a superficial protective layer. It also hardens the skin and so checks the secretions, that is why it is so popular. There is nothing here that would prevent somebody from buying calamine lotion. The active ingredient, calamine, can be used in products in combination with other drugs, for example, there are drugs using calamine as the active ingredient, but when combined with another drug which is controlled by a prescription one gets a different effect.

Mr. Speaker, for a First Aid Kit, my colleague, the Minister of Health spoke of flavine and mercurochrome. Let us discuss these two items in terms of their disinfectant properties and I want to differentiate here between disinfectants and antiseptics. Disinfectants are used to reduce the number of micro organisms or innate objects, whereas antiseptics are used on living tissues to reduce the bacterial content.

Mr. Speaker, in pharmacies, a number of dyes are used because of their bacteriostatic effects which include Acriflavine which is an acridine derivative; it is bacteriostatic especially for gram positive bacteria and it is used by the population for treatment of infected wounds and skin infection. Another product which one would see on the pharmacy's shelf is mercurochrome, one of the mercurial derivatives and it has antibacterial and anti-fungal properties, and is used as a weak disinfectant for skin infections.

Mr. Speaker, hydrogen peroxide which is another item listed on the revised Second Schedule. How is this used in this country and elsewhere? It can be used as a disinfectant, to cleanse wounds, because of its action which is a ready release of

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oxygen when applied to the skin; it is of short duration. Look at the spin-off of this particular product. It is used as a bleaching agent by hairdressers, and it is also used in mouth washes and in small percentages, it can be used as ear drops.

Another item here is iodine. In weak solutions an iodine solution can be used for small wounds and abrasions. This can be found in a First Aid Kit.

Mr. Speaker, let us go to gentian violet which is on the revised Second Schedule. It comes in solution form. Basically the compound is the chemical named hexamethyl pararosaniline hydrochloride. And it comes in percentages of 0.9—1.05% and it is combined with alcohol of 8—10%. It is applied to unbroken skin as a disinfectant. What is its use? It is commonly used for a condition called thrush, and it works against gram positive bacteria and is particularly useful against pathogenic yeast of the candida species. It is applied to the lip area with restricted use for this particular condition. I am showing the relevance of these drugs in terms of the role of the pharmacist, the environment of the pharmacy and the environment of the supermarket.

Friars Balsam is also known as gum benzoin and it can be used topically to form a protective covering. It can also be used—and this is where the pharmacist comes in, in terms of the other uses of these particular products—in hot water in small quantities to treat upper respiratory tract blockage in terms of heavy colds.

Another item which is listed on the schedule is zinc oxide which is used for eczemas; it is soothing, forms a protective layer and can also be used as a sunscreen since it reflects light. In the field of dentistry, zinc oxide, in combination with a strong solution of zinc chloride forms the basis for dental cement.

When one looks at the revised Second Schedule one also sees Dettol and Savlon. The active ingredient in Dettol is chloroxylenol and it is used in skin and wound infections because it is very active against streptococcus in terms of the bacteria. The active ingredient in Savlon is cetrimide which is a quarternary ammonium compound which has surfactant properties which allow cleansing of skin and wounds and it has bactericidal activity.

Mr. Speaker, let us go quickly to methyl salicylate because on the Second Schedule there is methyl salicylate compound rubs and gels. Why is this used in compounds, rubs and gels? It is absorbed through the skin and used in liniments and ointments for the relief of pain in rheumatoid conditions.

### **11.25 a.m.**

Mr. Speaker, I have outlined some of the items, the active ingredients and uses described for these products. I said before, in terms of the active ingredients, that

they could be used in other products for different uses which would require a prescription.

I now go across to cough mixtures without antihistamines and/or narcotics and not containing any drug required to be sold on prescription, only non-prescription vitamins without minerals. With respect to Ferrol and Codol listed on the revised Second Schedule, guaiacolate is the active ingredient in Codol and in Ferrol it is creosote. Both of these products could be deemed as expectorants so they induce coughing and allow the patient to utilize these products as a cough and cold mixture. However, what would happen if there were antihistamines and other products in this particular cough syrup? For example, guaiphenesin which is found in many cough syrups in pharmacies is reported to decrease the viscosity of tenacious sputum and is used as an expectorant.

Also, in this particular formula there is an active ingredient called dextromethorphan hydrobromide which is a cough suppressant. How does it work, Mr. Speaker? That acts centrally on the cough centre and is used for unproductive cough. Another part of that formula is another drug called ephedrine hydrochloride. This drug relieves nasal congestion associated with the common cold but there are side effects. This drug raises blood pressure and increases cardiac output.

Mr. Speaker, in my contribution, I am showing the role of the pharmacists in administering these medications which have these active ingredients that could affect the brain, the nervous system, the heart and so forth. However, in terms of Ferrol, creosote is the active ingredient in Ferrol and it has expectorant properties and in Codol it is a sort of guaiacolate, which also has expectorant properties, however, the side effects are minimal if they are compared to these other cough mixtures which contain antihistamines which would affect the brain and other parts of the system.

I now go, quickly, to the contribution of my friend from San Fernando West. We are fortunate, in terms of this expansion drive, from the over-the-counter medication sold in pharmacies and putting medication as listed on the revised Second Schedule into supermarkets. We have, as mentioned before, the rural experience because this has already been tried in supermarkets and shops outside of a two-mile radius. The population responded positively and side effects were minimal so there is already that pilot in terms of the sale of these drugs in shops.

The Member for San Fernando West also spoke about percentage. He quoted some 50—60 per cent from the Price Waterhouse Report and the sale of over-the-counter medication contributing to 60 per cent of the retail trade in a pharmacy. A

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little later he spoke about employment of about 2,000 persons in jeopardy. As he spoke about that, I listed in my notes, what about the pharmacists? I am now asking what about the role of the pharmacists? Is he marginalizing the role of the pharmacists because if he is, I am not. I am showing the importance of the pharmacists. I have just laid down the terms of the drugs which have been put forward for over-the-counter medication and what are being sold in the pharmacy. I am saying that the pharmacists' role is not going to be threatened if these products are placed in supermarkets.

I have already outlined, in terms of the advice from the pharmacists, because he is what I consider the sage on the stage and the guide by the side. When one goes into a pharmacy as a consumer for advice—one who has no prior knowledge and has a problem—the pharmacist is the one who would say what medication could be used or if one should seek the advice of a doctor. I am putting it forward in terms of the quotation made of 50—60 per cent of sales. I agree with that in terms of the percentages. However, I am saying that the consumer, in terms of choosing between the supermarkets and the pharmacies, would be able to make the choice and that would be based on the severity of the condition.

The Member went on to talk about the negative side effects. I think I dealt with that aspect in terms of the side effects of drugs, because once the drugs are packaged and labelled properly they would state, quite clearly, the dosage. He also spoke about less stringent control and I think the Minister of Health would respond in terms of the regulations. The reversal of trends in the United States and, of course, about expired drugs, the Minister would address that later. With respect to storage of drugs, I am sure the regulations would deal with that in terms of the placing of drugs; the regulations would say where.

I have knowledge of the pharmacists which he spoke about, and I reinforced their role as pharmacists. With respect to quality of drugs, again, the Minister of Health would deal with that.

The Member spoke about profits from over-the-counter drugs going to buy more expensive medication for the patient's use and would remove the profit element, but how does it work in other countries in terms of the arrangement? Is it an explanation by the Member to hold on to a monopoly? I just put that out for some kind of consideration.

Before I wind up, Mr. Speaker, I want to recognize the doctor/pharmacist relationship in the context of dispensing and compounding. The Member spoke

about the students at the University of the West Indies and their three-year programme—six months—and then a three-year internship period.

Mr. Speaker, from what I have put forward in terms of the availability of the drugs listed on the revised Second Schedule, that would not affect the profits in the pharmacy. The environments of the pharmacy and the supermarkets are two entirely different environments. I would say that one would be based on the severity of the illness of the patient, the doctor would still have the relationship with the pharmacist—not the proprietor of the supermarket—the confidence of patient and doctor would still be there within the environment of the pharmacy.

Mr. Speaker, I fully support the Bill before the House. I thank you.

**11.35 a.m.**

**Mrs. Camille Robinson-Regis** (*Arouca South*): Mr. Speaker, I thank the Member for Tabaquite for making such a clear case for the need to restrict the sale of drugs in supermarkets. In his contribution he clearly showed how important it is for us to have pharmacies retain the right to keep most, if not all, of these drugs under the control of pharmacies and pharmacists. Without a doubt, we would like to thank him and to pay him the tribute that he deserves for strengthening our case and showing the clear need for pharmacists; even that story he told about him clapping at the Naparima game, and after clapping the medication was needed because his hand blistered, he peeled, in no uncertain terms, and that was a simple over-the-counter drug which I think is listed here. I thank the Member for Tabaquite from the bottom of the hearts of the PNM Members. I would just like to add a few more words to those words that he said that really strengthen and support our case.

Mr. Speaker, this, clearly, is another case of back-scratching legislation being brought to the Parliament of Trinidad and Tobago. It is clear that one of the interest groups that supported the UNC party has brought pressure to bear on the Government to ensure that something they were promised is now being brought to the Parliament of Trinidad and Tobago. [*Desk thumping*] It is clear that it has created some problems in the Cabinet of the UNC, as clearly outlined by the Member for Tabaquite. Because, having served as a pharmacist, and I would like to indicate that he was a licensed pharmacist in 1985, has not practised for a number of years and has not retained his licence to practise. Talking without a licence, I am not saying that he cannot talk, but I hope he was not attempting to talk on behalf of the pharmacists of Trinidad and Tobago.

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Mr. Speaker, it is clear that this legislation serves no other purpose than to give support to the Supermarkets Association and, in particular, the former president of the Supermarkets Association of Trinidad and Tobago. We saw it very clearly in the first budget of this administration when after the budget there was legislation called the Shop Hours (Amdt.) Act which allowed the sale of liquor and the opening of shops and supermarkets everyday at all times, 24 hours. Now, we are seeing the Supermarkets Association, again, being patted on the back for whatever support they have given to this UNC administration. It is no wonder that the former president of the Supermarkets Association felt that he could create havoc in Trinidad and Tobago by predicting or threatening a shortage of rice and even telling us, the consumers, that the rice was good and fit for human consumption.

Mr. Speaker, I want also to take this opportunity to recall that it was the former president of the Supermarkets Association who promised the consumers in very large advertisements which had the eyes of, I think it was the Prime Minister, the Member for Couva North, who told us that he and his administration would be keeping a hawk's eye on the Supermarkets Association to ensure that prices went down and remained down. The concern on this side is that we are being told that when these over-the-counter drugs are allowed to be sold by supermarkets, prices will go down, the supermarkets will be able to sell these drugs at a lower cost than the pharmacies. But, we can only go on the history of the supermarkets and the association by whom we were being told after the first budget of this administration, that prices will go down.

It was not only the Supermarkets Association which told us that, but, the Minister of Finance said to us in his budget speech of January 10, 1996, and I quote:

“Let me hasten to add that this Administration expects to see a corresponding reduction in retail prices, and in particular, food prices.”

This is when the value added tax was removed from certain supermarket items. The list of those items was as follows. I quote again:

“In order to reduce the cost of basic foods to the population, I propose to extend the list of basic foods zero-rated for Value Added Tax purposes to include such items as cheddar cheese, corned beef, curry, fresh butter, salt, macaroni, peanut butter, salted butter, tinned sardines, smoked herring, yeast and baking powder. In addition, I propose to remove the import duty on those items on this list which presently attract import duty. ”

Mr. Speaker, we were told that there would be a significant reduction in the prices of those items. I would just like to give you an example or a listing of some of those items which we were promised would have been decreased in price. I am sure you will recall that when the Minister made his list and promised those reductions there was a loud and lusty desk thumping from the other side. You will recall that I mentioned curry powder. The official information from the Ministry of Consumer Affairs has shown that over the period July, 1996—July, 1997 the price has increased by 15 per cent; smoked herring was mentioned, which has increased by 12.5 per cent; sardines were mentioned, which have increased by 8.5 per cent; yeast was mentioned, which was increased by 7.9 per cent; pig tails have increased by 48.5 per cent; mackerel by 3 per cent. A number of the items that we were promised would go down have done nothing other than increase and they continue to increase. So, we on this side have serious concerns when we are told that the consumer is going to benefit by price decrease if these products are sold in supermarkets.

Mr. Speaker, the *Review of the Economy, 1997*, page 21, also shows, and it says quite clearly:

“Over the period January to September 1997, the rate of inflation...increase of 3.8 percent...

The highest increase in prices was imputed to food (10.6%)...”

We have concerns, if the contention of the other side is that prices will go down and they have told us before that prices will go down, it is clear from the statistics that this is not to be believed.

Mr. Speaker, this Bill is clearly coming as a result of a promise. Despite clear and obvious concerns raised as to the deleterious effects which some of these over-the-counter drugs could have, and these concerns have been raised by the Pharmacy Board of Trinidad and Tobago, the Government is going full speed ahead. The concerns that were raised have their genesis, not only in the clear pharmaceutical evidence, evidence that was made even more clear by the Member for Tabaquite, but there is also the clear and unchallenged concern that despite the claim by the Member for Caroni Central, the Minister of Health who piloted the Bill, that they would be monitoring, the Pharmacy Board has clearly indicated that there are concerns even at that level. Because, they have indicated that at this moment, several supermarkets have been breaching the law as it relates to over-the-counter drugs.

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They have indicated that Phensedyl which contains codeine, Actifed dm which contains dextromethorphan, Comptrex which contains decongestant and Pseudo pherine, Motrin and Advil which contain Ibruprofen, are now being sold in supermarkets without any licence and controls. Mr. Speaker, if this is already occurring and there has been no monitoring and no move by the administration to get these supermarkets to stop the sale of these drugs which have been proven to be dangerous to health if used in combination with other over-the-counter and prescription drugs, then the question must be asked, will the consumer be protected? [*Desk thumping*].

We on this side who share the concerns of members of the Pharmacy Board feel that there is clear and incontrovertible evidence that the type of monitoring stated by the Member for Caroni Central, is not now occurring and will not occur. We also feel that the consumer must be taken into consideration. We have already indicated our concern that the price will not, in fact, be lowered, and our major concern is that people will be exposed to injury as it relates to their health and well-being. Nothing, so far, has been said by the Government which makes us feel any better that this will not, in fact, be the state of play in Trinidad and Tobago when these over-the counter-drugs are allowed to be sold in supermarkets.

Mr. Speaker, the Bill which is now before us states in clause 4,

"The Act is amended by repealing section 31 and substituting the following:

31. (1) The Minister may, upon application and payment of an annual fee of two hundred and fifty dollars by a shopkeeper, grant a license to sell the drugs listed or described in the Second Schedule.
- (2) An Application made under this section shall be in the form set out in Form 1 of the Fourth Schedule and the licence granted in respect of such application shall be in the form set out in Form 2 of the Fourth Schedule.
- (3) For the purposes of subsection (1), the Minister may, by Order, authorise the Country Medical Officer of Health of the county in which the shop is situated to act on his behalf.
- (4) In this section, "Minister" means the Minister to whom the responsibility for health is assigned.
- (5) Any person who sells any drugs listed or described in the Second Schedule, without first obtaining a valid licence to do so, commits



an offence and is liable on summary conviction to a fine of five thousand dollars."

In this very amendment we see a clear flaw in the Bill before the House. Our concern is, that there is no indication as to what the shopkeeper must have in place to ensure that he is granted a licence. What are the safeguards that must be in place before a licence is granted? Will there be an inspection of the shop that is going to be used to sell these over-the-counter drugs? My colleague from San Fernando West indicated what can happen when drugs are stored near to food items. What is the Government intending to put in place to ensure that those who apply for a licence are granted this licence because they have put certain safeguards in place?

Section 31 which is repealed indicates:

"Upon the written recommendation of any Medical Officer of Health of a rural district, the Council may, upon payment of an annual fee of fifteen dollars, grant to a shopkeeper in respect of any specified shop which is situated two miles or more from a pharmacy, a licence to sell the drugs listed or described in the Second Schedule in packaged form if packaged by a pharmacist and bearing his signature and the date when so packaged by him by him."

This entire clause is now being repealed; it is now deleted. Our concerns are: what are regulations that will govern the granting of the licence? Given the widespread nature of supermarkets and the intention to use them to deal with these over-the-counter drugs, it is clear that regulations regarding licensing must be strict and stringent so that anyone who applies for a licence must have certain things in place before the licence is, in fact, granted. We on this side are asking whether we can get some indication as to what will be the specific regulations governing this particular amendment to the Bill before this House.

Mr. Speaker, we are of the view that the health and safety of the consumer must come first. In terms of pharmacies as they exist now, they are subjected to laws which now exist in Trinidad and Tobago: the Pharmacy Board Act, the Narcotic Control Regulations, the Dangerous Drugs Act, the Food and Drugs Act and the Antibiotic Control Act. When over-the-counter drugs are allowed to be sold in supermarkets and other shops, is there going to be a mechanism to ensure that drugs which are not on the Schedule will not be imported by supermarkets which have the licence to sell the drugs which are on the Schedule? The evidence has shown that in some instances, drugs which are not on the Schedule are being sold in supermarkets and other shops. Are these supermarkets, which will have the

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authority to import drugs in bulk, going to be monitored in such a way as to ensure that the drugs which they do import have not passed their expiry date, meet the type of stringent controls which pharmacies are now subjected to and, are, in fact, only those drugs which are listed on the schedule? We on this side are very concerned about that.

Right now in Trinidad and Tobago, the control of narcotics is in accordance with the requirement of the International Control of Narcotic Drugs entrusted to two agencies of the United Nations: the Commission on Narcotic Drugs of the Economic and Social Council which is authorized to consider all matters pertaining to the aims of the Single Convention on Narcotic Drugs 1961 and amended in 1972, and the International Narcotic Control Board which operates in co-operation with governments subject to the terms of the Convention mentioned previously. Mr. Speaker, are we putting in place enough agencies to actually monitor what will take place when the market is opened up in such a way as to allow those who are given a licence—and a licence which we are not sure what the basis of the grant of that licence will be? Are we putting mechanisms in place to ensure that monitoring will take place?

A number of so-called over-the-counter drugs have been found to be precursors used by those who manufacture what are called street narcotics. There is the very frightening possibility that the opening up of the market in this way can lead to an entirely new problem in Trinidad and Tobago as it relates to the accessibility of precursors for the manufacture of street narcotics. We have very real and serious concerns about this entire opening up of the access to pharmaceuticals in Trinidad and Tobago.

**12.05 p.m.**

The pharmacies, at this time, have a specific quota as it relates to drugs that can be brought into Trinidad and Tobago and the quota is divided between the Ministry of Health units and wholesalers, distributors and importers of specific drugs and including certain over-the-counter drugs. We have heard nothing about the monitoring of these quotas. How are these quotas going to be increased? Are the drugs which are listed in the schedule going to be included in anyway in a specific quota? We have yet to be enlightened as to the monitoring of the importation of drugs into Trinidad and Tobago, over-the-counter or otherwise, because we have seen right in our Caribbean region where, in an effort to obtain bulk purchases of drugs including over-the-counter drugs at a cheaper rate, drugs which have expired or drugs which have not been properly tested have been

brought into some of our sister islands with very damaging effects. There have been examples of substandard products, even counterfeit products, getting into some of the West Indian markets and a clear example was the diethylene glycol poisoning in Haiti in the case of paracetamol syrup.

Another concern which has been raised by the pharmacists and a concern which we share, is a situation which could develop where there has been a product recall. In pharmacies which have to register the products which they bring in, a product recall may be done with a certain amount of ease. But if, because of lack of monitoring or lack of concern and care, a supermarket or other shop may have brought in a product which is the subject of a product recall and this product has not been registered, then we may have a severe difficulty as it relates to a product recall. Because we would not know that some of the products which should be subject to the recall are, in fact, on the shelves of supermarkets and shops.

Mr. Speaker, our concerns on this side are clear. We are interested in knowing what will be the monitoring devices to which the supermarkets and shops will be subjected. We are interested in finding out how we will ensure that only the products which form the schedule at this time are, in fact, being offered for sale at supermarkets. We need to know what safeguards will be put in place to protect the health of the consumers in Trinidad and Tobago.

We also are of the view that where supermarkets and the Government have given an undertaking that prices will go down as it relates to food—and this undertaking has clearly been shown to be totally untrue—can we take their word that the prices will, in fact, go down? I would like to quote from the Appropriation Bill debate of January 16, 1996 where the Member for Couva North said:

“You will recall that the Minister, in his budget, announced that he was removing VAT—which was one of the promises we had made—from certain items.”

He went on to list those items:

“As a result of the removal of VAT which was an election promise, there has been a substantial decrease in the price of those items. These are items that are consumed by the poor mostly.

It was in an effort to reduce prices even further I believe that the Minister removed the import duties on these same items—and if I am to believe the first set of measures reduced prices by 25 per cent.”

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Yet, Mr. Speaker, the latest information with regard to the retail price index for food items has shown that rather than a decrease of 25 per cent there has been an increase of some 26 per cent, one per cent more than the projected decrease of 25 per cent. It is clear that we have some concerns about believing that there will, in fact, be this promised price decrease.

Mr. Speaker, the *Newsday* of Monday, May 4, 1998 at page 7 states in an article headlined "More criticism of Pharmacy Board Amendment Bill":

"A practising pharmacist of 45 years has expressed serious reservations about Government's stated intention to amend the Pharmacy Board Act, arguing that there were potential risks when certain drugs interacted with one another. He warned that the risk was greater for persons who practised self-medication without seeking professional advice.

Pharmacist Sankar N. Surujnath of 4 a.m. Drugs Ltd., has had considerable experience in the field of pharmaceuticals...He has cautioned that 'the risks of drug (prescribed) interaction with OTC drugs are great'."

He went on to say and I continue to quote, Mr. Speaker:

"Providing an example of his concerns, Surujnath claimed that drugs prescribed for hypertension and diabetes (common in TT) could interact with drugs present in many OTC medicines such as cough syrups, analgesics, laxatives, antacids and multi-vitamins.

'The use of medications which contain these drugs may produce serious disturbances of the heart with other prescription drugs', Surujnath said.

He cautioned that people suffering from certain heart conditions should avoid excessive use of drinks containing tea, caffeine, laxatives and antacids...

The pharmacist observed that it was a common belief among many that because a drug was sold OTC it meant that the drug was free from adverse effects. He exhorted, 'the misuse and abuse of drugs can produce undesirable effects, and self-medication without professional advice can lead to undesirable consequences'."

Mr. Speaker, I think Mr. Surujnath has indeed captured the essence of the concerns that the pharmacists have, the concerns that we on this side have and, indeed, the concerns of the consumers of Trinidad and Tobago. I am asking the Member for Caroni Central to reconsider the policy on this move. If the policy is not going to be reconsidered we are asking to be assured today that certain

safeguards which cannot be easily breached will, in fact, be put in place so that the public of Trinidad and Tobago is, in fact, protected.

Thank you, Mr. Speaker. [*Desk thumping*]

**The Minister in the Office of the Prime Minister (Dr. The Hon. Rupert Griffith):** Mr. Speaker, I am pleased to join this debate on the matter that is being discussed in this Parliament. This Bill is an Act to amend the Pharmacy Board Act but I get the impression that we were back to the debate on rice and all of these things and smoked herrings and sardines and it seems like a revision of the budget.

One of the things that is consistent with the kind of debate coming from the other side is clearly that those on the other side appear to have some problem with any measure being brought to assist the poor and economically challenged people of this country. [*Desk thumping*] It is in the same vein and with the same strength when they rejected the budget which had so many provisions—increase of old age pension and so forth—it is the same way they come to reject a measure that will help the economically challenged people of this country. That is the only consistency.

The other thing that emerged clearly is the fact that they did not read the Bill and they did not have a caucus among themselves because the Member for San Fernando West got up and said he would support the Bill and the very next speaker on that other side, all of her presentation is against the Bill. They are not supporting. Again, you can see the confusion on the other side.

Mr. Speaker, what are the issues raised so far coming from the other side in response to such eloquence; in response to such a beautiful presentation which not only enlightened those on this side, but I certainly hope it enlightened those on the other side; a presentation coming from the Member of Tabaquite and Caroni Central? The Bill calls for certain amendments and to give the effect to providing licence for shops so that wherever they are located they can provide over-the-counter drugs to the citizens of the country. As I listened to the Member for San Fernando West there were basically two things that he put forward. One, he was concerned about the safety of the consumers and, two, the loss of revenues to the pharmacies. He alluded to the report of Price Waterhouse.

**12:20 p.m.**

The Member mentioned that there are 261 pharmacies in Trinidad and Tobago which employ approximately 2,000 people. The Member's argument was that if shops—and shops was defined in the amendment and it is there for him to see—

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would be licensed to sell over-the-counter-drugs, it meant that the pharmacies would lose business and it would create unemployment.

Mr. Speaker, that is a very weak and shallow argument. In fact, what it would probably do, it would not only offer greater access to pharmaceutical over-the-counter-drugs, it would allow for greater employment. What is going to happen is once the shops are licensed, they will be able to employ people who can now go to buy those products from them. It would mean that in the case of supermarkets, there would be increased employment for the persons who would be required to sell those over-the-counter-drugs.

What is interesting, Mr. Speaker, the legislation even before its amendment, provides for shops in more than a two-mile radius to sell over-the-counter-drugs. Now that this legislation is before this honourable House for amendment, all of a sudden there are arguments about the safety of the drugs. Why did we not hear those arguments before? Are the arguments coming forth for the concern of the masses of citizens in this country, or are they coming forth so that the pharmacies can protect their profit margins, or is it that they are trying to protect a monopolistic interest and not the interest of the wider community? Shops within a two-mile radius can provide and sell over-the-counter-drugs, but we heard no argument about it. Now that the Bill is being amended, we hear all these arguments coming forth. The Member for San Fernando West was also concerned about the safety. The hon. Minister of Health and the Member for Caroni Central spoke about the safety measures that would be put in place.

Mr. Speaker, if one looks at the revised Second Schedule, one would see a number of items that are being sold in these pharmacies whereby when people go in, they go to the shelves, take them off, go to a cashier, pay for them and leave. If one looks at the schedule of these items, most of them are properly well-labelled and can give anyone the normal direction for its use. The argument coming forth on the other side is that if persons were to purchase these items, they do not have the advice of a pharmacist. The hon. Member for Tabaquite spelt out clearly what the role of the pharmacist is, that very simply being to dispense drugs that are prescribed by a doctor; that is what the pharmacist is for. Therefore, the prescription drugs that the consumer will go for in the drug stores, it is only then you require a pharmacist to dispense those types of drugs. The other types of drugs here, most people in any event, go to the pharmacy, buy the drugs, pay the cashier and go out with them.

Then the question was raised about people not being specially trained to dispense over-the-counter-drugs. Mr. Speaker, in an examination of most of the

pharmacies or drug stores, when you go there, I am advised that most of the people who are on the floor selling these drugs do not go through specialist training for those jobs that they do and, therefore, they are not qualified to give any advice on any type of drugs. More importantly—

**Mr. Hinds:** Pharmacists.

**Dr. The Hon. R. Griffith:** I am talking about the people on the floor. More importantly, Mr. Speaker, about 70 per cent of these drugs to which the Member referred, are drugs that can be easily had and we really do not need advice for them.

Mr. Speaker, I want to give an example of one of the strengths of this legislation to allow greater access to over-the-counter-drugs. If you take my constituency, for example, there is approximately 14 pharmacies in the town of Arima.

**Mr. Hinds:** There are. You need a remedial course in English?

**Mr. Speaker:** Member for Laventille East, please. Please continue.

**Dr. The Hon. R. Griffith:** There are approximately 14 pharmacies in the town of Arima. Right outside of Arima, most of the people do not have access to over-the-counter-drugs. What this Bill is simply asking for, is to provide people in those rural areas like Blanchisseuse, La Filette, Morne La Croix, Paria, Brasso Seco—those persons who have to travel for miles to come to a shop or a pharmacy in Arima to purchase these drugs. This is what these Members are against. Mr. Speaker, I wonder how those on the other side who also have rural constituencies cannot support a Bill such as this, or is it that it is a policy of that side to reject any measure that will benefit those persons?.

I just want to refer to some of the benefits. I am advised that when this Act is amended and comes into law, shops wherever situated, will sell non-prescription drugs and it is the view that, one, prices of non-prescription drugs will be reduced by about 15 per cent. That is a measure that those on that other side should be applauding because this will allow those persons—particularly those on fixed income—a chance to save money as a result of the competition that would ensue with greater access to these drugs. Another point is the point of access. Since these shops are opened every day of the week and some of them up to 9.00 p.m. at night, the public would benefit in terms of the convenience and availability of non-prescription drugs.

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Mr. Speaker, the opening up of the playing field is one that will encourage non-discriminatory competition and the playing field will therefore be levelled with the availability of these drugs. What is happening now, the imbalance, is that pharmacies are allowed to sell many products that are being sold by supermarkets and shops. What they are resisting and saying is that supermarkets and shops should not sell some of these over-the-counter items. The playing field is not level. If the pharmacy can sell—and I understand it is about 20 per cent of the products; some say it is a little higher but I am advised about 20 per cent of products sold in pharmacies are sold in supermarkets as well. What this Bill will do, is seek to level the playing field so we will have fair play of business.

Mr. Speaker, when one looks at the items on the Second Schedule, one sees things like coated aspirin, Andrews liver salts and epsom salts. Mr. Speaker, I hope the Members from the other side really benefit from the contribution of the hon. Member for Tabaquite because, again, from the contributions so far, I think, really, there might be confusion between epsom salts and sodium chloride and the Members are using epsom salts instead of sodium chloride in their foods. [*Laughter*]

Secondly, when the Member for Arouca—[*Interruption*] I am told that some of the Members on that side do not know the difference between broclax and chocolate and, maybe, another reflection of the kind of debate coming from the other side.

Mr. Speaker, when the Member for Arouca South got up and talked about smoked herring, rice and all of these things, I really wondered where that Member was coming from.

**Mr. Speaker:** Hon. Members, the sitting is suspended until 2.00 p.m.

**12:30 p.m.:** *Sitting suspended.*

**2.00 p.m.:** *Sitting resumed.*

**Dr. The Hon. R. Griffith:** Mr. Speaker, I do not propose to be very much longer as I was responding to the Member for Arouca South and the Member for San Fernando West. I would look at two other points made by the Member for San Fernando West. Basically, the first point he made was that because of the opening up of sales for over-the-counter drugs to allow shops licence in all areas, the price of over-the-counter drugs will be significantly reduced. As I indicated before lunch, that price can be anywhere in the vicinity of 15 per cent. He said that if that is done, the pharmacies would find themselves in a difficult position and would not be able to keep more expensive drugs in stock.



Mr. Speaker, I wonder how pharmacies abroad can do so, because this is the trend with over-the-counter drugs around the world when one looks at the United States of America, and similarly, the United Kingdom and all over the Caribbean which have opened up their markets. As a matter of fact, in some of these countries, some over-the-counter drugs, as listed in the schedule, can even be bought in vending machines, but we in Trinidad and Tobago are imposing prisons on ourselves and not grasping at a good opportunity to have all shops, when licensed, provide over-the-counter drugs for the citizens of this country.

Another point was made by the Member for Arouca South whereby she said that this Bill was merely to respond to the Supermarkets Association's private interest. I wonder whether, in her saying that, one of the Members who is very high in rank in that party is also included in that suggestion. That is, that the Supermarkets Association is seeking to get favours from the Government and the Government is seeking to favour them by bringing this Bill at this time.

**Mr. Bureaux:** Have you declared your interest in this?

**Dr. The Hon. R. Griffith:** Mr. Speaker, I wonder if that same interest group being referred to is the same one influencing the United States of America, the United Kingdom and the rest of the Caribbean to provide legislation for over-the-counter drugs to be sold in shops. I wonder if it is the same group. Actually, the whole thinking is very backward and shallow when the Member for Arouca South says that we are seeking to address the interest of the Supermarkets Association.

If anything, Mr. Speaker, the Supermarkets Association has shown responsibility in this whole issue. I would just share about three paragraphs of a document that the Supermarkets Association of Trinidad and Tobago wrote to the Law Review Commission dated February 26, 1998 which states:

“In order also to ensure that there is proper monitoring and ‘policing’ of the sales of non-prescription drugs, the Association proposes to offer the following guidelines to Shopkeepers (before the amendment to the Act) so that there would be put in train proper regulatory measures for the sales of these drugs:”

These are three of the measures they included, Mr. Speaker:

“(a) The Association will regulate its own affairs in the interest of the consuming public and will work in accordance with the directives of the Ministry of Health, the Ministry of Trade and Consumer Affairs and also with the directives of other Ministries and Departments of Government with respect to the sale of non-prescription drugs by members of the

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Association (i.e. Shopowners) and will ensure that Shopkeepers observe approved sanitary conditions for the storage, display, and sales of non-prescription drugs.”

That answers the question by the Member for San Fernando West who wondered whether the environment would be sanitary and conducive to the dispensing of over-the-counter drugs.

- “(b) It will be a pre-condition that shops should only sell genuine non-prescription drugs which are approved by the Food and Drugs Administration and which are purchased from reputable Pharmaceutical Distributors.
- (c) Shopowners must not commit a breach of trust with the Government or with the consuming public and must always endeavour to keep prices down, whenever possible, and to sell only those non-prescription drugs which meet approved standards.”

That is the statement of the Supermarkets Association of Trinidad and Tobago to the Law Review Commission. Mr. Speaker, it is unfair to really say that the shops, which include supermarkets, will not be conducive to dispense over-the-counter drugs.

In closing, Mr. Speaker, I would just briefly reiterate some of the benefits of this legislation. We would see that once licences are granted in the procedure explained in the Bill, shops all over would be allowed to sell over-the-counter drugs, therefore providing greater access to the economically challenged persons, particularly in the rural areas. I welcome this because I represent a constituency which consists of large rural areas and we would move from about 261 pharmacies to approximately 1,000 to 2,000 business places that would be dispensing over-the-counter drugs. To me, that is a tremendous opportunity and benefit.

### **2.10 p.m.**

Secondly, another benefit is that the cost of drugs will be reduced significantly to the order of around 15 per cent.

Thirdly, it will be levelling the playing field because, as I indicated earlier, while about 70 per cent of the items are over-the-counter drugs in the pharmacies today, at the same time about 20 per cent of many items in pharmacies are the type of items sold in groceries, stores and shops. The pharmacies can now sell that 20 per cent, yet the supermarkets and shops cannot sell over-the-counter drugs. This legislation seeks to level that playing field, and I see that as a tremendous benefit.

Fourthly, the relevant safety controls will be administered and this will be done through the Ministry of Health, the Ministry with responsibility for consumer affairs and the Food and Drug Authority.

I, therefore, join the rest of the Members on this side and I certainly hope they enlightened Members on the other side. I congratulate the seven Members who chose to stay. I see a marked improvement. I certainly hope that they would join us on this side and support this very opportunistic and effective piece of legislation for the people of Trinidad and Tobago.

I thank you.

**Mr. Fitzgerald Hinds** (*Laventille East/Morvant*) Mr. Speaker, I have just a few comments to make in respect of this Bill. There are occasions, admittedly, when one has a party sensitivity to a matter that might come before this House and often times it is expressed. Then, there are occasions where that kind of sensitivity takes second or even third place and one takes the national community and in this particular case, the consumer, into account such that party sensitivities could be set aside.

Mr. Speaker, it is for that reason that my contribution could be rather pointed because, at the end of the day we are going to be permitting the practice of having persons without pharmaceutical expertise dispense, if I can use that term, pharmaceuticals.

We have heard contributions on both sides which have all made it very clear the implications in respect of person's health and physical well being. It is because I do not propose to deal with the party's sensitivities that even the congratulations that came a moment ago, one proposes to disregard. Sometimes though, my concerns are for the Parliament in the sense that in the absence of these sensitivities one speaks his heart and mind on matters and one gets the impression that whatever one does, in the end it comes down to the numbers game, and, perhaps, the Government will not give serious consideration.

I call on the Government to recognize that we on this side have dispensed with those issues and we are really concerned about the people who will in one way or another either benefit or suffer from the legislation that we are debating today.

Mr. Speaker, if we talk the language that has been spoken here about the drugs and whether they are safe and the protection—all that is fine. Lawyers understand that there are laws that exist in Trinidad and Tobago that protect consumers and users of goods and services. But, the law is a last resort.

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When a man's liver collapses as I have read in an example, the use of Tylenol has had that ill effect on some people. There are some drugs I am told that can cause the problem of cirrhosis of the liver. I shall allude to one or two of them shortly. Even if a man has legal recourse that is *ex post facto*, by then his liver has collapsed and he is probably dead. His family would be better off financially but the body is already well gone.

Notwithstanding there are some legal issues in respect of consumer protection that I want to spend a few minutes dealing with. In Trinidad and Tobago today, consumer legislation is, to some extent, antiquated. I am sure the Attorney General will agree with that comment since there is a Bill which was laid before the Parliament that is designed to improve consumer protection as they make use of goods and services in this country.

If a man purchases an item, he has the protection of the Sales of Goods Act. If, in purchasing the item, the good is not considered, as a matter of law, to be merchantable or fit for the purpose for which it was purchased, then he has redress under the Sale of Goods legislation. Then, that is a matter of contract, quite separate and distinct from the question of negligence. The law of contract is different from the law of negligence.

Under the Sale of Goods Act, though there are provisions for special damages and so forth, it is all a matter of contract between the person from whom you bought an item. If one purchased a pack of some kind of medication from a shop vendor in Blanchisseuse or anywhere else in the country for that matter, and something went wrong, he has an action under the Sale of Goods legislation against the person who was contracted to purchase the goods. Often times, as a lawyer decides whether he will take action against someone who has wronged another, an important consideration as lawyers would know, would be whether the person to whom the legal action would be directed is able to pay the bill.

If one observes from one's instruction that a man is impecunious, the wrongdoer is unable to pay, it serves no useful purpose suing him, such that some persons, and as lawyers have said, the poor is immune from suit. I do not know if that is entirely correct.

As an example, in the case of the purchase and use of a drug that collapses one's liver, and does serious physical damage, the shopkeeper may be the little man or woman who lives around the corner whose resources are very limited indeed and the kinds of damages that one may want or can obtain in a situation like that, he may not be able to cope with it. Therefore, the person suing would rather

get at the manufacturer of the good rather than the person from whom he bought it so that the Sale of Goods legislation is immediately set aside and one now focuses on someone who can pay. As it stands today in Trinidad and Tobago, my understanding is that you can sue the manufacturer of the good on the common-law principles as the espoused in the case of Donahue and Stevenson and other cases that have followed that legal principle, who is thy neighbour? In other words, if a person produces or sells to you a product, he ought to reasonably foresee that that product will be used by someone and if that usage can bring harm, he ought to have taken that into his contemplation as he sold or manufactured the drug—they are a product. In this case a drug, and, therefore, on that so-called neighbourhood principle, he could be brought in and an action be taken.

But, in the case of drugs, these would be manufactured in all corners of this world. The particular drug may very well have come from Switzerland, Sweden or Nigeria, some place in the world where the manufacturer is a long distance away and outside of this jurisdiction so there would be some difficulty. How does one breach that difficulty?

If you can, for example, sue the person who sold you the good in negligence, it would be a breach of that difficulty, but that principle says, if the person who sold the good to you had no way of interfering with—affecting the product, for example, a pack of four Tylenol tablets, Phensic tablets or a bottle of a few litres of something that came sealed as Actifed or some such thing, the person who sold the product to you, the final consumer, he had no opportunity to interfere with or to open the container in which it came and, therefore, he will be outside of that principle. In fact, that was the matter that was decided in *Donoghue v. Stevenson* which, Mr. Speaker, as you may recall in your early days as a student of the law, had to do with an opaque bottle of ginger beer in which was found a snail.

The fellow was able to sue the manufacturer on that principle and not the person in the bar from whom he bought the ginger beer and ice-cream that had the snail in it that had caused the damage to the user, Donoghue.

Mr. Speaker, in some countries and I recall that in England, over the last few years, they updated their consumer legislation such that if one sues the person from whom one bought the product—and one can direct you to the person who sold him the product—then the action goes against that person; and if one could show who sold you the product then the action goes against that third person and so it goes on. So the buck stops where that last person could demonstrate no more that he got it from someone else.

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**2.20 p.m.**

The proposed legislation has not put us on that very solid legal footing, so we are left with the antiquated legislation. There is some difficulty in this regard. Quite frankly, I would like to hear whether the Member for Caroni Central contemplated these very serious and dangerous issues, as he waded into this Bill. I do not know if he took them into account and therefore, their effect had more influence upon him than the persons who encouraged him to bring this legislation before this honourable House. These are serious matters. For a government that wants to tell us, never convincingly though, that it cares about the little people in this country, it ought to have taken serious account of these trying legal issues, which otherwise would be left exposed and without any serious redress.

The other issue is, if the word “shop” as is now defined in the Bill, is as widely drawn up as it is, then, to my understanding it does not exclude the suitcase trader. It means that if the suitcase trader went off to Miami or any other place and bought a quantity of over-the-counter drugs and brought them to Trinidad and Tobago, we would then rely on, perhaps, the food and drugs legislation or some customs legislation to protect us from those drugs hitting our market. In the course of this debate we have heard that there is the possibility that people can stock a significant quantity and the expiry date would go by. The economic concern is so great that there are people who have bought drugs knowing that the expiry date has gone.

Recently, I was reading that in some parts of the world such as in the Middle East, Morocco, some countries in North Africa and Turkey, some persons sell their organs for money. Such is the economic imperative in some corners of this world. This is not to take any partisan position, but given the direction of the titanic that the economy of Trinidad and Tobago is now going at the hands of the Government, it is quite possible that it may force people in this country to that state of affairs.

People may want to purchase these drugs from a suitcase trader. When some difficulty appears, the question would arise, against whom does he bring this action? When he goes back to the spot from where he dealt with the suitcase trader, he would find that he has moved on. No longer does he operate from Arima, but perhaps in Port of Spain and he cannot be found. The drug might be sold by an agent to the shopkeeper in Toco. He would not be able to say who sold it to him. In typical Trinidadian way, he could tell you that the fellow used to have

a blue pick-up van and the number was TAL “something” but he had not seen him for the last six months.

There would be a problem. Whatever the description or notation on a little packet of four tablets, it may not tell us who brought them into Trinidad and Tobago. These are some of the open-ended questions that I want to hear the Minister address as he attempts to convince us, that not only is it good to allow shops and mini marts to sell drugs, but that this so called caring Government has put protection elements in place to protect our citizens from harmful circumstances.

I suggest rather conclusively, that whilst the Revised Second Schedule stands as it does, there are some concerns. I suspect that we would take them in greater details at the committee stage. I place on the record of this House, that in some parts of this world, for example in the United States, although paracetamol is allowed to be sold as an over-the-counter drug without the supervision of a pharmacist, it is limited to 12 tablets at a time or per packet. It is quite clear that the effective drug in paracetamol, whatever it is, can be very harmful and dangerous if consumed in an amount beyond 12 tablets within a given period of time, I am told. My suggestion is that even in the Schedule, the Government should limit the amount of the drug paracetamol to something like 12 packets. I was getting a signal of six packets from the other side. I saw fingers moving. I do not know if someone was making a sign.

**Dr. Rafeeq:** Thanks for giving way. I was just saying that even if the packaging is limited to 12, a person might be able to buy six packs.

**Mr. F. Hinds:** That is fine. We are saying that 12 is the maximum, Doctor. I take the point.

I direct this to the member for Caroni Central, in respect of the drug methyl salicylate.

**Miss Nicholason:** You are struggling to pronounce it.

**Mr. F. Hinds:** The Member for Tobago West is laughing at the fact that I have struggled to pronounce it. I would not laugh at her struggles in Tobago in a few months.

The maximum strength should be 20 per cent. I make this submission on the basis of professional advice. I am not a pharmacist or an expert in this field, but like every Member on this side, I am prepared to sensibly take professional advice.

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That is something that this Government seems unable and unwilling to do. We put it to the Government for its serious consideration. I am hearing some rumblings from the Member for Princes Town. He is trying to make trivial, serious matters, but this does not surprise me. I will indicate why in a short while. For the time being I propose to be concentrating on this Bill. I will not be deterred.

**2.30 p.m.**

I think that there is also concern with the decongestants. The cough mixtures, in particular, carry the drug pseudo-ephedrine. It is well-known to the people in the business of pharmaceuticals that these, taken in excessive quantities and in combination with other drugs, including alcohol, could be very dangerous indeed. I merely want the Government—and we have already tried to impress upon it—to be mindful of these very simple facts.

I would like to hear the Member for Caroni Central tell us something about the protection for the consumers as he makes these over-the-counter drugs far more available to them. On this I would say no more.

I thank you.

**Dr. Fuad Khan** (*Barataria/San Juan*): Mr. Speaker, I rise today in support of the legislation being pioneered by my Minister of Health. I would like to take you away from snails and ginger beer to a little paradigm paralysis.

What has been coming out of the contributions is a certain level of give and take. When we look at the whole thing in context, it is the old and the new and it is justifiable that some people will be concerned and fearful. My friend and colleague, the Member for Laventille East/Morvant, justifies that there is some degree of paralysis in thinking by stating certain negative aspects of drug use.

My contribution will be very brief because we have said much on this. When one looks at the schedule itself—and the Member for Tabaquite went into great length on this schedule—I will point him in a certain direction where the Minister and his staff have taken into consideration the negative effects of certain drugs and placed on a schedule drugs that are safe for consumer use. In fact, they are so safe they do not require specific storage, handling or amounts of knowledge to use. Many people buy their drugs over the counter in pharmacies.

Some confusion exists as to what is the difference in the over-the-counter medications. The over-the-counter medications, in question, are medications that do not have certain chemical substances that can harm a consumer. For example,



we have heard much about pseudo-ephredine in cough mixtures. We have heard much about narcotics in cough mixtures and, the Second Schedule, which I will read into the records, states:

“The cough mixtures that are going to be on this schedule to be sold in supermarkets are cough mixtures without antihistamines and/or narcotics.”

Pseudo-ephredine is an antihistamine, so the cough mixtures to be sold in the supermarkets will be legally bound not to contain antihistamines. They will not contain narcotics such as codeine phosphate and dextromorphan. The Member for Arouca South mentioned dextromorphan. Dextromorphan, codeine phosphate are two narcotics used as cough suppressants. Supermarkets will not be legally entitled to carry these cough mixtures, or those with pseudo-ephredine or those with diphenyl hydramine, so the fears of the Member for Laventille East/Morvant are well-founded when he concerns himself with patient safety, but the Minister has put much work into this legislation and he has developed a schedule of drugs with consumer protection.

May I say on that same line, vitamins can be sold in supermarkets, but non-prescription vitamins without minerals. There can be no vitamins with zinc, calcium or iron. There can just be the normal vitamins. In one line, we have shown that there is a great deal of consumer protection in this revised schedule.

This legislation has been surrounded by controversy based on two aspects—pharmacists, supermarkets. I understand that it has been in the pipeline for a very long time. There have been various groups and accusations, unfortunately, which are all wrong. Many things have been dealt with and the Minister of Health, together with his medical colleagues and the officers of the Ministry of Health took everything into consideration and came up with a list of items that would be beneficial to both.

There is a report of the Pharmacy Board done by Price Waterhouse, but unfortunately that report was done when all drugs were meant to be over-the-counter drugs. There are over-the-counter drugs which will not be sold. Paracetamol is used by everyone as a yardstick for liver necrosis. If paracetamol is so dangerous, we should be seeing a liver necrosis every week in this country.

I have been doing surgery in this country for five years, I have not seen one case. The last case of paracetamol-induced liver necrosis was, unfortunately, a doctor in Jamaica and she died. They blamed paracetamol, but it was halothane-induced, which is an anaesthetic. So, you see, Mr. Speaker, paracetamol is a drug

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found in all pain analgesic medication, combined with antihistamines and different things. Fears that paracetamol will be responsible for liver necrosis is greater than one in about 10 million. Those fears are not well-founded.

We hear much about the drug, aspirin. I would like to tell you about enteric-coated aspirin. This means that it is coated with a substance made with a bonded sugar that when it goes into the system, it by-passes the stomach into the intestine where it is dissolved unabsorbed, so it is a safe drug to use. The normal aspirin, the non-enteric coated, is not here, so no supermarket could take it upon itself to sell any non-enteric coated aspirin.

When we look again, there is peroxide, dettol, savlon, listerine and so forth. Nowhere in the legislation does it say that these packages can be broken and sold separately. The pharmacist is allowed to do that because of his profession. The supermarket will be allowed to sell them but in whole packages. The seal cannot be broken. When one takes into consideration various aspects, other than emotional aspects, in this legislation, we come up with the factor of how we bring goods closer to the consumer and how best we can benefit the consumer as well as satisfying both sides. This has been in the pipeline for a very long time.

#### **2.40 p.m.**

Our Government is committed to a futuristic direction which some people may argue is too fast, some may not understand it, they would say we are going a little too fast. This move is a little off the norm, and as it is so, one would find the people who are accustomed to enjoying a certain direction would be a bit worried.

May I say if you are confronted with crossroads; one leading to the forest and one going to the town, you would always take the road going to the town because you are afraid to go to the forest. One day, somebody takes the road which goes into the forest which would eventually lead back to the town and finds gold, oil and so forth and stakes his claim, one cannot be angry because he has taken a direction and found his riches and benefited. One has to understand that one has to take chances with new ideas which come at the fringes. This idea is like walking into the forest and understanding that it is new and there are going to be problems, legislation would have to be amended and various things would have to be done. It is a new idea and one worth looking at.

I have been privy to both sides, supermarket and pharmacy and I have looked at the legislation because initially, I was worried and after understanding that, in fact, when the smaller rural shops sell anything such as the items on the Second

Schedule, they are opening themselves up to unscrupulous persons who can charge them for selling these type of goods, and also opening themselves up to serious litigation and problems. So, we are in a way, helping out rural areas.

When one looks at the schedule—and being a medical person—I am a bit wanton to call them drugs, for these are sold to anyone. My friend from Laventille East/Morvant, quoted a case of paracetamol in packages in the United States of America. Recently, there has been the antihistamines, when I say so, they are two antagonists and they stop acid secretion, pepsidacie, pharmotidine and so forth. The dosage is 75 milligrams because the normal prescription dose is 150. What prevents somebody from buying 10 tablets and taking two each, or four? Nothing. So saying it is packaged in a certain manner does not make sense. No matter what one does, there will be an element of abuse and we have to cater for that.

I want to send a message to the Pharmacy Board that they are the ones who are supposed to monitor legislation, and usage of pharmaceuticals in this country. They are by law, statute-bound to bring legal action against anyone breaking their laws and it is up to the Pharmacy Board to put their agents out to make sure that consumers are protected. As a result of that you would get watchdogs and people looking at what is legislated and bringing persons to court, and supermarkets would be controlled by the Pharmacy Board which is important because pharmacies themselves are also controlled by the Pharmacy Board. This is another message to the Pharmacy Board that it has to change its paradigm thinking too, because they, like the boards in this country, are in a state of paralysis. New ideas are always blocked. Now that we have legislated certain items for the supermarkets it is also possible for the pharmacies to sell other items.

A pharmacy can get a grocer's licence and sell wholesale liquor, they could sell items which they want so when the two are balanced, the pharmaceutical legislation should not be too dogmatic on pharmacies and allow them the same happiness which the supermarkets are obtaining. When one looks at the legislation in whole, there is that situation which can open the market for everything except prescription drugs and over-the-counter drugs which are prescription based, will not be abused, because one would still need a pharmacist to get them. The idea that no pharmacist, no money, no this, I think we are opening new doors with new opportunities. There will be a generation of entrepreneurship and the entrepreneurial pharmacist and this is what should be taught in pharmacy class as well as in medical school, the business of pharmacy as well as the business of medicine.

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Another thing we spoke about was various drugs causing various problems and I could quote that fats and oils cause cardiac problems, they block the heart causing atheroma. Sugar causes the same thing in too much abundance, it burns out the pancreas and causes heart attacks. Carbohydrate; rice, flour are converted to sugar in the body—and the Member for Tabaquite could tell you how—which is in turn converted to energy deposit as fat storers.

Alcohol causes cirrhosis of the liver, moreso than paracetamol, it is the main cause of cirrhosis. Nicotine, cigarettes. Nicotine causes severe lung problems and bladder cancer which is increasing in this country. The point I am developing is, should we stop selling rice, flour, sugar and oil? If one takes in whole, cigarettes and alcohol, one would find that the incidence of atheroma from the items such as flour, rice, sugar, oil, nicotine, and alcohol, liver necrosis is much greater than if one looks at the incidence of liver necrosis and paracetamol. When one looks at these ideas, and I am shifting the paradigm a bit, one comes to a situation where everyone is happy.

In closing, may I say that I believe when you give something with your heart you get back 100 per cent. I will tell you why. These over-the-counter drugs today have been taken away from the pharmacists and given to the supermarkets, up comes a best seller for the pharmacies. It is a drug which is right now hitting the airwaves so hard that only the pharmacists could dispense them. It is called viagra, a new pill for impotency.

Thank you.

**Mr. Hedwige Breaux** (*La Brea*): Mr. Speaker, after that very masterful contribution by the Member for San Juan/Barataria who seems to know a number of things, I could not help but get up to make a short contribution. I want to make the comparison between my former colleague who was deputy speaker and the present Deputy Speaker in the manner in which they handle this particular debate.

As I am on that point, it is the custom in this honourable House that when one has an interest in a particular debate which is going on in this Parliament, one should declare one's interest. Since I was not here for the entire contribution of the Member for Arima. I want to know whether he declared such interest. Maybe he does not have the interest anymore.

**Mr. Speaker:** The Member knows that viewed from any angle what he has said would be regarded as being very uncomplimentary of the Member for Arima. It is capable of being understood in a certain way, and it is coming over that way

and I would ask you to desist from that line. I rule that the offending words be expunged from *Hansard* because of the aspersions.

**Mr. Breaux.** Mr. Speaker, since it is being alleged that I am casting aspersions. I am not. There is no intention to cast any aspersions, but if I am involved in a certain business and I have to speak in this honourable House I must indicate the interest which I have and I was very careful not to identify the name of the supermarket.

**Hon. Member:** You are compounding the thing.

**Mr. H. Breaux:** No, I am not compounding it, and I will—if I am required—make the statement.

Nonetheless, as I was saying this amendment seeks to amend section 31 of the Pharmacy Board Act, Chap. 29:52, to allow shops situated two miles or more away from a pharmacy to sell the drugs listed on the Second Schedule to the Act. The Pharmacy Board as the hon. Member for San Juan/ Barataria has said, means the Pharmacy Board of Trinidad and Tobago established by the Pharmacy Board Act, Chap. 29:52. This board is charged with regulating pharmacies and practices of pharmacists.

### **2.55 p.m.**

I am satisfied, Mr. Speaker, if there is to be an amendment to this Act, I would expect that the advice of the Pharmacy Board would be taken into consideration. I understand, as was reported, that the Minister has accepted certain advice given to his Ministry from the Pharmacy Board. However, I want to look at the particular clause of this Bill which seeks to amend section 43 of the Act. The Explanatory Note says:

“Clause 6 of the Bill would amend section 43 of the Act by deleting the word ‘urgently’ wherever it occurs. The effect of this amendment would be to allow medical practitioners, dentists and veterinary surgeons to compound, and administer such drugs or devices as may, in course of their practice, be necessary without the requirement that it be urgently...”

Section 43—I am just going to read subclause (c) which says:

“shall render unlawful...”

**Dr. Rafeeq:** Thank you for giving way, hon. Member. Please be informed that we have circulated amendments in which we have removed that clause.

**Mr. H. Breaux:** The whole clause has been removed so it goes back to the way it was, whereby a medical practitioner could only dispense drugs in urgent situations. I thank the hon. Minister. Mr. Speaker, that just goes to show that the hon. Minister is much wiser than most of his colleagues.

**Mr. Maharaj:** The hon. Minister should be complimented.

**Mr. H. Breaux:** I have complimented him.

Section 31(1) says:

“The Minister may, upon application and payment of an annual fee of two hundred and fifty dollars by a shopkeeper, grant a licence to sell the drugs listed or described in the Second Schedule.”

Mr. Speaker, that licence fee would be paid into the Consolidated Fund. The Member for San Juan/Barataria was heard to say that the Pharmacy Board must now act in a particular way and it is the responsible authority to deal with breaches of this Act, and it must do that.

On previous occasions, in the other Act, when the licence fee was paid by shops in rural areas for getting their licence to sell certain over-the-counter drugs, that money was paid to the Pharmacy Board and it was utilized by the board in the exercise of its functions. Here we are now requiring the board to exercise more functions; to police a larger area, more persons—for want of a better word—and yet we are putting this money into the Consolidated Fund and, apparently, showing no intention of giving the board the kind of resources to carry out its functions.

I suggest, therefore, that sum of money should be made available to the board as opposed to putting it into the Consolidated Fund. That would be the pool of money which would be available to assist the board in the carrying out of its function. On one side, I hear the indication that the board has a lot of work to do—and it is expected to do a lot—but then I see, by actions, the board is not allowed to take the sums which it would normally have received, but for this amendment. I think that needs to be corrected.

Clause 31 says:

- “(2) An application made under this section shall be in the form set out in Form 1...
- (3) For the purposes of subsection (1), the Minister may, by Order, authorise the County Medical Officer of Health of the County in which the shop is situated to act on his behalf.”

But, Mr. Speaker, now that we have a new system of Regional Health Authorities, I understand there are some Regional Health Authorities which do not have a County Medical Officer of Health and that is not part of their establishment. In those instances, who would be the person required to issue such licences?

Mr. Speaker, I know my colleagues have dealt with this, but I also want to deal with counterfeit drugs because I think it is important. Labelling is important, because with this widespread sale of pharmaceuticals there should be some control. We should ensure that all labelling is done in English so that every avenue is blocked with respect to counterfeit drugs. In fact, the regulations should be made in such a way that persons should be only permitted to buy from registered wholesalers of drugs.

I will use a classic example, Mr. Speaker. The Government of Trinidad and Tobago, in 1996, bought I.V fluids from a registered manufacturer and there were organisms in them. I.V fluid is an intravenous liquid which is put in one's vein. Imagine a situation where such I.V fluids were sold to the Government of Trinidad and Tobago. It was bought, unfortunately, from Core Industries of India. It was said to be good but it was proven to be, not only substandard, but it had a quality in it which—I asked the hon. Minister if he would have put I.V fluids which had those organisms in them into the veins of one of his relatives. I warn again, if that could happen with a registered manufacturer, we have to be even more careful.

**3.05 p.m.**

The Member for Arima, now that he has returned, spoke about some over-the-counter drugs or devices being sold in vending machines. I suspect he meant condoms, the kind that one finds in those clubs that he tells us he does not go to. I want to let him know that if those condoms are improperly stored they become porous.

**Dr. Griffith:** You are an expert in that.

**Dr. Khan:** With regard to the condoms, it is not if it is stored badly, it is if it is taken too long to be used they get porous. *[Laughter]*

**Mr. H. Breaux:** I know that the hon. Member is an expert in that area therefore, I am going to take his word for it.

**Mr. Humphrey:** He could make you an expert.

**Mr. H. Breaux:** Mr. Speaker, I want to tell the Member for St. Augustine, I have run my course already and the progeny from that are all very brilliant young persons. So I have no problems.

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I just wanted to make these comments and to indicate that nobody is against competition, but we all are concerned with safety, and I want to underscore that there should be some separate place in a supermarket. If the Government is going to use its majority and pass this Bill, the storage of these over-the-counter drugs are very important and there should be some separate place to deal with it and if possible a pharmacist.

Thank you, Mr. Speaker.

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I merely want to intervene in this debate to give some assurances that the law which exists provides protection to consumers in relation to some of the points which have been raised, especially by the hon. Member for Laventille East/Morvant.

Mr. Speaker, in respect of the common law which was referred to by the hon. Member for Laventille East/Morvant, the case of *Donoghue v. Stevenson* is a case which is referred to as the case of the snail in the bottle in which years ago it was held that there is a duty of care, even though there is no contractual relationship by a manufacturer who manufactures products. I think the point he was trying to make is that if a person purchases goods which are manufactured abroad, then the manufacturer would be liable, and therefore, there is no actual protection. I want to tell him however, that this principle of Donahue and Stephenson has applied to persons other than manufacturers and can apply in circumstances to persons who distribute goods and who would have reasonably been aware that there is some defect in the goods. I do not want to go into all the matters, but just for the purposes of the record, there is a book by Winfield on Tort, the 13th edition and the matter is discussed from page 214 onwards.

With respect to the Sale of Goods Act, there are provisions in the Act which provide for protection. As a matter of fact, sections 16 and 17 of the Sale of Goods Act were amended in 1983. If I may quickly read section 16(2):

“Where the seller sells goods in the course of a business, there is an implied condition that the goods supplied under the contract are of merchantable quality, except that there is no such condition—

- (a) as regards defects specifically drawn to the buyer's attention before the contract is made; or
- (b) if the buyer examines the goods before the contract is made, as regards defects which that examination ought to reveal.”



So that, if there are goods which are sold and the defects are not obvious on examination, there are latent effects, then there is, in relation to the Sale of Goods Act, a course of action. Quite apart from that, under section 17 of the Sale of Goods Act where there are sales by sample; the same principle applies and, therefore, the buyer would be entitled to protection.

I should also mention that there are provisions in the Consumer Protection and Safety Act, No. 30 of 1985, in sections 29, 30 and 42, which give the Minister the right to make all kind of regulations, including the power to make safety regulations to ensure that goods are safe or appropriate and the information is attached to the goods, this includes the composition and content of the packaging *et cetera*, and of the goods itself. Section 30 says that if there is a breach of the safety regulations it is a criminal offence, and section 42 says that if there is breach of the regulations, it also gives the right to bring an action for a breach of statutory duty.

Under the Food and Drugs Act, Chap. 30:01:

“25. (1) The Minister may make Regulations...

(b) respecting—

- (i) the labelling and packaging and the offering, exposing and advertising for sale of food, drugs, cosmetics and devices;
- (iii) the sale or the condition of sale of any food, drugs,...

**Mr. Hinds:** Mr. Speaker, in respect of the consumer legislation which the hon. Attorney General just read, that gives the Minister, for example, a course of action against the delinquent supplier in the circumstances. How does that assist the consumer if he has an action?

Secondly, sections 16 and 17 of the Sale of Goods Act, the amendments that were read, I still do not appreciate how that will affect the seller of an item like a bottle of some medication that is sealed and he had no way of possibly knowing whether it was defective or not, apart from an expiry date?

**Hon. R. L. Maharaj:** Let me answer the second question first. In respect of what I just read, it protects him, because the minister is given the power to make the regulations. If what is sold is in contravention of the regulations, apart from criminal sanctions, there is civil liability. So that there is an obligation on the

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minister to make the regulations, and one has to presume that the minister would make regulations in order to protect the public. If those regulations are not made we have Parliament and if the opposition believes that they are not being made or they should be made, even a Motion can be filed to compel the minister to make the regulations.

In respect of section 16 of the Sale of Goods Act which was amended, it says so.

“Where the seller sells goods in the course of a business, there is an implied condition that the goods supplied under the contract are of merchantable quality, except...”

Therefore, if Mr. "A" sells a package of medicine which would fall under this Act and the goods are not of merchantable quality, or it has a content which it should not have, the person would have a course of action against the seller. So that the Sale of Goods Act was introduced to supplement the defects of the common law and this section was put in specifically in 1983 in order to meet that kind of situation.

Quite apart from that, as the hon. Member for the Laventille East mentioned—and I did mention the Food and Drugs Act—that there is a Consumer Protection and Safety Act—which is before the Senate, I think it is also being looked at again in order to update that particular legislation.

Mr. Speaker, may I mention that it seems as though there is a misconception as to what this Bill is about. There are no restrictions in selling these drugs in Barbados, I am informed, so we have a Caribbean country which has gone this route in selling these drugs in supermarkets. There are no restrictions on selling these drugs in the United States of America, the countries of Europe and Canada. Is it that the UNC party influenced the people in Canada and they passed legislation in order for these goods to be sold? Is it the UNC party who influenced the people in the United States of America, Europe, and Barbados? How ridiculous can we become when we come to discuss legislation to dismantle a monopoly, a monopoly in the sale of goods which other countries have recognized that in order to have an effective competition policy, one has to dismantle that kind of monopoly.

This Bill was to give effect to Government's policy for development of a competition framework. Government's competition policy is aimed at preventing anti-competitive business practices in order to facilitate cost reduction and protecting the consumer. Stifling of competition works to the financial disadvantage of the public. Whenever there is monopoly and there is no free and

fair competition, there are higher prices for the consumer. It is in furtherance of the Government's competition policy that there are additional legislation being drafted for fair trading legislation. That is the route the world has gone, that is the route it is recognized that one has to go in order to reduce costs for the consumer. We take the point that one has to produce safeguards, and there are safeguards and there is the commitment to provide additional safeguards. There is precedent that this has worked well in Barbados and in the countries which I have mentioned.

Mr. Speaker, the Pharmacy Board Act at present creates a partial monopoly in favour of pharmacies with respect to the sale of non-prescription drugs and provides for generating revenue to a private body or bodies. Whatever may have been the reason for the creation of such a monopoly and the enactment of that particular kind of legislation in the past, when viewed in the context of the present economic policy of this Government and of the last Government, it is imperative for Government to take this step. That part of the legislation, section 31, is archaic and has to be redressed in order to meet present day needs.

So it has nothing to do with UNC, PNM or NAR. What it has to do with is what is in the best interest of the people of Trinidad and Tobago. [*Desk thumping*] Therefore, if the Opposition is committed to supporting legislation for the best interests of the people of Trinidad and Tobago, we would expect that they would support this Bill. If they are anti-people and they do not want to support the ordinary people and the consumers of Trinidad and Tobago, they could vote against the legislation. At present, pharmacies are enjoying the best of two worlds. They have a partial monopoly in the sale of non-prescription drugs and they now compete with shops, groceries and supermarkets by selling a variety of grocery items.

### **3.20 p.m.**

Pure equality, pure sense of justice, ordinary principles of justice demand that that situation should be rectified whereby supermarkets can sell non-prescription drugs which are not harmful to the public or for which there are adequate safeguards to protect the public's interest. What is wrong with that? What is wrong with levelling the playing field?

Mr. Speaker, I did not plan to talk long on this measure, therefore, in concluding, there are adequate legal safeguards. The Government is committed to increasing the safeguards and we expect that the Opposition would support it, and, in effect, support the people of Trinidad and Tobago in having this piece of legislation enacted.

**The Minister of Health (Dr. The Hon. Hamza Rafeeq):** Mr. Speaker, I thank the Members on both sides for their contributions to this debate which I think has been conducted in a very high standard indeed. Before I take my seat, I will respond to a couple of the issues raised by Members, and firstly, to the Member for San Fernando West who said that there was no empirical evidence that the population was not adequately served.

Of course, he is speaking from the protected environment of serving an urban/suburban constituency. In many areas there are villages and other small areas which are really not properly served by pharmacies. In my own constituency, in areas such as Gran Couva, Caparo, Piparo and many others, people have to go at least four or five miles to buy two Panadol, a tin of Vicks or a pack of Andrews Liver Salts. Therefore, while it is true that we have 261 pharmacies in Trinidad and Tobago, many of them are concentrated in the town areas.

**Mr. Sinanan:** Is it possible now in law, for shops in those areas just described, that are two miles away from a pharmacy to sell over-the-counter drugs?

**Dr. The Hon. H. Rafeeq:** Yes, there are, but still some of these people have to go four and five miles before they can actually get to these shops. Whereas, there are shops and groceries next door to them that cannot, at this point in time, access these products.

Secondly, the Member for San Fernando West said—and I think this point has already been dealt with to a certain extent—that 50 to 60 per cent of the pharmaceuticals—[*Interruption*]

**Mr. Speaker:** Order please!

**Dr. The Hon. H. Rafeeq:** —that are sold in pharmacies, are over-the-counter (OTC) drugs. I would not dispute the figure which shows that may be 50 or 60 per cent of the pharmaceuticals sold in pharmacies may be OTC drugs. The Attorney General said a while ago that pharmacies at this point in time—I think I can say almost every pharmacy—in addition to pharmaceuticals sell toiletries, cosmetics, stationery, snacks, gifts, a variety of haberdashery and many other items. There is no limit as to what a pharmacy could sell.

Thirdly, the Member and quite a few of the others mentioned that pharmacists at the pharmacies are there to give advice and counsel to people who buy there. That is a fact, but we know how the system operates in Trinidad and Tobago; at this point in time, most members of our population go to a pharmacy, take up an item, go to the cashier, walk out and have absolutely no contact with the

pharmacist. They take the product off the shelf and go to the cashier. I have my personal experience with this; you go to a pharmacy, take up a bottle of 100 Paracetamol, go to the cashier, pay for it and walk out; absolutely no contact with the pharmacist.

If the patient needs advice, the patient would go to the pharmacist to seek it. In the same way, if a patient wants more advice than that, he would go to a doctor. If you need two Panadol you would go next door; if you need advice from a pharmacist, you go to a pharmacy. if you need advise from a doctor you go to one.

The issue of poor quality generic drugs coming into the country was another issue raised. As I said, there is a whole list of procedures by which you have to abide before bringing a drug into the country. It has to be registered by the Food and Drug Department and a whole list of other procedures before being brought into the country; even generics.

The Member for Arouca South had an interesting contribution, but it was a bit unfortunate that she saw such an honourable measure as "back scratching"—to use her words. I assure Members of this House and, indeed, members of the population, that was certainly not the intention in bringing this measure to Parliament. [*Desk thumping*] The Attorney General dealt with this.

As far as the decrease in price is concerned pharmaceuticals are price controlled. The mark-up allowed for over-the-counter drugs is either 30 or 35 per cent. What we are saying is that 30 per cent is the maximum amount allowed for a mark-up on these drugs, but because of the way the supermarket trade is structured we are expecting that they would make a mark-up of less than 30 per cent and that would bring down the cost of drugs. Therefore, it would be a relative decrease.

Those were some of the relevant points raised. I have a few more which have been dealt with by the other speakers. The main issue raised by Members on the other side was the issue of safety and protection for the population. Before a drug actually gets to the consumer, there are many steps and procedures which have to be satisfied. The drug has to be registered and this has to go through stringent measures. When it is imported it also has to be checked by the Food and Drug Department, conditions of sale have to be satisfied, then there is the monitoring process. At the end of it, the consumers would be the ones to provide the greatest safeguard against unethical practices. They are the ones to ensure that they get a good product.

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In conclusion, I would mention a few brief things. This is one measure that this Government is instituting on our health sector reform to better serve the population as far as the availability of pharmaceuticals is concerned. Within the last two years we have employed more pharmacists to deal with the population we serve; we have increased the budget for drugs—as I mentioned on previous occasions; we are improving our system of delivery to the customers we serve; increased opening hours for the pharmacy at the Port of Spain General Hospital and even in other institutions; we have mandated our procurement agency, NIPDEC, to source cheaper and effective alternatives; and at this point in time, NIPDEC and the Ministry of Health are developing a proposal to have private pharmacies involved in the dispensing of pharmaceuticals to patients who receive prescriptions from the Government.

Mr. Speaker, thank you, I hope we get the support of both sides on this Bill. I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in committee.*

*Clauses 1 and 2 ordered to stand part of the Bill.*

*Clause 3*

*Question proposed, That clause 3 stand part of the Bill.*

**Dr. Rafeeq:** Mr. Chairman, I beg to move that clause 3 be amended as follows:

"Delete and substitute as follows:

- Section 2            3.    Section 2 of the Act is amended by -
- (a) in the definition of "licence", by deleting the word "rural"; and
  - (b) by inserting in appropriate alphabetical sequence, the following definitions:
    - "shop" means a supermarket, mini-mart, grocery or dry goods store; "shopkeeper" means a person who owns, operates or manages a shop."

**Mr. Sinanan:** Mr. Chairman, could the Minister indicate what type of shop he envisages to be a "mini-mart"? I am comfortable with supermarket, grocery and dry goods store, but when he says a "mini-mart", what does he have in mind? I think "mini mart" is too broad a concept. It could mean anything. We understand a shop to mean a supermarket, grocery or dry goods store, but "mini-mart" is a bit wide.

**Dr. Rafeeq:** A small grocery but not at the scale of which a large supermarket operates.

**Mr. Sinanan:** I think this definition could lead to some sort of difficulty.

**Dr. Rafeeq:** In what sense ?

**Mr. Sinanan:** What do you define as a "mini-mart"?

**Dr. Rafeeq:** What problem could you run into with that?

**Mr. Sinanan:** The problem could be, the chap who is selling safe vegetables and a bit of dry goods stuff, is that a mini-mart? What is a mini-mart?

**Mr. Maharaj:** The whole purpose is to provide, as far as practicable, access to have these goods sold. A mini-mart, whether it is a person selling groceries and vegetables, the fact of the matter is, as long as the other regulations would be satisfied, for example, the Minister of Health announced that there would be regulations. There would have to be a glass, someone there, records and the like, so that it would be protected. If you leave it out it would mean that a bulk of avenues for the public to have access to these drugs would not be there.

**Mr. Sinanan:** In other words, the Member is saying that the Minister determines what is a mini mart?

**Mr. Maharaj:** Would there not be regulations to give effect to the Act? And the regulations would, in effect, specify those matters. He mentioned that there would be regulations.

*Question put and agreed to.*

*Clause 3, as amended, ordered to stand part of the Bill.*

**3.35 p.m.**

*Clause 4.*

*Question proposed, That clause 4 stand part of the Bill.*

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**Dr. Rafeeq:** Mr. Chairman, I beg to move that clause 4 be amended as follows:

References to the "Fourth Schedule" to be changed to the "Fifth Schedule".

*Question put and agreed to.*

*Clause 4, as amended, ordered to stand part of the Bill.*

*Clause 5 ordered to stand part of the Bill.*

*Clause 6.*

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

**Dr. Rafeeq:** Mr. Chairman, I beg to move that clause 6 be deleted from the Bill.

*Question put and agreed to.*

*Clause 7.*

*Question proposed, That clause 7 stand part of the Bill.*

**Dr. Rafeeq:** Mr. Chairman, I beg to move that clause 7 be amended as follows:

- A. Renumber as clause 6;
- B. Delete subsection (1) of section 47 and substitute as follows:

"(1) The Minister may by Order, after consultation with the Council of the Pharmacy Board, amend the Schedules."

*Question put and agreed to.*

*Clause 7, as amended, ordered to stand part of the Bill.*

*New Clause 7.*

**Dr. Rafeeq:** Mr. Chairman, I beg to move that a new clause 7 be inserted as follows:

Insert a new clause 7 as follows:

- |  |   |
|--|---|
| <p>"Second<br/>Schedule<br/>repealed and<br/>substituted</p> | <p>7. The Second Schedule is repealed and substituted as follows:</p> |
|--|---|



**REVISED SECOND SCHEDULE****DRUGS**

- Enteric Coated Asprin
- Paracetamol
- Andrews Liver Salts
- Enos Fruit Salts
- Epsom Salts
- Senna leaves and pods
- Throat pastilles and Tablets
- Optrex eye lotion
- Methyl Salicylate Compound tubs/gels
- Absorbine
- Sacrool
- Milk of Magnesia
- Beef Iron & Wine
- Codol
- Ferrol
- Sanatogen tablets & powder
- Dettol
- Savlon
- Listerine
- Hydrogen Peroxide
- Cough mixtures without antihistamines and/or narcotics and not containing any drug required to be sold on prescription only Non prescription vitamins without minerals
- Boric Acid Powder (in sealed vials)
- Zinc Oxide powder (in sealed vials)

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- Calamine Lotion
- Lion Oil
- Tiger Balm & Oil
- Canadian Healing Oil
- Cod Liver Oil
- Friars Balsam
- Tincture of Iodine (not exceeding 1% of Iodine)
- Glycerine
- Gentian Violet
- Acriflavine
- Mercurochrome

Patent and Proprietary medicines approved by the Minister and Council of the Pharmacy Board and not containing any drug required to be sold on prescription only or any narcotic drug within the meaning of the Dangerous Drugs Act 38 of 1991 and Amendments.

**DEVICES**

- Zinc Oxide plaster
- Cotton Wool
- Lint
- Bandages (plain and medicated and not containing any drug required to be sold on prescription only)
- Elastic Adhesive plaster (plain and medicated and not containing any drug required to be sold on prescription only).

*New clause 7 read the first time.*

*Question proposed, That the new clause be read a second time.*

*Question put and agreed to.*

*Question proposed, That the new clause be added to the Bill.*

*Question put and agreed to.*

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*New clause 7 added to the Bill.*

*Clause 8.*

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

**Dr. Rafeeq:** Mr. Chairman, I beg to move that clause 8 be amended as follows:

- A. Delete the words "Third Schedule" and substitute the words "Fourth Schedule";
- B. Delete the words "Fourth Schedule" and substitute the words "Fifth Schedule".

*Question put and agreed to.*

*Clause 8, as amended, ordered to stand part of the Bill.*

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

*House resumed.*

*Bill reported, withh amendments; read the third time and passed.*

#### **PUBLIC ACCOUNTS COMMITTEE REPORT**

**Mr. Kenneth Valley** (*Diego Martin Central*): Mr. Speaker, I beg to move Motion number one under committee business standing in my name,

*Be it resolved,* That this House take note of the Report of the Public Accounts Committee on the question of payment to Maritime Life (Caribbean) Limited for assuming the obligations of the West Indian National Insurance Company Limited and (WINSURE) and the payment to the National Carnival Commission to liquidate debts to Northern Construction Limited which was laid in the House of Representatives on Friday, November 7, 1997.

Mr. Speaker, Members would recall that these matters were referred to the Public Accounts Committee on March 26, 1997, arising out of concerns raised by Members of the Opposition. After a number of sittings, the committee was able to complete its report in October 1997 and the report was duly laid in November.

Mr. Speaker, Members would know that although the Public Accounts Committee is chaired by a Member of the Opposition the majority of Members on that committee are Members of the Government. It is a joint committee comprising Members of the Lower House as well as Members of the Upper House. The Members of the committee are Mr. Chandresh Sharma, Mr. Razack Ali, Sen. Philip Hamel-Smith, Dr. Fuad Khan, Sen. Selwyn John, Sen. Barbara Gray-Burke, Sen. Dr. Eric St. Cyr, Sen. Danny Montano, the Member for Port of Spain South, Mr. Eric Williams and myself as Chairman.

Mr. Speaker, I am pleased to indicate that all Members of the committee signed the report. There is no minority report.

With respect to the second matter—I want to deal with that first because it is the simpler of the two—the committee found that the payment made to Northern Construction Limited appeared to be justified since the works were carried out in good faith with the expectation that a concession would have been granted to the contractors on terms and conditions mutually acceptable to Northern Construction and the National Carnival Committee. As there was no agreement after protracted negotiations, the fair solution seemed to have been implemented. That is with respect to the issue relating to Northern Construction and the National Carnival Construction.

With respect to the issue relating to the payment to Maritime, the transaction seems to have suffered from the following defects:

- (1) the judicial manager got court approval to wind-up the WINSURE companies in 1994 after various attempts to devise a rescue package failed.

This is the notice that was issued with respect to the winding-up of the companies WINSURE Life and General Insurance Company under the order for winding-up dated March 9, 1994:

“This is to advise that the notice to creditors of the above named company requiring them to submit proof of their debts or claims to the liquidators of the company Thomas Reginald Evans and Paul Anthony Buxo by August 15, 1994 was published in the Trinidad and Tobago Gazette and the Trinidad Guardian on July 14, 1994. Proof of debt and claims were received from some of the creditors and these are being processed. This is the final notice given to creditors of the above named company who have not to date submitted proof of their debts to send their names and addresses and particulars of their claims and the names of attorneys, if any, to the undersigned Thomas Reginald Evans and Paul Anthony Buxo both of 122 Edward Street, Port of Spain the liquidators of the said company on or before October 14, 1994 and, if so required, by notice in writing by the said liquidators are, by their attorneys or personally, to come in and prove their said debts or claims at such time and place as shall be specified in such notice or in default thereof they will be excluded from the benefit of any distribution made before such debt is approved.”

Therefore the court had approved the winding-up of the company.

Secondly, the matter was revived by the present Government based on selected information presented to the Cabinet by the Minister of Finance. What the committee found, and one would see it in paragraph 6 on page 24, is that certain pertinent information with respect to the transfer of the WINSURE portfolio to Maritime Life was not included in the Note to Cabinet. I would want to expand on that later on.

Thirdly, Mr. Speaker, though the public servants at the Ministry of Finance advised the Minister that the shortfall in the fund should be determined by current evaluation of their liabilities, the Minister disregarded the advice of his technocrats and based his calculations on the amount which fell to be funded by the government by simply increasing the unfunded liability as at January 1, 1990 in the amount of \$35.7 million by 8 per cent per annum to December 31, 1995. By so doing, the amount increased from \$35.7 million to some \$52.7 million.

As the committee noted at 9 on page 25 that the reliance on the valuation done as at December 31, 1989 without any adjustment for subsequent events, specifically adjustments for any possible change in the composition of the liabilities coupled with the accruing of interest on the full amount of the bond which was supposed to be issued on January 1, 1990, would most probably affect the amount that falls to be funded by the state.

### **3.50 p.m.**

Mr. Speaker, of course, that is the crux of the matter because the whole argument is that even though the Government decided to reverse the decision taken by the last government and, in fact, provide some support for the WINSURE portfolio, the manner of the valuation done left much to be desired.

Given that information, Mr. Speaker, the committee again, at 10 on page 25, noted that:

- “a. In accordance with section 84(1)(b) of the Insurance Act, the Scheme of Transfer has to be confirmed by the Supervisor of Insurance;”

Although the court had approved the Scheme it had to be approved by the Supervisor of Insurance.

Mr. Speaker, we had the benefit of an actuary before the committee, Mr. Kimpton, who expressed the view that a current valuation may not be necessary if the quality of the information on the liabilities was of a sufficiently high standard.

He opined that a data audit may be sufficient to determine the current value of the long-term liabilities. We thought that pursuant to section 86(1)(f) of the Act, before confirming a scheme of transfer, the Supervisor had the obligation to cause a report of the scheme to be made by an independent actuary.

Therefore, the committee thought that:

- “1. Consideration should be given to requesting the independent actuary as part of the assignment to determine the shortfall in the statutory fund as at December 31, 1995 taking into consideration the provisions of the Scheme of Transfer sanctioned by the Court.”

In other words, doing a current valuation on the portfolio:

- “2. Dependent on the outcome of the exercise in (1) above, consideration should be given to identifying alternatives to Government policy to fund one hundred percent of the shortfall in ‘bail out’ like this or of a similar nature.”

That is a capsule of the issues that the committee considered.

Going back to the first point, Mr. Speaker, the committee first of all, wanted to review the situation under which the Government decided that this matter should be revived, given that we thought this issue was put to bed in 1994. The information before the committee is that it started with a letter from the President of the National Union of Government and Federated Workers, Sen. Selwyn John. That letter is addressed to the hon. Prime Minister, Mr. Basdeo Panday, and it reads:

“December 01, 1995

Honourable Basdeo Panday  
Prime Minister  
Trinidad & Tobago  
Eric Williams Plaza  
Independence Square  
Port of Spain

Dear Sir,

I am directed to refer to the meeting held with your good self and a delegation of the Union held on Tuesday November 14, 1995, and to the brief discussions held between Mr. Steve Ferguson, of Maritime and both ourselves at the very

end of the meeting and the point raised by Mr. Ferguson, about the WINSURE closure and its effect on several aspects of economic activity of various persons or organizations that were involved.

In this connection I am to convey the concerns of the members of our Union about their Trust Fund which was deposited with WINSURE and maintained there relying on the assurances received from the Supervisor of Insurance about the solvency of WINSURE. Notwithstanding, the assurances, WINSURE proved to be insolvent and had to be put under Judicial Management in 1988.

After prolonged discussion and negotiation over a two year period, by letter dated July 29, 1991 a proposal was finalized between Maritime Life and Government for the transfer of the business of WINSURE to Maritime which would have given some protection to the Union's Pension Fund. By letter dated November 30, 1991 (Copy annexed) Cabinet agreed to Maritime's proposal.

Acting upon this agreement Maritime began to assume the life policy liabilities and informed WINSURE policyholders and Fund beneficiaries (including the Union) accordingly.

Following a change of Government, Maritime was informed by letter dated December 1, 1992 (attached) that the Cabinet decision conveyed by letter dated October 30, 1991, had been suspended. Nothing further was done to implement the proposal and by order dated March 9, 1994 (copy attached) WINSURE was wound up.

In spite of several meetings with the Minister of Finance aimed at resolving the possible loss of the Union's Pension fund (which would be due to the union's reliance on the representations of the Supervisor of Insurance) nothing has happened.

The Union now requests that the Government expeditiously implement the agreements in order to avoid unpleasant and costly litigation which the Union would be obliged to pursue together with other affected parties.

Youth faithfully

/s/ Selwyn John"

Mr. Speaker, this letter was sent to the Prime Minister on December 01, and the committee was informed that the letter was directed to the Minister of Finance,

who requested a brief from the Supervisor of Insurance. The Supervisor of Insurance presented a brief to the Minister and in that brief he made the point that when the Cabinet in 1991, took that decision, the Permanent Secretary of the Ministry of Finance at the time, referred that Cabinet decision to the Director of Budgets and Monetary, Fiscal and Trade; two senior persons at the Ministry of Finance. It says on page 5, 5.7:

“By File Minute dated November 19, 1991 the Permanent Secretary, Ministry of Finance noted that neither the Director of Budgets nor the Director of the Monetary, Fiscal and Trade Division had seen the Cabinet Note on which Minute 1831 was based before it was submitted to the Minister.”

That is the Cabinet Note on which the decision was made to transfer the portfolio to Maritime:

“Therefore, he requested their comments ‘on the implications of the decision before it is implemented.’”

Mr. Speaker, 5.8 continues:

“The Director of Budgets on December 11, 1991”

(remember that was before the elections of 1991)

“...submitted his comments as follows:

- ‘(a) Re Minute (10). I have examined all the documentation but could find no justification for Government's involvement in the manner proposed. The affected companies are privately owned and controlled and therefore any resolution to their problems should exclude the financial participation of the State.
- (b) If no insurance company is willing to take over the portfolio of ‘WINI’ and ‘WINSURE’ without the assistance of Government, the assets of the companies should be liquidated and the policyholders compensated appropriately.
- (c) Any financial assistance by Government to the companies will establish an undesirable precedent which may be difficult to avoid in the future.
- (d) In terms of the future, what appears to be necessary is the strengthening of the relevant legislation to facilitate an



intervention in the operations of insurance companies by the Supervisor of Insurance whenever it becomes necessary, with a view to avoiding a similar situation from occurring again.

- (e) In the circumstances, I recommend that an approach be made to Cabinet to rescind Minute No. 1831 dated October 10, 1991 and seek a solution as indicated at paragraph (2) above.”

That is the Director of Budgets.

The Director of Monetary, Fiscal and Trade responded on January 23, 1992. His comment is that he:

“...fully supported the comments of the Director of Budgets,’ and added that ‘it was unlikely that the Government was able to finance the transaction, due to fiscal targets.’”

Further, Mr. Speaker, it continues:

“On January 24, 1992 the Permanent Secretary referred the comments of the two Directors for the consideration of the Honourable Minister of Finance who instructed that the opinion of the Treasury Solicitor be obtained to ascertain whether the Government had incurred any liability to Maritime by virtue of the letter sent to Maritime by the Supervisor of Insurance on October 30, 1991 which informed the company of the decision of the Cabinet.

The opinion of the Treasury Solicitor...advised that she was not convinced that the letter constituted a binding contract.”

As of 1992, the Director—and I should just comment in passing, Mr. Speaker, that these two Directors were two senior public servants and they have both since been promoted; one is now the Permanent Secretary, Ministry of National Security and the other is the Permanent Secretary, Minister of Finance. So one would not expect that one would ignore the advise of the these senior professionals without cause.

Based on technical and legal advice of the Directors and the Treasury Solicitor, the file was referred to the Supervisor of Insurance by the Minister of Finance for the resubmission of a Cabinet Note.

Mr. Speaker, 5.12 states:

“Cabinet by Minute #2426 on October 1, 1992 rescinded the earlier decision to fund the shortfall which was estimated at \$35.7 million and agreed

that the Ministry of Finance should discuss with insurance companies the possibility of taking over the long-term insurance business of WINSURE without financial assistance from the Government.”

Mr. Speaker, what transpired after that is, the Ministry of Finance held meetings with ATTIC and in 1993, for example, it reads:

“At a meeting called on January 21, 1993 by the Ministry of Finance to discuss this matter with ATTIC, the Association reaffirmed its position that member companies were unenthused by any proposal to bail-out WINSURE moreso since in their view, the failure of the company had already been discounted by the market as the policy holders had made other arrangements for their continued protection.

After some further protracted discussions, the Judicial Manager applied to the court on October 8, 1993 to wind-up the companies. Approval was granted by the court on March 9, 1994 and the provisions of the Insurance Act relating to public notice by the Judicial Manager, the appointment of a liquidator and notice to creditors and policyholders were complied with...”

as have been shown.

#### **4.05 p.m.**

Now, Mr. Speaker, this is, in fact, the second time that the Judicial Manager had advised that he wanted to wind up the companies. He had done so in 1988. At that time, the then Minister of Finance, Mr. Selby Wilson, thought it would have serious implications for the industry, therefore, he advised against it.

Here we had a situation in which the company was all wound up by the court; the court advised that it should be wound up; and there is this letter coming from the President of the National Union of Government and Federated Workers, Sen. Selwyn John, to the Prime Minister, being referred to the Minister of Finance. The Supervisor of Insurance in his brief, as I said, provided the background as just outlined and advised that one of two options could be pursued. He said either:

- “(a) to proceed with the liquidation of the WINSURE Companies or
- (b) seek to implement the decision of Cabinet Minute #1831 of 1991, modified to reflect the current status of the portfolio.”

So that what the Supervisor of Insurance is saying is either you go along the route that has been in train, or if you wish, you could go back to the 1991

decision, however, you would have to modify the amount to reflect the current status of the portfolio, bearing in mind that a number of years have passed.

That went to the Permanent Secretary of the Ministry of Finance and the Permanent Secretary in looking at the file:

“In referring the brief to the Honourable Minister, the Permanent Secretary, Ministry of Finance informed the Minister that he was ‘of the view that an early opinion by the Solicitor General should be sought in order to determine whether there was a binding contract with Maritime Life.’ He stated that he had doubts about the legal opinion of the Treasury Solicitor at paragraph v.”

He thought that the opinion from the Solicitor General:

“...would resolve a number of issues—whether Maritime should continue with the transfer, whether Maritime is entitled to compensation and whether Government should intervene.”

—at all. That brief with the Permanent Secretary's Minute went to the Minister of Finance.

“The Minister of Finance responded by requesting the preparation of ‘a Cabinet Note rescinding Cabinet decision No. 2426 of October 1, 1992, and requesting Cabinet to implement Cabinet Minute No. 1831 of 1991 as originally contemplated.’ Further, the Minister of Finance indicated that he felt there was ‘no need to obtain the Solicitor General's opinion at this time unless the Attorney General requests it at the Cabinet meeting.’”

He was not going to bring it to his attention or anything.

We then looked at the Cabinet Notes which were prepared, because you see, Mr. Speaker, given the instruction of the Minister that the Cabinet Note be prepared, the technicians went back to do the Cabinet Note. I would just go through the Notes.

The first one sets out the option. After providing the background that I have and I do not think I need to go through that again, at paragraph 25 of the first draft of the Note, it says:

“The options now available are:—

- (a) Pursuance of the liquidation of WINSURE;
- (b) Transfer of the business to Maritime.”

At paragraph 26, it says:

“Option (a) would mean that the long-term policyholders would lose almost all their entitlement because of the size of the deficit indicated in paragraph #16. The cost of full restoration of policyholders’ benefits is now estimated at \$32.5M.”

Now, this is a Note dated February of 1996 and it is saying that the cost of the full restoration is estimated at \$32.5 million. The recommendation in this Note at paragraph 30 says:

“After careful consideration of the matter, the Minister of Finance recommends and Cabinet is asked to agree:—

- (a) that the Ministry of Finance be requested to commence fresh negotiations with Maritime Life...to achieve the objective mentioned in paragraph 27 above.
- (b) That the Ministry of Finance submits a proposal for policyholders’ protection.”

Paragraph 27 simply states option (b) will require that funds be made available to Maritime to meet the policyholders’ liabilities at WINSURE. So they were following the Minister’s instructions and they were saying that based on current situations that they estimate the amount to be \$32.5 million.

Now, this Note is not the one that got to the Parliament. It was redrafted. This first draft was dated February 20, 1996. It did not get to the Cabinet because there was a redraft and the redraft is dated February 27, 1996, seven days later. First of all, what this says in this Note of the February 27, the estimate of \$32.5 million is dropped from the Note. It is now at paragraph 30, whereas here in paragraph 26, it talks about the estimate of \$32.5 million. In paragraph 31, it simply says:

“Option (a) would mean that long-term policyholders would lose almost all their entitlement because of the size of the deficit indicated in paragraph 18.”

It does not talk about the cost of full restoration which is estimated here at \$32.5 million. What it does say, however—I think this Note says it, or is it the other one? Because that also did not get to the Cabinet, because in this Note, the recommendation to the Cabinet submitted by the officials was:

“After careful consideration of the matter, the Minister of Finance recommends and Cabinet is asked to agree that the decision taken in Cabinet Minute No.

1831 on October 10, 1991 be reinstated, provided that the market value of the bond to be issued is representative of the current long-term policyholders liabilities of WINSURE.”

In other words, the technicians at all times knew quite clearly that if they were going to provide that support, that the value of the bond had to be based on current market conditions. That is the recommendation:

“...provided that the market value of the bond to be issued is representative of the current long-term policyholders liabilities of WINSURE.”

Not the liabilities as at 1990, but the current liabilities.

Mr. Speaker, this Note also was amended and the amended Note is dated March 15, 1996. In this note, at paragraph 31, again, it does not state the estimate of the \$32.5 million, but at paragraph 31, it says option (b) which is the transfer of the business to Maritime, would require that a bond representing the market value of the net present liabilities to the WINSURE policyholders be issued to Maritime Life in consideration for assuming the said liabilities.

Again, the point is that the technicians writing the Note always contemplated that the value of the bond should be equal to the market value of the net present liabilities to the WINSURE policyholders.

Now, Mr. Speaker, in that Note, again—this is the note that got to the Minister before going to the Cabinet. Recommendations at paragraph 37 says:

“After careful consideration of the matter, the Minister of Finance recommends and Cabinet is asked to agree that:

- (1) Cabinet Minute #2426 dated October 1st, 1992, be rescinded;
- (2) similar arrangements as proposed in the decision taken in Cabinet Minute No. #1831 on the 10th October, 1991 be implemented such that a floating rate bond with a market value which is representative of the long-term policyholders’ liabilities of WINSURE as at January 1, 1996 be issued for a duration of 20 years and with a rate of interest four points below the prime lending rate of the commercial banks (as established by the Central Bank of Trinidad and Tobago) be issued to Maritime Life Caribbean Limited in consideration for assuming the obligations of WINSURE to its long-term policyholders.”

What happened in that Note is that the Minister amended the Note to include another condition, which had the effect of making the former clause null and void, because the clause the Minister included says:

“That the amount of the bond shall be the original sum plus simple interest at 10 per cent per annum to 31 December, 1995.”

So that whereas the Note that came to the Minister recommended that a bond be issued for a 20-year period, being equal to the net market value of the net liabilities to WINSURE as at January 1, 1996, the Minister of Finance changed that whole concept and said the value of the bond should, in fact, be the original amount, that is, \$35.7 million plus interest at 10 per cent per annum.

You would see, Mr. Speaker, that after his people made that amendment, he changed the 10 per cent to 8 per cent, but more than that, the committee noted that there were some handwritten instructions on the draft note and it says:

- (1) Append letter from NUGFW;
- (2) indicate that Liquidator has agreed to the transfer;
- (3) include paragraph #33 to support the issue of the bond as originally contemplated plus interest.

That is on the Note before the one that got to Cabinet.

The one that got to Cabinet included those changes and Cabinet at Minute No. 701 dated March 21, 1996 considered this matter and approved it. It was confirmed on March 28, 1996. In that Note, again, one will note that the concept of the value of the bond is still there in the Note. It still talks about a market value of the net present liabilities to the WINSURE policyholders, the issue to Maritime Life, in consideration for assuming the liabilities. So that the technicians, even at that time, were still of the view that the bond that should have been issued to support the liabilities in the fund, was supposed to be based on the current liabilities, bearing in mind that between 1990 to the end of 1995, there would have been lapses and so on in that plan.

#### **4.20 p.m.**

However, the recommendation in the note included both points. It included the fact that:

“(ii) Similar arrangements as proposed in the decision taken in Cabinet Minute No. 1831 on October 10, 1991 be implemented.”

At paragraph 5.21 it states:

“(b) that a floating rate bond with a market value which is representative of the long-term policyholders liability of West Indian National Insurance Company...Insurance Company Limited...(WINSURE) as at December 31, 1995...”

And we need to understand that, Mr. Speaker, because here at (ii) what was contemplated is that Maritime would have received a bond which was representative of the liabilities as at December 31, 1995. In other words, looking at the position as at that time whereas given the amendment the Minister made, and which came afterwards, and which, of course, had the effect of negating the application of that condition, said:

(c) that the amount of the bond..."

shall

"...be the original sum plus simple interest at 8% per annum to December 31, 1995, that is \$35.7 million plus \$17.136 million;"

for a total of \$52.8 million. So that given that that defined the liability, (ii) could not have applied after that. That, of course, is the main problem of the transaction.

We saw quite clearly that throughout the examination it was clear that while the Ministry officials were advising the Minister that the amount of Government funding should be modified to reflect the current liabilities in the portfolio as at the end of 1995, it was clear that the Minister, through his actions, was adamant that he would use the valuation done in 1990 and simply increase the amount the Government should fund by 8 per cent for the intervening position. We saw that, Mr. Speaker.

Mr. Speaker, on page 8, paragraph 5.20 of the Report, the committee noted that:

"Following discussions and information retrieved from files in the Ministry of Finance, the Ministry's officials informed the Committee of their understanding of instructions given to them verbally or written by the Minister of Finance as follows:

- a) The note to Cabinet should be based on the original contemplation of the matter.
- b) That if the Attorney General needed an opinion from the Solicitor General, with respect to whether a contract still existed with Maritime, he could so indicate at Cabinet.
- c) (i) That Cabinet Minute No. 2426 dated October 1, 1992 be rescinded;
- (ii) Similar arrangements as proposed in the decision taken in Cabinet Minute No. 1831 on October 10, 1991 be implemented.

- (iii) that the Minister of Finance prepare a brief for submission to Cabinet to provide for the protection of interests of policyholders in the event of failure of insurance companies through insolvency, the said brief to be used by the Attorney General for drafting appropriate legislation.
- d) That the amount of the 'bond' would be the sum originally contemplated plus 8% simple interest (initially stated as 10%)."

The day after Cabinet took the decision the committee noted that on March 22, 1996:

"...the Minister of Finance wrote the Chief Executive Officer of Maritime Life informing him that:

'Cabinet yesterday approved a scheme to meet the obligations of West Indian National Insurance Company Limited (in liquidation) and WINSURE Life and General Insurance Limited...to their long-term policyholders.'

Before even the Cabinet Minute was confirmed. Of course, what this does is to put Maritime Life in a position that if anything were to happen afterwards they may have a right in court.

More interestingly, Mr. Speaker, after that decision was taken, the officers of the Ministry of Finance realized that really, there was some difficulties in issuing the bonds.

"5.23 On April 11, 1996, pursuant to a request from the Director, Public Sector Finance Management Unit...the Treasury Solicitor advised that the bonds could not be issued under the Development Loans Act which authorises Government to raise loans to finance general development in Trinidad and Tobago or to repay borrowings effected for such general development..."

Of course, this issue did not fall into either category, so that one could not use the Development Loans Act.

"Since the purpose for the issue of the bond was targeted to a specific class of persons, namely, the long-term policyholders of WINSURE, it cannot be considered to be for the general development of Trinidad and Tobago."

Therefore, one could not have used the Development Loans Act.

"5.24 In view of this opinion, the Director (PSFMU) prepared a Note which advanced the following three options for the consideration of the Minister.



- (a) the amendment of the Development Loans Act...
- (b) the enactment of a new Act specifically for...

this purpose.

- (c) payment to Maritime Life...in cash.”

Very interestingly, Mr. Speaker, the Minister opined that option (c), the cash payment option, was the most feasible, but that is not what he told the Cabinet. When he went to the Cabinet, as we would see in a while, he informed the Cabinet that they will either issue bonds or cash knowing full well that if he was contemplating the issue of bonds he would have to come to the Parliament; and knowing that he agreed that option (c) was the most feasible. In spite of that he was informing the Cabinet that, “Look, we want the option to issue either bonds or cash”.

Before that, Mr. Speaker,

“5.26 The Director of Budgets commented by file memo on May 7, 1996 to the Permanent Secretary...”

Because the Permanent Secretary sent to the Director of Budgets for his opinion. The Director of Budgets had this to say:

- “(i) There is no provision to meet this commitment in the 1996 Estimates.
- (ii) The only possible source from which this commitment can be met is the Contingencies Fund.
- (iii) It is not the kind of expenditure which would normally be met from the Contingencies Fund.
- (iv) The allocation in the Contingencies Fund is \$25 million.
- (v) Given prudent financial management, it is not recommended that more than \$15 million be considered for funding this project as there may be other calls on the Contingencies Fund during the course of the year.
- (vi) Any advances made from the Contingencies Fund must be retired on or before the closing of the 1996 accounts.
- (vii) The finalisation of the 1996 accounts is subject to the examination of Finance Committee of the House of Representatives as well as both Houses of Parliament.”

In other words, putting them on notice that, “Listen friend, you are really doing nonsense”, but trying to be polite and say it in a very nice way.

“(viii) The ‘flood gates’ mentioned at folio (20) could also be opened if option (C) is implemented.

The above points are submitted for consideration before further action is taken.”

**4.30 p.m.**

Here was a situation where the Government decided they wanted to issue bonds. They found out the technicians said that they could not issue bonds unless they go back to the Parliament and, the Minister said let us pay by cash.

The Director of Budgets advised him that this was the wrong approach. But the Minister went to seek Cabinet’s approval to rescind the decisions recorded in subparagraphs (b) and (c) of Minute No. 701 i.e., that the payment would be by way of bonds and so forth pertaining to the issuance of a floating rate bond amounting to \$52.836 million to Maritime Life (Caribbean) Limited in consideration of assuming the obligations and so forth.

This is what the Minister told the Cabinet. He had agreed with his technicians that payment would be in cash, but he made a slow movement at the Cabinet and asked for approval to be made by way of bonds or cash or a combination of bonds and cash and that any cash payment be made in tranches over a period of time which is mutually agreed upon by the Government of Trinidad and Tobago and Maritime (Caribbean) Life Limited. Such payment schedule to be submitted for the consideration of the Cabinet.

**Mr. Speaker:** Hon. Members, the sitting is suspended for half an hour.

**4.32 p.m.:** *Sitting suspended.*

**5.05 p.m.:** *Sitting resumed.*

**Mr. K. Valley:** Mr. Speaker, at the tea break I was making the point that while the Ministry’s technocrats advised the Minister along a certain line, he disregarded that advice; while they were advising him that, in fact, one was supposed to take the portfolio as at the end of 1995, and do a valuation on that portfolio, the Minister felt that he could have used the figure as at the beginning, as at 1990—the valuation done at that time and simple increase the shortfall determined at that time of 8 per cent simple interest to determine what was the obligation of the Government as at December 31, 1995.

Obviously, when one considers that Maritime was not at risk during that period and more so, the fact that a number of policies which would have been paid to date, as at that time, may have arrived at a lapsed situation in the intervening period. It would be clear to anyone having any knowledge of insurance—and of course, the Minister has quite a lot of knowledge with respect to insurance—that the value of the portfolio would have been much different at the end of 1995 to what it was at the end of 1990.

Mr. Speaker, even after that second Cabinet Note where Cabinet agreed to pay by cash or bond, the Ministry officials attempted for yet another time to put some controls in place.

At a meeting held September 19, 1996, among some senior officials of the Ministry: the Acting Permanent Secretary, Investment Division, Ms. Monica Clement, the Director of Budget, Mr. Desmond Thornhill, the Acting Treasury Solicitor, Shelly Collymore, the Acting Supervisor of Insurance, Leroy Mitchell, the committee was informed that these officers felt that in structuring the agreement with Maritime Life, the company should be required to indicate clearly to Government the composition of the liabilities giving rise to the capital sum of \$35.7 million. In other words, if there are any policy holders for which provision was made in 1989 and, who for some technical reason would not be paid by the company, then those sums should revert to the state.

Even at that time the technocrats were making the point that even if they were to give Maritime this money that the Minister wants us to give to them, to the extent that any amount is not paid on behalf of a policyholder, then it should revert to the state. You would see from the report that condition was not included in the agreement.

#### **5.10 p.m.**

More importantly, the agreement which was approved by the court was never seen by Members of Cabinet. While Cabinet was informed that they were taking over a liability as at December 31, 1995, the agreement which the court approved spoke about taking over liabilities as at January 1, 1990. However, that agreement stated quite clearly that to the extent that a policy had arrived at a lapsed situation, before that person can benefit from any of this, he must first be able to prove that he was in good health. Schedule A to the agreement talks about proof satisfactory to Maritime and at no cost to Maritime, that the health of the life assured under the policy had not deteriorated since the issuance of the policy. That information must have been received within six months of the agreement.

More than that, 2(e) of this Schedule talks about the individual being responsible for making up any shortfall in the fund. While the Government was paying all this money on behalf of these policyholders, the agreement which was approved by the court, placed an obligation on the individual to make good those payments. I make that point because, as I maintain, that is the crux of the issue relating to this matter.

When the individuals from Maritime came before the committee, they put a very interesting quirk into the pot. They argued that since no notification of the non-payment of premiums and the forfeiture of policies was sent to policyholders as required by section 136(4) of the Act, the company was still at risk. However, the committee had at its disposal, a legal opinion by Dr. Denbow who is the legal advisor to the judicial manager. He also appeared before the committee. In his opinion, he said that though the policies may not have been forfeited, the fact is that the policies would have arrived at a lapsed situation. Moreover, both Dr. Denbow and the representative from the Treasury/Solicitor's Department provided evidence to the committee to the effect that although section 136(4) in the Act said certain things, the fact that there was an agreement sanctioned by the court because of sections 78(4) and (5), those clauses which spoke about policies in force and the treatment of lapsed policies superseded the provision of section 136(4) of the Act.

If those policies had arrived at a lapsed situation then the conditions specified in the scheme approved by the court would hold sway. As I said, that agreement placed the obligation on the individual to the extent that the policy was in a lapsed position, it was the individual's responsibility to make good any shortfall thereunder on the policies.

Interestingly, when the committee enquired about what would happen to any surplus arriving out of this transaction, the chief actuary informed the committee that it would fall to surplus. In other words, given that we provided about \$52.8 million to Maritime and most of those policies were lapsed and not reinstated, the agreement was entered into. My conservative estimate is that there would be a surplus of at least \$22 million. Bear in mind that the Cabinet Note we spoke about estimated the liabilities as at December 31, to be about \$32.5 million. The report points out that the liquidator had informed the ministry that the amount he required would be in the vicinity of \$25 million to \$30 million. My estimate is that the surplus would be in the vicinity of \$22.8 million. When asked, the chief actuary said quite simply that it falls to surplus.

Coming to the end of the examination, one Member of the committee enquired from the Supervisor of Insurance whether he had found any misdealings with the transfer. The Supervisor of Insurance responded in typical public servant ease, "As far as I am concerned it is quite transparent." Mr. Speaker, I could not agree with him more. We saw clearly that the technocrats were advising in one direction and that the Minister was doing something quite different in the open. He said that based on all the Cabinet decisions and notes, the views of the Minister and position of the various senior government officials were there for everyone to see. We saw it all. They were advising one thing and the position of the Minister was quite different. He said that he had not seen anything that resembles anything that might attract a negative position at least from the ministry. I agree with him wholeheartedly.

I compliment and congratulate the public servants at the Ministry of Finance and Ministry of Tourism in this whole transaction, because at every step they provided proper advice to the Minister. They tried their very best to get the Minister to act in a certain manner, but they failed.

In conclusion, as I said, the committee is of the view that what is required at this time is that we get a valuation done based on the liabilities as at this time. Given that the actuary who was at the disposal of the committee made the point that one does not need to do a full valuation, it might be sufficient to do a data audit. In other words, given that one has the valuation as at January 1, 1990, one can simply determine the policies which are still in force and do a data audit and come up with an estimate of value.

Our recommendation, included in the report, is to ask the Government in accordance with section 84(1)(f) of the Act, that before confirming the scheme of transfer, the Supervisor should cause—and he informed the committee that it was his intention to do so—such a valuation to be done. That would provide the Government with the only fair basis for going forward.

**5.20 p.m.**

Mr. Speaker, given that this report is endorsed by all members of the committee, I hope that the Government would not treat it in a manner similar to the National Petroleum Marketing Company Limited and the Deyalsingh reports. This took the committee much time and, if the amount of \$52.8 million is paid to Maritime Life, there would be considerable extra funds included there.

We are aware that \$52 million has been placed on deposit. Our information is that it has not as yet been paid over to Maritime. Before any payment is made to

Maritime, at least a major audit should be done to determine the true liability to be funded by the state.

We are aware that there will be claims outstanding and, of course, they ought to be paid. We understand from the liquidator, who was formerly the judicial manager, that at present there are merely 100 policies in force, out of a total of 3,600 policies. To the extent that there is a shortfall in the fund, obviously those policies in force should be paid. Of course, to the extent that policies are reinstated, Government may want to provide support for those, given that they are taking that line. If they decide to provide support, the first thing one expects them to do is determine the true extent of the liability.

The Committee did not deal with the issue of culpability, in other words, whether it was an honest mistake or not by the Minister. We left that for the public to decide, especially given the bipartisan nature of the committee.

We had to make some compromise and the report represents that compromise: it represents some give and take. I thought that a report of this nature ought to have had the blessings of all the members of the committee. To the extent that we were able to achieve this, it was in some cases at the expense of clarity. There might be some vagueness in the report or some diplomacy. However, I think that all the information is contained there and I have pleasure in recommending it to the House.

*Seconded by Mr. Eric Williams.*

*Question proposed.*

**Mr. Colm Imbert** (*Diego Martin East*): Mr. Speaker, let me try to expand on the points made by my colleague, the Member for Diego Martin Central, and provide information to the Members on the other side and to the public at large of which they may not be aware.

There is a pattern of behaviour that is associated with the Minister of Finance.

**Mr. Speaker:** Hon. Members, I ask you to take note of the wording and the terms of this Motion in which the House is being asked to take note of a report. I ask Members please to confine it to that. It is very easy in a matter like this to go outside. I am appealing, from the very beginning, that we keep it within those confines, as the mover of the Motion has done.

**Mr. C. Imbert:** Mr. Speaker, my colleague from Diego Martin Central has made the case that the Minister of Finance did not follow recommendations made

by public servants with respect to this matter. I wish to put on record certain information which I consider relevant to this matter. I will be guided by you, Mr. Speaker, as I go along.

When one looks at what has happened, one sees that the former administration had approved the payment of \$35 million to Maritime Life to take over the liabilities of WINSURE that had found itself in difficulties. One sees, thereafter, that public servants from the Ministry of Finance and the Budgets Division expressed serious reservations with regard to this payment, resulting in a situation in 1992 where Cabinet, by Minute 2426 dated October 1992, rescinded the earlier decision to fund the shortfall of \$35 million. One sees that thereafter very little happened until the present incumbent became Minister of Finance. In late 1995, the Minister of Finance initiated a situation to reverse the decision of the Cabinet of which he was a part in 1992, to make payments to Maritime Life.

There is a situation where the former NAR Cabinet agreed to pay Maritime \$35 million in 1991 and after that there are copious references to statements and opinions made by senior public servants that the Government should not proceed with this matter and that there is no precedent for it; that it could open up the floodgates to claims from many other insurance companies and policyholders in similar predicaments, and we should simply not do it.

One sees a Cabinet taking a decision in 1992 not to proceed. One sees the UNC administration coming into office in late 1995 and that hon. Minister of Finance initiating a situation to reverse the decision taken, leading to a situation where recommendations were made by that hon. Minister of Finance to give Maritime Life, not \$35 million, but \$52 million.

### **5.30 p.m.**

I think it is necessary for us to place certain facts on the table. For example, how many persons across there are aware that the Minister of Finance was a former general manager of Maritime? I think it is necessary to let you and other people know what I believe to be a strange string of coincidences which could perhaps shed some light on the reasons for the very peculiar behaviour of the Minister of Finance in not following recommendations of the Director of Budgets, and the Permanent Secretary, Ministry of Finance and so forth, and the close association between the present Minister of Finance and the Maritime financial group. I am not imputing anything. I am laying facts on the table. The Minister of Finance was the general manager of Maritime for a number of years. That is a fact.

He is a close associate, friend, and colleague of the present Chief Executive Officer of Maritime, Mr. Steve Ferguson.

One has to look at what has been going on with that particular insurance group from the 1986—1991 period through the 1991—1995 period, and now in this situation. During the tenure of the NAR, the Maritime group and the Minister of Finance had some involvement, you may correct me if I am wrong. The Maritime group, together with a number of other financial institutions, persuaded the NAR administration to award it huge contracts on a sole selective basis for the construction of police stations and a maximum security prison. The police stations contracts were valued in excess of \$100 million and the maximum security prison—which is still to be opened in 1998, six years after construction started—\$200 million.

Mr. Speaker, I submit that there has always been a very strong lobby and there are interest groups in this society who always somehow get their way. How is it possible for an insurance group to win construction contracts under the NAR administration totalling \$300 million which were awarded without competitive tender by sole selective award? When one looks at what happened to those contracts afterwards, persons could come to the conclusion that there are very strong lobbies which cause decisions of public servants to be ignored, omitted and dismissed as not being important. I have some knowledge of those particular contracts which the Maritime group was able to win very strangely and in one particular case, we are talking about cost being inflated and where there is a situation of an assessment in 1991 of \$35 million somehow reaching \$52 million in 1996.

**Mr. Speaker:** I would say to the hon. Member that in an attempt to keep this debate within the proper quarters, I think it is absolutely necessary that we examine and deal with, “and take note of”. The wording of the Motion is very clear, “take note of,” a particular report. We are not here to take note of the behaviour of any particular person with respect to something. It is true, you are perfectly right, that one could refer to certain things in relating it to this, but the main purpose for us being here now, is to take note of that report and perhaps, point to things in it which have been said in the light and perhaps expand on them, but we must deal with the central theme please.

**Mr. C. Imbert:** Thank you, Mr. Speaker, I would most certainly get to the specific matters contained in this document, but the fact of the matter is, and the point which I am making is that Maritime had always had a powerful lobby and



very peculiar and bizarre things had happened. What we are looking at today, is a situation where an insurance company folded up, policyholders stopped making payments to that company, policies lapsed, policies were wiped out of force and so forth. There has been a determined effort on the part of certain persons to resist any proper attempt to do a financial assessment of this matter. If one looks at the document carefully, one sees on page 5, paragraph 5.5 says:

“This shortfall was estimated to be \$43.9 million”

This is the initial shortfall which Maritime wished to receive from the NAR Government.

“However, after the actuarial analysis was reviewed by Bacon, Woodrow and De Souza,...certain assumptions were changed which had the effect of reducing the shortfall to \$35.7 million.”

So there was actuarial review in 1991 giving the shortfall between the liabilities and assets of WINSURE of \$35 million.

Mr. Speaker, it is logical to assume that if one has a portfolio of insurance policies, some might be whole life, some term, some might have cash value, and some may not, and people stop paying their premiums because the company has folded up, the quantum of that liability must logically reduce. It is not logical for a situation where there is a basket of policies and persons have stopped paying their premiums for the liability to increase and there is nothing in this report which indicates from anyone, not even the actuaries who are actuaries for Maritime.

It is interesting when one looks through all the expert testimony, the vast majority comes from persons and groups who worked for Maritime. They are either consultants or they directly receive briefs from Maritime. It is interesting that this was not highlighted and I want to put it on the table. Even with that conflict of interest situation, no one has been brave enough to say that the value of the liabilities in this insurance portfolio increased since 1991, nobody has had the gumption to make that absurd statement. Logically, the value of that portfolio liabilities has gone down.

What does the Minister of Finance do? He is very clever. Instead of doing an up-to-date actuarial review—we are talking about millions of dollars, \$52 million—I see a reference in the report that it would cost £20,000 to do an actuarial review and one gets the feeling that has been introduced to this report to give the impression that it is not a cost-effective exercise to do this actuarial assessment. What is £20,000, or TT \$200,000 when we are talking about a

difference of \$17 million which this hon. Minister of Finance would like us to pay a particular company with which he has had a very close association in the past? It is very intriguing.

The Minister tells us not to do any actuarial assessment, do not do a review, do not do any up-to-date evaluation, just add interest to the \$35 million as of 1991 and pay Maritime its money. It is very interesting and it makes absolutely no sense. As one goes through this entire report, one sees a determined effort on the part of persons unknown to resist an up-to-date actuarial review. They all talk about not doing an actuarial review; do a data audit, whatever that means, and there are opinions coming from learned counsel to say that a policy would lapse under certain conditions and having regard to the passage of time, a substantial number of policies would have lapsed and so forth, but because no steps were taken to forfeit the policies they may not have lapsed. All wooliness. Nobody is willing to put his head on a block and say this is what is going on here. The liabilities was worth \$35 million and it is now worth less. All sorts of woolly, vague, ambiguous, and in my opinion, unacceptable submissions from persons who are directly connected with the beneficiary, Maritime. They are not sure what is going on and they do not think that an actuarial report should be done.

When one goes to the front of the report, one sees that apart from its investment in WINSURE, the West Indian National Insurance Company had significant investments in three associative companies: the Balandra Beach Resort, Balandra Estates Limited and Balandra Beach Hotel Limited, so at some point in time, among the assets of the West Indian National Insurance Company were the investments in this Balandra Resort.

That resort in Balandra on the north/east coast on the way to Toco, the West Indian National Insurance Company (WINSURE) invested a significant sum of money in building a golf course and condominiums and developing land and so forth to build a recreational complex at Balandra. I remember this hon. Minister of Finance bringing two very strange individuals to a PNM meeting. One of the fellows had a pony tail, the other one looked straight out of Lucky Luciano, but they were two very peculiar looking guys who, in my view, could very well be termed the present day *Cosa Nostra* or mafia, as it were. That is what they looked like to me. They looked like members of the mafia. I remember the hon. Minister of Finance trying to persuade the then PNM administration to invest in this Balandra estate, a project called the Pearl of the Americas or the Antilles and the government was being asked by the hon. Minister of Finance to invest in the

Balandra estate, then owned by WINSURE and put taxpayers' money into building casinos and various other things.

**5.45 p.m.**

We have asked the question, Mr. Speaker—we have to look at the motive in this whole issue—what has happened to the assets of WINSURE? Who has bought that land? Who now owns that estate in Balandra? I will tell you something else, Mr. Speaker, I know who owns the estate next door. There is a huge estate next door to the Balandra estate and it is owned by one Ishwar Galbaransingh. That is why I say there is a powerful lobby in this country and they jump from party to party and enrich themselves at the expense of the state. People do this, political investors in the NAR, PNM, UNC, they support them, they get their way and they get richer and richer as people in the country get poorer and poorer.

I would like the Minister to tell us—since he is the one who brought a note to reverse a Cabinet decision of 1992 and this hon. Minister of Finance is asking the country to put \$52 million into the Maritime/WINSURE affair—who owns the land at Balandra and whether any of his associates or friends has any interest in the Balandra estate. [*Desk thumping*]

My colleague from Diego Martin Central also made the point that the hon. Minister of Finance took a note to Cabinet without giving Cabinet all the information. It is there on page 24 and I think I need to repeat it:

“Certain pertinent information with respect to the transfer of the WINSURE portfolio to Maritime Life was not included in the note to Cabinet...”

I would like the Minister to tell us, specifically, why that was left out of the Cabinet Note. For the benefit of those on the other side who do not know the connections, who do not know his past employment history, who do not know that there could be a possible conflict of interest situation—because he was a Maritime employee at one time. Let me read the technical advice of the Director of Budgets and the Director of Monetary Fiscal and Trade Division. This is what was left out of the note by the Minister of Finance:

“(a) I have examined all of the documentation but could find no justification for Government’s involvement in the manner proposed. The affected companies are privately owned and controlled and therefore any resolution of their problem should exclude the financial participation of the State.”

Why did the hon. Minister leave that out of the Cabinet Note?

“(b) If no insurance company is willing to take over the portfolio of ‘WINI’ and ‘WINSURE’ without the assistance of Government, the assets of the companies should be liquidated...”

The Director of Budgets said to liquidate the assets. Why did the Minister of Finance leave that out of the note? In my view, it is no wonder that the Director of Budgets now finds himself in another ministry mashing corns.

“(c) Any financial assistance by the Government to the companies will establish an undesirable precedent which may be difficult to avoid in the future.”

The Director of Budgets is telling us that the transaction which the Minister of Finance wants to do, would establish an undesirable precedent which may be difficult to avoid in the future.

The point he was making is that if we go through with this, all the other insurance companies, all the other policyholders could say we want our fair share too. We want equality of treatment. So instead of having to find \$52 million the Government would have had to find \$500 million to bail out all other policyholders of other failed insurance companies such as SWAIT, Crown Life and so forth. *[Interruption]*

**Mr. Kuei Tung:** The Member is misleading the House.

**Mr. C. Imbert:** SWAIT is not an insurance company? Well, whatever! SWAIT had nothing to do with life and general insurance? Go ahead!

Mr. Speaker, the Minister knows very well of what I am speaking. He knows very well that there was an associated company with SWAIT which was mixing general insurance funds and life insurance funds and it got itself into difficulty. The Member knows very well. I am misleading the House? *[Interruption]* No, no, SWAIT was a financial institution, part of a group in which there were insurance companies which found themselves in difficulty. Let the Minister tell me that is not true! Get up and say that is not true and I am misleading the House! The Minister feels I do not know what is going on. *[Desk thumping]* Mr. Speaker, the Director of Budgets is saying that any financial assistance by the Government would establish an undesirable precedent. He continues:

“(d) In terms of the future, what appears to be necessary is the strengthening of the relevant legislation to facilitate an intervention in the operations of insurance companies...”

- (e) In the circumstances, I recommend that an approach be made to Cabinet to rescind Minute No. 1831...”

This is not included in the information for Cabinet when it deliberated on the reversion of that matter, initiated by the Minister of Finance.

In addition, it is very intriguing—the Minister of Finance playing lawyer now—when one looks through this report, where public servants were recommending that before the Government paid Maritime \$52 million of taxpayers’ money—which it did not have—the Director of Budgets had already indicated Government did not have the money. The Contingencies Fund is not for that, there was only \$25 million in it; we could only have taken \$15 million out and we would have caused problems in the financial system. The Director of Budgets got advice from the Solicitor General. Why did the Minister of Finance not proceed with that recommendation?

When one looks in that report one sees that the Minister of Finance, on his own, decided—he is a legal luminary—that it was not necessary to consult the Solicitor General for an opinion unless the Attorney General asked for it. The Solicitor General is there to advise the Government of Trinidad and Tobago. Imagine that, Mr. Speaker. The Cabinet on any given day may have to deal with between 20 to 100 Cabinet Notes—any Member on that side could say this is a fact—one gets very little time to study one’s notes, sometimes one gets them the Wednesday for the Thursday, sometimes a Cabinet Note is fat and one’s box is filled with Cabinet Notes. *[Interruption]* Under all administrations. But this hon. Minister of Finance decided that his Cabinet colleagues must not have the benefit of an opinion from the Solicitor General. I would like the Minister of Finance to tell us why.

#### **5.55 p.m.**

Why did he put the Cabinet in that invidious position? They are under pressure to deal with notes, and here comes a complicated note containing technical information with which many Members of the Cabinet would not be too familiar, and an important point such as the opinion of the Solicitor General is left out. Why? Especially when the Director of Budgets and other senior public servants were recommending precisely that course of action.

So that, it is a procession of very curious actions. Cabinet is deprived of the views of the Director of Budgets who was totally opposed—it is clear—to the payment of these funds; deprived of the views of the Solicitor General, who is not

of the view that there is any binding legal agreement; and the Cabinet is also deprived of an actuarial evaluation. If we are to be transparent in all that we do; if we are to avoid the kind of controversy and speculation that has surrounded this matter; in view of the close association of the minister and the company involved because he used to work there and his partner is the CEO—and those are two of the three gentlemen who it is said financed the UNC—in view of his close association with the principal actors involved, I would like the Minister of Finance to tell us why he did not have an up-to-date actuarial assessment of the matter.  
*[Desk thumping]*

Everything is a ratch. Cabinet approved it today, he is writing the letter tomorrow. Is that what happened, Member for Diego Martin Central? Before you even get a confirmed minute! That is *ultra vires!* That is *infra dig!* One does not do that. It is not the norm to do it. What is the rush? The policyholders have been in abeyance since 1989, for seven years the people were up and down trying to get their money. So why not wait for a confirmed Cabinet minute? You have to ask yourself. It is a strange string of coincidences. I would like the Minister to answer my questions. Tell us what has happened to the Balandra estate; why he did not do an actuarial assessment; why he did not seek the opinion of the Solicitor General, and why this was such a priority matter for him. I have heard all sorts of arguments that this is to help poor people and so forth, people lost their policy, savings and all that sort of thing. Why this one? Numerous insurance companies have gone bankrupt!

**Mr. Kuei Tung:** Name one.

**Mr. C. Imbert:** Mr. Speaker, the Minister is asking me to name one insurance company. I will not be distracted. You know, I gave you the name of one recently, Crown Life. What happened to Crown Life? What happened to Calico? What happened to Western General? *[Steups]* The Minister of Finance cannot distract me with his foolishness. There are numerous insurance companies which have found themselves in difficulty, where people have had policies, they have not been able to get the benefit of those policies and there are claims outstanding, all sorts of things. There are financial institutions, many finance houses where people put deposits into these finance houses, it is the same principle. People have lost their money in Commercial Finance, they lost their money in Summit Finance, International Trust, all sorts of financial institutions, it is the same situation. I am asking the Minister to tell us, why did he pick this one.

**Mr. Speaker:** Order, please.

**Mr. C. Imbert:** Why, out of the all failed institutions, insurance companies and non-banking financial institutions, did he pick this one? [*Desk thumping*] What about all the poor people who put money into International Trust? What about all the poor people who put money into Commercial Finance? Why did he pick this one? Those are the four questions I want him to answer: what has happened to the Balandra estate; why has he not done an actuarial assessment; why did he not seek the opinion of Solicitor General and why did he pick this financial institution to give such generous treatment, especially when there are the public servants. By virtue of his utterances the Minister is indicating that he either was not listening to the Director of Budgets or that he had no interest in what the Director of Budgets had to say. The Director of Budgets was very, very clear in his statements. He said that the floodgates would be opened if this option is implemented. What the Director of Budgets was signalling was that from the time this pay out to Maritime was organized to deal with the failed WINSURE—

**Mr. Speaker:** Member for La Brea, it is very difficult for the *Hansard* reporter; it is distracting because of your proximity to her. Please continue, Member for Diego Martin East.

**Mr. Bereaux:** It is because of the words that the Member here is telling me Mr. Speaker.

**Mr. Speaker:** Well, what I say to you applies equally well to the Member with whom you are engaging in conversation.

**Mr. C. Imbert:** Thank you, Mr. Speaker. If we go to page 11 of the report, the Director of PSFMU stated:

“The Honourable Minister has today May 3, 1996 agreed that option C -the cash payment option is the most feasible, and has directed that the Director of Budgets take steps to make the payments in three tranches.”

What did the Director of Budgets have to say? Mr. Speaker, that is why there is little wonder in my mind that the Director of Budgets is no longer the Director of Budgets. This is what he had to say on May 7, 1996:

“(i) There is no provision to meet this commitment in the 1996 Estimates.”

So why was the hon. Minister recommending that Maritime get cash when there is no money in the Treasury? I would like to know. Let me repeat:

“(i) There is no provision to meet this commitment in the 1996 Estimates.

- (ii) The only possible source from which this commitment can be met is the Contingencies Fund.
- (iii) It is not the kind of expenditure which would normally be met from the Contingencies Fund.
- (iv) The allocation in the Contingencies Fund is \$25 million.”

He really meant to say, only \$25 million, because the Minister of finance was saying to give them \$52 million.

- “(v) Given prudent financial management, it is not recommended that more than \$15 million be considered for funding this project as there may be other calls on the Contingencies Fund during the course of the year.”

He goes on to make a number of procedural points such as:

- “(vi) Any advances made from the Contingencies Fund must be retired on or before the closing of the 1996 accounts.”

In other words, if they take money out of the fund, they have to put it back. That is what the Director of Budgets is saying. We have no money to pay this thing. Even if they take it out of the Contingencies Fund, they have to put it back. It goes on:

- “(vii) The finalisation of the 1996 accounts is subject to the examination of Finance Committee of the House of Representatives as well as both Houses of Parliament.”

So the Director of Budgets was signalling politely to the Minister of Finance that if he continues with this thing it is going to be raised in Parliament. He is telling him, “I do not agree with what you are doing, and if you continue along these lines this is going to be a matter of contentious debate in Parliament.”

- “(viii) The flood gates mentioned at folio 20 could also be opened if option C is implemented.”

The Director of Budgets recommended that these points be considered before further action is taken. And after that what happened?

The Minister of Finance drafted a Cabinet note, leaves out all of these things, and Cabinet, none the wiser says, give Maritime \$52 million dollars in cash. On the face of it, hon. Member for Tobago West, it appears that they do not deserve this \$52 million, because what are you giving them \$52 million for? To do what? What loss have they suffered? What loss has Maritime Life suffered? What payouts do they have to make? I cannot see anything. What are you giving them \$52 million to do?



**Mr. Hinds:** Friends and family.

**Mr. C. Imbert:** Is it to go into their account? If, as the hon. Member for Diego Martin Central has indicated, before the company got into trouble there were 3,600 policies in force, they now have 100. That means the number of policies in force has been reduced by 95 per cent. What are you giving them this \$52 million to do? And how did one get from \$35 million to \$52 million? These are the questions we need the hon. Minister to answer.

I have never heard of a situation where you have a dynamic liability, it is not fixed, it is changing all the time, and you take it as if it is fixed, in other words, you say, so many policyholders, so much debt, so much liability, \$35 million, add interest at the rate of 10 per cent, come up to \$52 million. I have never heard of that kind of mathematics, because the actual matter itself is reducing all the time! So it was \$35 million in 1991, it might be \$30 million in 1992, \$25 million in 1993, \$20 million in 1994, \$18 million in 1995, \$10 million in 1996 and so forth. So that, if one does this actuarial assessment that we should do, one may find that no interest is owed at all and the \$35 million is now gone down to \$10 or \$15 million. So we could save this country, the Treasury and the poor people of this country \$20 million to \$30 million. *[Desk thumping]*

I am in total support of the contentions of my colleague from Diego Martin Central. Something is amiss here, something is very, very wrong. The Minister has not explained and I dare say he is unable to explain to this House satisfactorily as to what is going on here. *[Desk thumping]* He cannot allay the suspicions of many people in this country that this is a payout to his friends. He cannot allay those suspicions. He could bramble the people on this side, but there are going to be many people in this country who believe because of the lobbies, the vested interest, the close association and so forth, that this is a payout of millions of dollars to political investors in the United National Congress.

Thank you. *[Desk thumping]*

**Dr. Keith Rowley** (*Diego Martin West*): Mr. Speaker, I rise just to make a few observations of my own. My first observation has to be the lack of interest by the Government in responding to the contents of this report, especially in the light of the construction that can be placed on the contents of this report by the previous speakers, and in fact, all those who took part in preparing this report.

**6.10 p.m.**

Mr. Speaker, it does not matter what the Government does in terms of getting involved in the debate. In all earnestness to Members of the Government, when I

sit here, having read this report and I hear the presentations of my colleagues from Diego Martin East and Central, when I see the documentation, the paper trail to which we have been privy, only because there has been a parliamentary enquiry into this matter, because had this not been, we would not have been privy to the step-by-step development of this situation. When one looks at the paper trail as to who did what and who said what, and the person responsible for driving this process is the Minister of Finance and the Minister of Tourism, who comes here, laughs and giggles in the Parliament while people are taking serious objection to his conduct as Minister of Finance, I tell him, pull up his socks. [*Desk thumping*].

I think it is an affront to the people of Trinidad and Tobago for this matter to be debated after a parliamentary enquiry and given the facts that are in this document, I think the Minister of Finance has a lot of explaining to do. I await his explanation. I do not want to hear him cursing his partner or bad talking his friend. I want to hear him focusing on the evidence presented by those who gave statements to the committee. Mr. Speaker, I know that you are quite correct when you ask that we keep this debate within the confines of the ambit of the report by this committee. But even as we are doing that we cannot, we cannot do it in isolation.

What the Minister of Finance did in the budget debate, which triggered this whole thing, was that he signalled an intention to transfer substantial sums of money from the national Treasury into the hands of private individuals. That is the fact. He has the authority to do so. He holds the post of Minister of Finance and Minister of Tourism, and he has the authority to do that. That is why when you look at the document, that brilliant piece of public servantesse, the person whose comment was put there, where it says that everything is transparent and we see no malfeasance, that is a classic. Because the person who is transferring the money from the Treasury into private hands is the authorized person. It is not a person signing on behalf of somebody, where the person who is signing does not have the authority to sign and they are, therefore, forging somebody's signature which is fraud. It is not that at all. It is a step-by-step process where the authorized custodian of the Treasury, the Minister of Finance and the Minister of Tourism, is taking steps to transfer \$52 million from the state account into the account of a private organization.

To do that, there is a process and a procedure, and the paper trail which shows us the evolution of the Cabinet decision to do that raises many questions and concerns. One can put the best construction on it, that the Minister of Finance was

negligent, incompetent, benevolent; or you can put the worst construction on it, that he was seeking to improperly transfer these moneys. It is open for you. This document—as my colleague from Diego Martin Central says—does not pay any attention to who is culpable; it simply says what has happened.

I entered this debate to do two things, one, to ask the Minister of Finance to explain the steps, and to let him know that even though this committee report might be ignored by the Government and the money is paid to Maritime; if the Government uses its majority and says, "forget it"; if the Government does not take part in the debate to provide some accountability to the population, if all that happens, I simply want my colleague, the Minister of Finance to know, that when he goes out of here tonight, or whenever he goes, he is not fooling anybody as to what has happened in this matter. It was a straight case of transferring moneys from the Treasury to private hands.

For years, many people in this country have talked about governmental officials—Mr. Speaker, you were in government, you served this country and are still doing so—I served this country, they are serving the country. We are all serving the country. A common parlance here, is who "tief" government money and who "tief" this, that and the other. Unless, of course, you want to go out there and be an ordinary common thief and take up a bag of government's cement or whatever, it is very difficult to "tief" Government money. You cannot get into the Treasury to turn any lock to take out any money and put it in your pocket, you will find that there is not money in it. Governments money is handled by the movement of paper on authorization, and insofar as government money is stolen by high ranking officials, it is not by "tiefing" no money, it is by allowing moneys to flow sometimes in quite nice looking vehicles which are properly decorated, that is how you can access it. If there is a classic case of moneys being properly transferred from the Treasury to private hands, this committee's report is a classic case.

The Minister of Finance and the Minister of Tourism stays across there and has the temerity to shout out, "Lock meh up nah!" [*Interruption*] That is what he is saying, but he knows very well that with what this document contains, no police officer of the state can put his hand in his fob and pull him on his toes. Because what has been done, has been done through the system, which is why we have to ask the question as to how did the system function? We have got to pack up. My colleague from Diego Martin East asked the question.

Many people in this country, unfortunately, have lost much of their assets as a result of the failure of private institutions. I know a number of persons. I know one

gentleman who worked his life in Venezuela, came back to this country with a big, nice nest egg. He was 60 years old—he arrived here just after his sixtieth birthday—and put all of that money in a finance house here, substantial hundreds of thousands of dollars. He lost every cent! He had to go back to Venezuela and work as a post retiree to earn enough to return to this country. I am not even sure he came back.

I know a number of persons who got their gratuities after serving the public sector for a long time. They put it in finance houses in this country and lost it; my fault, anybody's fault, the bottom line is, it happened. Those persons can quite correctly argue that the Government had a responsibility to protect them from that misfortune and should have some requirement to assist them. I know of no instance where the Government has done that. Some citizens lost their pensions, all their earnings and savings, they got no assistance. Other persons were paying for their security by way of insurance policies—in this case of WINSURE—they too lost their assets, but not as thoroughly and completely as the people I mentioned earlier. But the Government picks this one to show benevolence of a variety that is super. The question is, why?

Notwithstanding the arguments made that the Government should do that, counter arguments had prevailed why the Government should not do it. This thing came to a head in 1988 under an administration that prided itself on its 'fiscal and monetary management', 'fiscal prudence and accountability'. That administration took pride in making those words its labels. In 1988 that administration had to deal with this. By 1994, this matter had been brought to a head legally, and the interesting thing about it is that between December 15, 1991, when the Government changed from NAR to PNM, between that period of 1991 to when the Minister of Finance and the Minister of Tourism left his first life in the PNM, he was a Member of the Cabinet which brought this issue to a head, legally brought it to closure, he was part of that Cabinet. That is a fact. I am casting no aspersions on him, the facts are there to be seen. He was part of the Cabinet that took that decision, which was to reverse the 1991 decision, which was setting a precedent and treating with our citizens in an unequal manner.

I heard no objection from him at that time, because I was in the Cabinet. We served for four years, there was a general election in this country in 1995, this matter was not on the agenda. One administration changes for another.

Interestingly enough, you have in the Cabinet today, my colleague from Naparima who was also in the Cabinet which brought this matter to closure in

1994. There is my colleague from Tobago West who, with respect to a valuation of 1990, even though that administration said they would go that route, the value then was \$35 million. What has happened? There is my friend from Point Fortin who was also in the Cabinet when this matter was brought to closure in 1994. Even though my friend from Arima was not in the Cabinet he was a significant part of the government that brought this thing to closure. Mr. Speaker, what has happened between 1994 and 1995 to cause this tremendous turn around in public policy in Trinidad and Tobago. [*Desk thumping*] What has caused this?

I heard and read in the document that an approach was made to the Prime Minister in the company of a lobbyist who is now to be the beneficiary of \$52 million, a matter of days after the general elections; days! I can quite accurately say, immediately after the government changed, this matter received top priority action and the Government is being asked to reopen this matter, a matter which the state has brought to closure. There was no issue on the table and the Government moved expeditiously. I am not here casting any aspersions on anyone but simply stating the facts. But you have to ask yourself, why?

Therefore, the Government decides to reverse the previous Cabinet's position—and any Government is entitled to do that—because circumstances change, sometimes government policies and influences change.

The Government decided to become benevolent on this issue and to reopen it, and the grounds as outlined in the Selwyn John letter to the Prime Minister, are that persons have suffered. If the Government was really about equity and evenhandedness, it would seek to deal with that basket of persons that had suffered. But no, in this case it seems as though special interest focused only on this particular matter. If it is benevolence that is the over-riding consideration, has anybody put forward a case for the other people who have also suffered? My information is that, even the note written to the Prime Minister was misleading. What I can tell you, is that the person who, by document, in this committee report, initiated the contact to reopen this matter, is none other than a Government Senator. Do these things not matter.

**6.25 p.m.**

Is it by coincidence that the person who approached the Prime Minister within a matter of days—in fact, if I look at the date of that letter it might very well be the same date he was appointed Senator; two weeks after the election. It must have been about the same time, it could have been the same day he was appointed a Government Senator—he approached the Prime Minister to re-open a dead matter

to cost this country \$52 million. [*Desk thumping*] I am saying even that letter itself might have been deceitful and deceptive because the letter says that “my members” of the union giving the impression that the union membership had some significant outlay there.

My investigation is that it is the executive pension plan that is at risk. As far as I know—I could be corrected—I am not aware of a trust fund pension plan for the rank and file members of the union. That pension plan was for the small number of executive; about five people. Therefore, the interest of about five or six people caused this matter to be re-opened on the initiative of a Government Senator and the Minister of Finance saw the opportunity to transfer money from the Treasury to private hands. Mr. Speaker, those are the facts.

As I said before—I am correct, it is here in the documents, the letter from the NUGFW on page 24. Our report is saying that even that letter says it did not encompass the full membership of NUGFW but the way the lobby text was written it was giving that impression. The approach was made and there is nothing wrong with that. One can approach the Prime Minister for help. But at the same time the Prime Minister passes it on to the relevant Minister, the Minister of Finance. The Minister of Finance now has a duty to provide his colleagues with all the facts if, in fact, this administration is going to reverse a standing arrangement.

Mr. Speaker, the documents of our report indicate very clearly that the Minister of Finance of Trinidad and Tobago was less than forthright with his colleagues in the Cabinet with a view to getting a particular decision out of the Cabinet. Because if that decision is had, once the Cabinet takes the decision no law in this country is broken. Once the Cabinet agrees to pursue that course of action then the moneys can be transferred from the Treasury into private hands and no individual has broken any law. But we have a question to answer. Is it because the Minister of Finance was incompetent? Is it because he was benevolent or is it because he had other motives why he went out of his way to generate the paper trail that this report exposes to us? While he is doing that, the state has in its employ a number of professional people whose job it is to guide Ministers as they discharge their functions. This Minister of Finance had some of the best of those state functionaries. I worked with them and I know them. Mr. Speaker, they are the best in the public service. He had them available to him. [*Desk thumping*] Our report shows the class and the quality of those public servants. They were pleading with him, they were nudging him, they were guiding him in a certain direction but as a run away horse and a rogue elephant in the thieftom, he does not allow them to assist him in that direction.

What does he do Mr. Speaker? Being less than forthright with his colleagues, first, we are going to bail out WINSURE and we are going to pay them a certain amount of money. My colleague from Diego Martin East pointed out that if when the NAR had that approach the portfolio was worth \$32.7 million—any school child would know that as the policies are lapsed—because the legal opinion which we have coming out of the enquiry says the policies were not forfeited because of certain technicalities and as a result of no notice being given, as required by law, the company could not have been said to have forfeited those policies. Therefore, they are in there but lapsed and if the beneficiaries want to reinstate them under any conditions in this bail-out arrangement, the cost of reinstating those lapsed policies is for the account of the policyholders.

Where does this question arise of this huge basket of money to be given to WINSURE to bail them out. The impression being given to the public—I want to make this very clear—is that this large sum of money being paid to Maritime would allow Maritime to deal with the suffering of all those people who had WINSURE policies. Mr. Speaker, nothing could be further from the truth. [*Desk thumping*] Nothing could be further from the truth because with one of the actions of the Minister, in seeking to put this plan in place, is that he either deliberately or negligently did not allow his Cabinet colleagues to know, because I am sure that had he told his Cabinet colleagues that they would pay all that money to WINSURE, \$35 million up front and \$17 million in interest and that after they pay all this money, only a very small number of WINSURE policyholders will benefit, I have good reason to believe that my colleagues on the other side may not have agreed to have gone this route.

**Mr. Hinds:** I disagree.

**Dr. K. Rowley:** I give them the benefit of the doubt. I keep saying it over and over, they are not all bad and hopeless over there. A few of them have some training and integrity. Mr. Speaker, I am sure that even the Minister of Finance himself knows that, because if he did not know that then why the subterfuge? Why not tell them everything and put all the cards on the table? Why do we have to see in this report that he is using a valuation that was done many moons ago and that obviously should have been reduced. He is doing that and he is resisting the advice of the public officials who advised that if the government is going to intervene to assist as it is doing now, the least we can do and the most obvious thing is to find out what the exposure is. What is wrong with that, Mr. Speaker?

If the Government had done that the only complaint that the country could have had and those of us who speak on behalf of those who would like to express

themselves in this House, is whether or not the Government should have bailed out the people involved. If the matter was handled properly and a proper valuation was done and that valuation showed that to bail out WINSURE it required \$25 million, that would not have been the issue at all. The issue would have been should the Government do this; and how could the Government do this for only one group and not do similar things for the other groups? That would have been the issue but we do not have that. We have the Minister of Finance approaching his Cabinet colleagues to pay \$30 million odd; a valuation of way back when.

Worse than that, Mr. Speaker, he is not content to do that. He is not content with that sum. He wants to pay them more money. How is that more to be paid? He cannot rewrite the valuation of NAR of 1991 so the concept of interest is made to apply. When one looks at the interest and how it is going to apply, our report shows that the period for which this interest is to be charged Maritime had no exposure. What are they getting this interest for? For a period when they had no liability and no exposure.

Then, Mr. Speaker, the Cabinet will pass it but how is the money to be raised to pay; and the question of bonds came up. The technicians advised that if they are going to use bonds or if they attempt to use bonds they would not qualify because the Development Loans Act specifically says that bonds can only be raised for the general development and since transferring funds from the Treasury into the hands of a small number of persons cannot be viewed as general development, they cannot go that route. Therefore, the Minister of Finance knew that very clearly. But in seeking to get the Cabinet's decision what does the Minister of Finance do?. He is not offering the Cabinet the information about the court order where there is valuable and pertinent information. That is being kept away from the Cabinet but what is being offered is the useless, misleading option that they can go by way of bonds. Again, I want to say that could have had the effect of influencing a large number of Members of Cabinet who, seeing the two options of cash and bonds, would have said if push comes to shove and we have to choose between the hospitals and WINSURE payment, we will use the cash for the hospital and the bonds for WINSURE; if we have to choose between school construction in Carenage and the bonds, we will use the cash for school construction and bonds for WINSURE. What the Cabinet did not know was that there was no option of bonds.

Mr. Speaker, how could I not question the motive of the Minister of Finance when the report shows in the evolution of this decision that this is how the



Minister of Finance proceeded to carry out his duties? He presented the Cabinet with this palatable, sugar-coated option knowing full well that the option was not available but that presentation was required to get the decision of the Cabinet. Mr. Speaker, he did that and having got that Cabinet's decision, immediately cash payments are in the offing because that is when he came to the House to tell us—I do not think he said anything. It was just written in the document. He did not mention it. In a budget where he was making all kinds of statements, praising himself and his Government, the Panday Administration for the wonderful job that they were doing in dealing with the poor and the small man—remember that budget? The highlight of that budget was “read my lips, no new taxes” only giving and he went through a long litany of what he was giving to the poor man. How could he have forgotten that he was helping the WINSURE small man? In a budget where he was highlighting what he was doing for the small man, he reopened the WINSURE case, bailing out the WINSURE policyholders—so he says—to the tune of \$52 million and not a drum was heard, not a timbrel note. It is when we saw it in the document along the mathematical path of the document, we asked what is this for? Otherwise we would have passed through this House and gone to committee stage and once it was voted upon, they would have got the cheques, the money would have been transferred from the Treasury into private hands with the sanction of the Cabinet and the Parliament. Mr. Speaker, that is it. [*Desk thumping*]

When the public servants say that they see it as transparent, that is what they are saying. There was nothing wrong with the procedure. It was just the moral aspect of it and the accuracy of the numbers. The procedure was perfect and the scheme was brilliant except that it is the people of Trinidad and Tobago who will pay.

#### **6.40 p.m.**

This Minister of Finance got his colleagues in the Cabinet to assist him in transferring money to his friends and he went one step further, he attempted to get the Parliament of Trinidad and Tobago to sanction his strange conduct. [*Desk thumping*] If that is what they do not understand, that is what has happened. This is on the table, not under the table; on the table in front of you; in front the Speaker in the Parliament. That is how it is done.

**Mr. Bereaux:** Sleight of hand!

**Dr. K. Rowley:** Mr. Speaker, you must ask yourself: Is it important to note who are the beneficiaries? That is why my colleague from Diego Martin East intervened to point out that justice must not only be done, but it must be seen to be

done and insofar as the Minister of Finance was making this bailout of WINSURE with Maritime as the beneficiary, it is important for us to note that the Minister of Finance has a long and ongoing relationship with the Maritime group. That is a fact. I am not making that up. I am not accusing anybody of anything. He was a general manager of Maritime. What do you want me to think? What do you want the little farmer in Carapichaima, or in Scarborough, or in Arima, or in Diego Martin to think? What do you want them to think?

A Minister of Finance who deliberately charts a course around his colleagues to get them to make a particular decision, to get the Cabinet to stamp something which is questionable and cannot stand scrutiny, comes to the Parliament and tries to sneak it through the Parliament. Then it turns out that the beneficiaries are his friends. *[Interruption]*

Mr. Speaker, if this is not satisfaction—*[Interruption]* Mr. Speaker, I ask your protection from the Member for Arima.

**Dr. Griffith:** Do you need protection from me?

**Dr. K. Rowley:** Yes. From him. I do not like to smell.

**Mr. Speaker:** Hon. Members—

**Mr. Humphrey:** *[Inaudible]*

**Mr. Speaker:** No, well whatever the Speaker allows, he accepts responsibility for it. We are proceeding on the basis that a Member is on his legs. If there is any Member on the other side, or even on that side, who feels that I am wrong, he is entitled to get up under the Standing Orders and draw it to my attention. The way in which we will proceed is not in the way in which we are doing it.

The Member is entitled to be heard in silence and I simply say that whenever we behave like that, we give one the impression that we have something to hide. It is unnecessary. Let him talk. Everybody on this side will have an opportunity of talking if he or she wishes, as indeed, over there. What is the magic? Let us not get too emotional about this. Please proceed. *[Desk thumping]*

**Dr. K. Rowley:** Thank you, Mr. Speaker.

**Mr. Humphrey:** I am holding the report in my hands.

**Dr. K. Rowley:** As you will know, I have no difficulty—

**Mr. Speaker:** May I ask the hon. Member to talk in my direction and to me, and to ignore any of the comments that come from the other side. I will deal with it. *[Desk thumping]*

**Dr. K. Rowley:** I thank you for your intervention and your protection, Mr. Speaker.

I would like to ask the Government to set the parliamentary records straight, because what is happening here today is going to go down on the records of this country and it would be a sad case indeed if, in fact, after the query that was raised in this place when this matter was discovered, or unearthed, I should say, that a committee of both Houses of Parliament would have gone through this matter in the way it has gone through its business; would have come back and reported to the House; would have made specific recommendations and, in fact, I want to commend the Members of the committee because they looked for a solution. They did not look for acrimony and they by-passed culpability. What they looked for was a solution and the committee, in order to give us the opportunity to embrace that solution, made compromises and the committee—the Chairman and his Members—strove for unanimity. All Members of the Committee signed this report and, to me, that gives a certain cloak of beseechment to other Members of the House that we can follow the momentum; put aside the course of the action; focus on the solution to the problem and proceed from there.

What is the committee asking, Mr. Speaker? The committee is asking the very same thing that we are all asking, as persons who are reasonable. Value the portfolio; see what it is worth; and I assume that what naturally follows from that is that the state will then pay only what it is worth. I am advised that if that is done, the state will save substantial millions of dollars. My colleague from Diego Martin Central made some calculations and he has given his opinion to which I want to attach mine, and that is, it will save upwards of \$20 million if we do what everybody thinks should be done—the public servants, the Members of Parliament and I dare say even the Members of the Cabinet now, being exposed to this report, may wish to change their view and do what should have been done before. Because the only person who seems to have a problem with that logical approach is the Minister of Finance.

I am saying, with all due respect to the Minister of Finance, one person cannot be allowed to transfer \$20 million in excess out of the Treasury into private hands when another course is available where that money can be saved. One person should not be allowed to do that. Therein lies the Government's responsibility. The Government has a responsibility to take the committee's report seriously and to treat with its recommendations with the seriousness that they deserve.

I do not want to say any more on this matter at the moment. I will leave it there and I will wait to see what the Government does, because with every passing

day, events like these arise and there are things happening in this country of which this is only one, where the Government has a posture that it does not care what anybody thinks; it has no regard for our opinion; it does not care how you feel about it; but it wants to do this, it could do it and will do it. That attitude might not cost the Government an election, but it might cost us a society in Trinidad and Tobago.

A number of countries started off in a better position than we, in more ways than one, and they ended up on the road to wreck and ruin. When you look at the pathway they travelled to get where they reached, they did so one step at a time and this behaviour of the Minister of Finance in this brazen attempt to transfer moneys from the Treasury into the pockets of his friends is just another step in the wrong direction, sending a signal to people outside that if the Minister of Finance could do that, then I with the gun and the knife could do it, too. That is the signal we are sending out there. They will feel no shame; no remorse; they will believe that they are part of a culture and that culture approves this kind of wicked and brutal behaviour.

The Government has a responsibility to set the tone of this society. We cannot have Government officials, a high profile person like the Minister of Finance tugging his nose at the population like this, and when his own conduct is exposed in the way this report has exposed it, he can take the approach that he can giggle, make jokes and throw "picong", but I will not be impressed with that. I want to hear the facts of the situation and I want to hear how the Government intends to treat with the serious business of this country. Mr. Speaker, a word of warning is enough for the wise. This Government is setting a tone in this country by its attitude.

I want to end on one note. I am holding the people, for whom the electorate voted, personally responsible for the conduct of the Minister of Finance.

I thank you, Mr. Speaker.

**Mr. Fitzgerald Hinds** (*Laventille East/Morvant*): Mr. Speaker, in this very important debate and given the critical issues that have arisen in the course of this debate, it is shocking and surprising that not one person on that side is demonstrating any eagerness to speak up for what was a Cabinet decision of which most of them were a part. I am shocked.

When I listened to the contribution of the Member for Diego Martin Central as he laid the backdrop to the whole scenario and demonstrated the work of that team

as it did the inquiry that is reported before this House today; when I listened to the Member for Diego Martin East as he raised some very pertinent and some telling questions, sensitizing the Members of this Chamber and, by extension, the national community and indeed the world; I was taken aback and their silence confuses me. If that was not enough, when I listened to the lucid and comprehensive analysis of the circumstances, again, by the Member for Diego Martin West, logical, cogent, persuasive, I was forced to rise as a Member of this Chamber as a representative of the folks of Laventille East/Morvant, to make a very short contribution to this debate.

The Member for Diego Martin West allowed us a very clear insight into the meandering of the Minister of Finance in this matter. He demonstrated how easily a Cabinet that is seated with people most of whom are elected, all of whom are intelligent, educated people could have been drawn in and almost used in a serious matter in which they have little or no understanding whatsoever. This contribution from the Member for Diego Martin West does not only speak to the conduct of the Minister of Finance and the Government and the ease with which it could have been carried along on a merry ride at the expense of the people of Trinidad and Tobago, but it speaks to the system of Government—very serious questions are being raised.

### **6.55 p.m.**

It is understandable because if the decision to reopen this issue were taken within two weeks of this Government coming to office, it means that my friends, the Members for Pointe-a-Pierre, Chaguanas, Princes Town, Nariva, Tabaquite and others had not a clue. They sat in that Cabinet, brand new, ignorant of the backdrop and the facts and they, perhaps, entrusted confidence in the Minister of Finance who was a former Cabinet Minister and a former Member of Government, and who was supposed to be a financial wizard. So it is easy to understand why they could have sat and gone along like lambs to be slaughtered.

Mr. Speaker, but now they cannot plead innocence any more. They have listened to three solid contributions ranging from the western peninsular to the west of the city of Port of Spain. They can no longer plead ignorance. *[Words expunged]*

**Mr. Speaker:** One has to be very careful, regardless of what may come to one's mind, in expressing views which may be translated in a certain context as making implications against Members of this or the other House. In one's rhetoric one ought to be careful and conscious of that. One can make one's contribution, I think, without resorting to that. So that lest the use of that word which came to

your mind be confused with, and be applied to somebody in this House, I think we should expunge it. You are doing quite well; you are making your contribution; you are talking on the issue which is before us—this House taking note of a report. It is not necessary to colour it in the manner in which you have just sought to do. Thank you.

**Mr. F. Hinds:** I thank you very kindly, Mr. Speaker.

Mr. Speaker, as I was saying, when you listened carefully to what the Members for Diego Martin West, Diego Martin East and Diego Martin Central had to say, it was not, as the public was led to believe, that it was an action on the Government's part that would bring relief to a large number of policyowners. When one thinks of an insurance company that operated in the insurance industry for many years, one immediately imagines thousands of policyowners. The impression that the public—the people whom we represent—got was that this move was to bail out and bring relief in a benevolent way to thousands of people. Now we are being made to see the bare facts that this was designed only for the benefit of a small elite group of executive policyholders, and, perhaps, other people.

The question must be reinforced: What were the circumstances that changed between 1994 and two weeks after the election of that UNC/NAR/Independent coalition to office, to have caused the issue to be reopened with such eagerness and urgency and with a significantly increased price tag? Why was not an up-to-date valuation of the liability carried out?

Mr. Speaker, the Minister of Finance came to get Parliament's blessing; this public forum where public sentiments are expressed through us, as representatives. So that the Parliament was being asked to give a blessing, as it were, to a procedure that appeared flawed from beginning to the present. That, too, raises questions about the system of government; matters, I am sure constitutional lawyers and academists would give attention to in the months or years ahead. All the while we are talking about public moneys.

Time after time we come to this Chamber and discuss matters that affect the citizens of this country. Week after week, day after day we listen to the plight of the poor in this country and then we come here to hear the Minister of Finance seeking our blessing on the expenditure of public funds to the tune of \$52 million against the backdrop that the report has highlighted. That is wrong. That is strange. Therefore, since the Government is elected to govern Trinidad and Tobago and to run public affairs; and since the Cabinet comprising of people

elected by the public and some appointed, and since we are talking about public moneys; and since he ventured into this public forum to get our blessing as well, I call on the Attorney General, the legal advisor to that Cabinet; the fearless, adventurous Attorney General, who has taken an oath to perform his duties without favour or affection, malice or ill will, fearlessly, the guardian of the public interest to stop and take stock and call his Government to order on this one.

More than that, in closing, Mr. Speaker, as the Member for Laventille East/Morvant in this rather tragic and serious issue, I call for a judicial inquiry into this matter to see whether there has been wrong doing and malfeasance on the part of that Government, and in particular, the Minister of Finance.

Mr. Speaker, I thank you.

**The Minister of Finance and Minister of Tourism (Sen. The Hon. Brian Kuei Tung):** Mr. Speaker, let me start by reminding this honourable House as to how we got here. Today we are being asked by the Member for Diego Martin Central to note the Report of the Public Accounts Committee on the question of payment to Maritime Life (Caribbean) Limited for assuming the obligations of the West Indian National Insurance Company Limited and WINSURE and the payment to the National Carnival Commission to liquidate debts to Northern Construction Limited, which was laid in the House of Representatives on Friday, November 7, 1997.

You would recall, Mr. Speaker, that it was in March, 1997, whilst we were debating matters that affected the finance of the country that the Member for Diego Martin Central saw red when he saw two names: Maritime Life (Caribbean) Limited and Northern Construction Limited. I recall at the time that one word was associated with those two names on a continuous basis, "corruption". Today, I have not seen the word "corruption" in any of those reports. It was not mentioned once. Where is the corruption? Where is the allegation of corruption in this report?

**7.05 p.m.**

Instead, the Member for Diego Martin Central reads the whole report into *Hansard*. He should be ashamed. He was given every opportunity as chairman of a committee, a document that he signed, and after alleging corruption, corruption, corruption he cannot prove anything. He proves nothing more than the fact that he has plenty time to waste and he plans to waste the time of this honourable House as well. That is what the Member has proven. He has proven he has a lot of time to dig up into files. He has proven that he has not been able to prove an allegation

that he made in this honourable House and, instead of putting his tail between his leg and accepting that there is no corruption, he comes and makes all kinds of wild allegations about the behaviour of the Minister of Finance and the rest of his Cabinet colleagues. He should tell the House what he thinks of that. There was no case that has been proven. The case has not been proven. Instead we have a document that talks about advice from technocrats.

Mr. Speaker, let me tell this honourable House, I am glad that they finally learnt to take advice from technocrats because they were the same Cabinet who refused to take advice from the technical people not to build an estate in La Brea. How much did that cost us? The Member did not talk about that. What about the advice the Members refused to take.

**Mr. Imbert:** The Minister was there.

**Sen. The Hon. B. Kuei Tung:** I was there! Incidentally let me talk a bit about this man described as the caricature of a mad magazine, the pony tail man. Do you know it was Mr. Manning who sent it to me and asked me to make the presentation? Did he tell you all that? That he called me as Minister of Trade in his Government—[*Interruption*].

**Mr. Speaker:** Hon. Members of the Opposition it will be greatly appreciated if, in like manner when one complains that one is being disrupted by the other side, that one will behave in the same way. It is not acceptable that there will be this question and answer period while the Minister is making his contribution. That is not the way it is going to be done. Please proceed.

**Sen. The Hon. B. Kuei Tung:** Whenever that happens, and you return to Government, I hope you remember your words about taking technical advice. Because, every single technical report which was available suggested that you cannot and should not build an estate in La Brea and you went ahead and did it. You have spent hundreds plus millions of dollars on a transaction today, which you clearly demonstrated is being negotiated between the technocrats in the Ministry of Finance, Maritime, and the judicial manager and you seek to allude to the fact that I am driving the negotiations. I do not know what it is like to be in Opposition. I have never been but it certainly demonstrates to me that you have nothing to do and maybe, a lot of time to waste. When one can go through file after file, and let me tell the Member for Diego Martin through you—Mr. Speaker, the documents the Member referred to I have not even seen, but the Member had the time to see it. It is because I have thousands of minutes to deal with. Let me tell you why I say that.



In 1991 the Director of Budgets asked for an opinion and let me assure this honourable House the Director of Budgets does not speak about insurance matters on behalf of the Government. He speaks about money and budgets. I would not fault him if he said in 1991, given the state of the economy at that time, that this is something that he does not recommend. I can understand that. But as a government, the Member failed to recognize that it went through the same thing with a previous administration that there are reasons why Maritime and Northern Construction conjure up all kinds of crazy things in their heads. Every time they see Maritime and Northern Construction the first thing that comes to their heads is corruption.

We gave them an opportunity.

The Prime Minister at the time said if it was corruption to go and investigate it. They put the Chief Whip in charge of a team and he signed the document incidentally. He has seen the document. I have not seen it. The Chief Whip, the Member for Diego Martin Central, Mr. Ken. Valley, prosecuted the poor technocrats. He brought them time and time again and tried to drill them. He tried to get all sorts of technical advice that will give him a case. He came up instead with three meaningless recommendations, where an assumption—and maybe the money is too much. That is fine. If it is too much, it should be subject to an actuarial evaluation and I have absolutely no difficulty with that, absolutely none. I have absolutely no difficulty with a new actuarial evaluation.

**Dr. Rowley:** We should go home now.

**Sen. The Hon. B. Kuei Tung:** We should have gone home instead of wasting people's time. You have not built a case. I could not believe, when I saw these reports, that these were allegations of corruption that one could not even find something wrong, instead it talks about a misleading of Cabinet. I know you all would like to be in Cabinet. I know that, and if you wish I have no difficulty with your coming here. Maybe, the Prime Minister might consider the Members of the Opposition for Cabinet positions. But you cannot assume what goes on in a Cabinet. You can criticize Cabinet's decisions for making policies. The NAR Cabinet made a decision, you came into Government, it decided to reverse that position, and that is absolutely your right. But this Government comes in and unbalancedly looks at it and you started assuming that the Minister did not give this or that information to Cabinet. How can you make that decision? How can you stand in judgment on what information I gave?

More than that, the Member for Diego Martin Central has time to see drafts of Cabinet Notes that I myself did not see. They were never sent to me. They were done in drafts by the public servants and they were changed from time to time. Because the Member has the luxury of time, he can go through each draft. What was sent to me is for my purpose. There was no evidence in what you have said that those drafts were sent on to me. Instead you tried to impute all kinds of allegations of corruption in between drafts to say how this changed to that. This “i” was dotted, and this “T” was changed. That does not make any sense to me. It does not prove any involvement by me. You were not able to prove that I was able to change any of those drafts. Instead, what was sent to me were notes asking me for some guidance and that is my responsibility. If you want to fault me, you could sit in hindsight and say I would do this differently, I do not have any difficulty with that. All of us get 20/20 in hindsight. That is why, to some measure, every time you see the word Maritime and Northern Construction you jump up and say corruption, we give you an opportunity to prove it and you are unable to do so.

The thing about it, if the Members over there felt that they needed more time or that they think they can find something, I would have understood that. There were people, I imagine Mr. Eric Williams, but I wonder which Eric signed this note?

**Mr. Humphrey:** Maybe the Member for Port of Spain South.

**Sen. The Hon. B. Kuei Tung:** But is there not a “father of the nation” called by that name too?

**Mr. Humphrey:** The one who signed the report.

**Sen. The Hon. B. Kuei Tung:** Danny Montano is an accountant. He boasts that he is one of the best chartered accountants in Trinidad and Tobago and he could not find any corruption to support his leader. He could not find anything that will give us any reason why we should be here at 7.15 p.m. debating something serious. Instead, we get some gyrations and wild allegations that cannot be proved. You had ample opportunity to prove it. Why was it not proved? You had access to every single document that was in the Ministry of Finance. You had an opportunity to interview every single public servant in the Ministry of Finance and you come and tell me I did not accept the advice. You did not even prove it. You merely said that I ignored the advice. I say you have ignored the advice too and cost the country much more than that and nobody said anything. It is your right to choose advice.

**7.15 p.m.**

I accepted the advice as they said. Let me talk about some of them. I already stated on page 6, that I had never seen this memo. This was done in 1991, when I was the Minister of Finance and Minister of Tourism. In 1996, at the request of the Prime Minister, I asked for an investigation about this WINSURE matter. I sent the letter down. At the time I got a response from the Supervisor of Insurance whose portfolio includes insurance matters. I received a file which was prepared by the previous administration that talked about why they did not want to go ahead. That is their right. If they did not want to proceed with Maritime I had no difficulty with that. They had an opportunity to decide what they were doing.

In October 1991, the NAR government decided it would go ahead with this. They noted that in their report. They said that the genesis of the problem which gave rise to the ultimate winding up of the WINSURE companies is to be found in the inability of the office of the Supervisor of Insurance to enforce compliance with the statutory fund requirement of the Insurance Act, and the inability on the part of the government of the day to take steps to effect remedial action in this regard. They said that the office of the Supervisor of Insurance fell down and therefore, WINSURE went through. The policyholders of WINSURE were disadvantaged by the government of the day in their continuing failure. The government of the day at the time attempted to make good its failure to protect its policy of WINSURE.

What is the problem? If this Government seeks to put in place what they have mentioned here, why do they criticize the Minister of Finance and Minister of Tourism, as if he has a personal hand in all this? I can understand. There is a perception that Maritime and Northern Construction have them where they are today. I understand the bitterness that he feels. Maybe, I would have felt the same way if I were rejected by the population because two companies said that they no longer support me. I understand the way he feels.

Furthermore, it is in the report. The Member for Diego Martin Central asked me about the Supervisor of Insurance. Through the Permanent Secretary, on February 12, 1996, a brief was sent in which he recommended that one of the options to be pursued was to seek to implement the Cabinet Minute 1831 of 1991, modified to reflect the current status of the portfolio. That was the recommendation of the Supervisor of Insurance.

The Member for Diego Martin Central asked why I chose to ignore the Permanent Secretary's view that an early opinion by the Solicitor General should be sought in order to determine whether there was a binding contract with

Maritime Life. He talked about the contractual obligations. In my discussion with him I told him at that time it did not make sense talking about a contractual obligation until Cabinet had an opportunity to decide whether it wanted to go ahead with that or not. If Cabinet decided to go with that and the Attorney General felt that he wanted to get the Solicitor General's opinion, as a Cabinet we were free to discuss it.

He sits here assuming that he knows what goes on in Cabinet. Maybe, it is because he is judging how Cabinet was run by the previous administration. That is the only basis on which he can make that judgment. Where is the corruption? I keep coming back to that. When he makes these allegations and gets an opportunity to prove something, he proves nothing and comes here and makes heavy weather about absolute nonsense.

Do you want to see the conclusions that they have drawn after spending months of wasting their time and that of the officials of the Ministry of Finance and Ministry of Tourism who had to tread willingly up here time and time again to give them the benefit of the doubt? They are trying to make a picture of something which took place, but did not. It reminds me of a photographer. This week I saw a photograph of the Attorney General and me kissing. It means that is what they were trying to do, to make something appear to be what it is not. They had enough opportunities. They had all the evidence and documentation and they come here to tell me that I am guilty of misleading the Cabinet.

Firstly, they started off with corruption, but now I am guilty of misleading Cabinet, without even proving it. Because a document which was sent to a previous Minister of Finance in 1991 was not sent to Cabinet, I am guilty of misleading Cabinet. They do not have any idea of what discussions take place in Cabinet, but I am guilty of misleading Cabinet. As far as I am concerned, it is the worst case to move from a question of corruption to one of misleading Cabinet. *[Interruption]* You wrote it. This is your report and it is signed by all of you.

In all of this we seem to ignore the role that the judicial manager in the court plays in this. This is a scheme of transfer which had been sanctioned by the court. Let me also make one other point which occurred to me. When the budget director talked about any financial assistance by government to the companies would establish an undesirable precedent, he was more guided by the fact that the state of the economy at the time would have been hard-pressed to find payment. A precedent had already been established. The Member for Diego Martin Central should know that. He used to work in the insurance industry. He was an agent for

Maritime. He was rebuffed when he tried to get a job with them. The Member for Diego Martin Central tried to get a job with Maritime and he still harbours that because he was rebuffed. I cannot believe that after so many years—

**Mr. Valley:** Mr. Speaker, the Member is going off now.

**Sen. The Hon. B. Kuei Tung:** Mr. Speaker, I am not giving way. The Member for Diego Martin Central tried to get a job with Maritime. That is how he ended up with Algico. He could not get a job with Maritime. A common friend of mine who was close to Maritime and Algico came to me and said, “Boy help the poor fella out. The fella cannot get a job.” That is how I am being repaid today by being called all kind of crook. I was not a crook when I hired him. Why did he work for a crook?

A precedent had been set. There was a company called First Federation Life which had already been bailed out by government. He would not know that. He was an agent in those days. He was pretending to be an executive of an insurance company, but he did not know about insurance. He did not know what was going on with insurance matters. First Federation Life was the first failure of an insurance company in Trinidad and Tobago. The Director of Budgets was incorrect when he said it would set an undesirable precedent. A precedent had already been set. Both the government and the insurance industry came together to bail out First Federation. Those were the facts.

In the case of WINSURE none of the insurance companies was willing to help, including Maritime. The report says that ATTIC said that none of its members was willing. Because the office of the Supervisor of Insurance felt that this would be bad for the financial industry, it went shopping around to find a willing insurance company to do that. They approached a number of us including Algico at the time. Maritime was the only one that felt an obligation to assist and came forward. On that basis, Maritime got involved with WINSURE. The Supervisor of Insurance made overtures to Maritime and every major insurance company to ask them if they would assist to ensure the continued solvency of the insurance industry.`

**7.25 p.m.**

It was on that basis also that the NAR government agreed to sanction a transfer of the portfolio from the Judicial Manager to Maritime Life. That is what brought us here today—the fact that at the time an insurance company was threatening the whole financial industry and it was felt that having done so before, we should attempt to get a bail out. To say that it was setting an undesirable precedent is

false. I can understand and support what the Director of Budgets was saying at the time, because in his judgment the country could not afford it.

In 1996, his tune was quite different. I do not think it fair for the Member for Diego Martin Central to extract select documents and draw conclusions from them to say this or that should have been the conclusion. I would hate to think that was the way they conducted their Cabinet. One would have had to see the whole picture. It is not fair, in a situation like this, to use selected documents and say that this means that the Minister of Finance did not advise his Cabinet colleagues fairly and misled them. That is not fair. The Member knows that in most Cabinets, there is a sub-committee called the Finance and General Purposes Committee. This was distilled extensively by the Finance and General Purposes Committee, so all the information that was available was made available to the committee.

They talked about it being a handful of people. According to this document with respect to WINSURE, which was obtained from the library, there were 1,061 policies in force at the time, not five executive members. It is unfair.

Mr. Speaker, I really do not see how the Member has made any such case. Instead, they have come to criticize Cabinet and in so doing they have criticized a Cabinet that was before them. They went in there with their own agenda, hatred and dislikes and used them to make decisions as to who should and should not get what. They chose during their time to ignore the advice of their best technocrats, but they come here and accuse me of ignoring, even though they have not proven such a case, and have criticized our Cabinet for making decisions based on incomplete information on the basis that I had given incomplete information.

Mr. Speaker, as I said, I have no difficulty in accepting the recommendations of the Public Accounts Committee. I like the relative ease with which the Member for Diego Martin Central referred to [*Inaudible*]. A question was asked by a Member in front of all the other Members of the Public Accounts Committee. He asked whether there was any wrongdoing in the transaction. The Supervisor of Insurance, the person to whom insurance matters are entrusted said that, as far as he was concerned—this is not hearsay; this is in the report—it was quite transparent. Based on all the Cabinet decisions and notes, the views of the Ministers and the position of the very senior officials are here for everyone to see. I quote:

“I have not seen anything that resembles any misfeasance or anything that might attract a negative position at least from the Ministry. I do not know what my colleagues would say.”

Then Chief Actuary, whom I know to be a friend of the Member for Diego Martin Central, agreed. So, too, did the Director, PSFMU. Where is the corruption he alleges? It is not in this document.

I have not heard the Northern Construction part of the report mentioned in any of the transactions. This is because the transaction that started with Northern Construction started during their administration and they refused to pay Northern Construction even though it had performed the services requested. Instead, they said there were no misdeeds with the transaction for Northern Construction Limited. However, we do not see that.

Based on investigations and observations, the findings of the committee are that Northern Construction Limited and the National Carnival Commission—the people they appointed—entered into the discussion in good faith to upgrade both the upstairs and downstairs members' stand and therefore the arrangement on a draft heads of agreement and they [*Inaudible*] merely because I was the one who made the payment.

They refused to pay Northern Construction Limited for work they asked them to do. As soon as they saw Northern Construction, the first word they said was "corruption". Where is the corruption in payment to Northern Construction? Here, too? There is not a word from the four members from that side who got up to talk: not one word. They should be embarrassed. They should be ashamed to be wasting Parliament's time with wild allegations they had every opportunity to prove and say nothing about corruption.

Mr. Speaker, I thank you.

**Mr. Eric Williams** (*Port of Spain South*): Mr. Speaker, I would have the hon. Minister of Finance, who is a visitor in this place, know that I am the Eric Williams who signed this document in my capacity as Member of Parliament for Port of Spain South, and a member of the Public Accounts Committee. He was trying to excuse himself, to wangle his way out in that discourse to which we were subjected.

I am a member of a committee which took its time to deliberate on both of these matters and sought, in its totality, to come to a conclusion that it thought fair to all. I am surprised, because the document in itself does not reflect the heat of the discussions that took place in committee. In fact, the document seeks to be a civil, responsible document which reports on the facts as they were obtained.

The hon. Minister of Finance talks about how the Chief Whip was wasting time. I draw his attention to something on the second page of this document, which is attributed to Erskine May.

“The Public Accounts Committee is concerned mainly with whether policy is carried out efficiently, effectively and economically. Its main functions are to see that public monies are applied for the purposes prescribed by Parliament, that extravagance and waste are minimized and that sound financial practices are encouraged in estimating and contracting and in administration generally.”

So, Mr. Speaker, in seeking to go through all sorts of obscure documents, the Public Accounts Committee was carrying out what it was charged to do. It was doing its work. If the hon. Minister of Finance does not have the time to read the documents in his Ministry, and the Public Accounts Committee can do the job, by saying what he did, he simply praised the Public Accounts Committee for doing his job because he ought to have checked on those matters.

If he has all those documents at his disposal and all the public servants report to him and the Public Accounts Committee was able to get all these documents that were in all of the files, then it begs the question as to the motives and intentions of the hon. Minister of Finance.

### **7.35 p.m**

I go on to the preamble of this report and it says:

“As outlined in section 119 of the Constitution, there shall be a Public Accounts Committee which shall consist of not less than six nor more than ten members.”

Duly constituted. It goes on:

“The Public Accounts Committee shall consider and report to the House of Representatives on—

- (a) appropriation accounts of moneys expended out of sums granted by Parliament to meet the public expenditure of Trinidad and Tobago;
- (b) such other accounts as may be referred to the Committee by the House of Representatives or as are authorised or required to be considered by the Committee under any other enactment; and
- (c) the report of the Auditor General on any such accounts.”



I can testify to the fact as I said before, through heated debate these functions were discharged. The Minister wonders at the so-called civil service ease, the language which is used in civil society. As you quite often point out to this House, Mr. Speaker, and as recorded in the rules of Parliament, certain language is not allowed, it is unparliamentary, and you had, on occasions to correct Members when they crossed that line, as it is your function.

This report seeks to speak in polite language of some serious concerns which emerged during the examination of the representatives from the Ministry of Finance, and the insurance industry at large. This evening, we have heard a discourse from several Members on this side because if you can read the language and understand it, one would see those concerns, they are clear to be seen and since the hon. Minister of Finance is unable to see it, then I can only wonder about his reading of the language of the civil servants who work for and with him.

I can attest to the fact, it was my first introduction to those public servants who came before us and who were examined by us, and they were very protective of their turf, their ministry and their Minister. They tried their best to explain things, and as a former civil servant myself, I was able to understand some of the language—not all, because I am not a financial person—they were saying and, in fact, there were many documents which the hon. Minister refers to as being obscure that were not forthcoming to the committee. It happens that the chairman of the committee is not without some knowledge of how the Ministry of Finance works, and he too, was able to read the language that was said and in fact, was then able to request certain documents, and lo and behold, an avalanche of what the Minister has just described from his files as being obscure documents, came to the fore. In effect, they saw the light of day and they were exposed before the public accounts committee and are duly recorded in this report.

Mr. Speaker, I do not propose to go on in any great detail into the report, that has been expounded on by the chairman of the committee and Members on this side. I am surprised that at least one of the key defenders on our committee has not risen to speak. Not a word, Mr. Speaker. I am surprised, however, I cannot speak for what goes on on the other side, or what its strategy is, but I am seriously concerned and I am in total agreement with what is expressed in this report.

There was also a significant discussion in the committee about whether or not the hon. Minister of Finance should have been brought before the Public Accounts Committee to be examined, and we went through a considerable debate and the Members of that committee who are on the Government side thought it would

have been inappropriate to have the Minister of Finance come to the committee to explain himself. The fact, that he did not come was based, at that time, on the majority of the committee who are Members of his side who thought he ought not to come.

Mr. Speaker, I continue to be shocked at some of the things which I learned as we moved along. There are several other points. The court about which the hon. Minister spoke of sanctioning the transfer is as though that was the be all and end all of the matter. The court sanctioned the agreement, and that in effect, superseded the Insurance Act, and if one reads paragraphs 5.41 and 5.42 this honourable House would see where the expert opinion pointed to that. It says that many of the policies lapsed, they were not forfeited on the technicality that they may not have been advertised and there was much discussion about that. The experts pointed out that WINSURE was no longer in the business of insurance and that it may have just been an oversight on the part of the liquidator, or that they were hopefully waiting on some bail out, or some technicality why they did not take the administrative step. In effect, the experts agreed that we had arrived at a situation where the policies had lapsed, and there is a difference between lapse and forfeiture, but in effect, the company was insolvent and it brings us to the point of the actuarial valuation, or just a simple data review.

Mr. Speaker, what is painfully obvious—and I am glad that the Minister had to concede—is that the exposure of the state in this matter would have been significantly reduced. The point is taken, we should have only been discussing the policy of the matter because the policy differed from the previous administration just as the previous differed from the one before. It was a matter of policy but there is a saying it is not what you do, but how you do what you do, and that has brought the whole matter into contention. The arbitrary manner in which the interest was arrived at. What has not come out, was that there was a further interest being put on it which would have added an additional \$2 million—\$4 million on top of that.

This report is written in parliamentary language. It is diplomatic and seeks not to impute motives of any kind to any Member of this or the other place. However, those who have eyes to see can see. [*Desk thumping*] Those who can read have read and can understand, those who are accustomed to polite society would understand the transgressions which are alluded to in this document.

I say that there are some questions which have remained unanswered. As a Member of the committee, I can say truly that I am not satisfied with the answers

which were put to this honourable House by the Minister of Finance, it is with regret I think I must say that. It is also with regret that the hon. Minister of Finance had to question who I am, since he knows me very well. It was an inelegant attempt to trivialize a serious matter.

In closing, I point out to Members opposite that there is a particular point of view which is gaining currency as we move along in this parliamentary session that the Minister or any Government minister is the CEO of his ministry. That goes against the Civil Service Act, it is in effect, the permanent secretary who is the CEO, the Minister is the chairman of the board and is responsible for policy, he is not the CEO. In this case also, there is a Minister who believes as others do, that he is a CEO. He goes to a Cabinet where the Cabinet takes decisions which have proven to be defective and not fully informed by the facts in the matter. He has therefore brought the whole policy of collective Cabinet responsibility to bear on his actions which are ill-advised and at the end of it all, in going to the Cabinet he said he would provide recommendations for a safety net so that this sort of activity would not occur again. This is unfortunate. We all agree that the law needs to be updated, so the Cabinet has agreed to something which it is not fully informed. It has agreed to matters which would provide relief to those who are economically challenged, but in this case, those trustful citizens who placed their funds into insurance firms. We await action on the part of this honourable Government to put the safety net in place.

Mr. Speaker, I agree with the observations and opinions of the Public Accounts Committee in the these two matters. In one case, there were serious questions, and in the other, the questions which were posed initially were satisfactorily answered and the report says so. I can only say again that it is with regret that I must come to the conclusion that the questions have not been answered and I can only hope that at some point before the parliamentary term is up, those questions are answered because what we are looking at, is an erosion of the public trust. I am one who says if you make a mistake or whatever, apologize, be big enough and move on, people would respect you for that. In this case, no such apology is forthcoming after the considered opinion of the Public Accounts Committee which sought to be as dispassionate as it could be.

**7.50 p.m.**

Maybe, I am wrong, Mr. Speaker, but I stand by what was said in this document. There is one other matter I must point out which may not have been alluded to. This action—particularly with regard to the Maritime matter, the first

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of the two matters—appeared to have been precipitated by a letter from the National Union of Government and Federated Workers, of which Sen. Selwyn John is the President. Sen. John was a member of the Public Accounts Committee and when we first started—and Mr. Valley was a Junior Minister of Finance—

#### PROCEDURAL MOTION

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I thank the hon. Member for Port of Spain South for giving way in order to facilitate the moving of a procedural motion.

I beg to move that the House continues to sit for the completion of this Motion, and the Senate Amendments, relating to the Dishonoured Cheques (Amdt.) Bill.

*Question put and agreed to.*

#### PUBLIC ACCOUNTS COMMITTEE REPORT

**Mr. E. Williams (Port of Spain South):** As I was about to say, Mr. Speaker, Sen. John went through a significant amount of soul-searching as to whether or not he should sit in deliberations on this matter. *[Interruption]* It was felt, however—if my memory serves me correct—by a majority of members, that there was no problem with that. Be that as it may, the committee proceeded with its deliberations and even with all that, the recommendations are what they are. That, I think, Mr. Speaker, speaks volumes.

I want to commend other Members of the Public Accounts Committee because, as I have pointed out before, we have had some heated sessions. We have gone, sometimes, overboard among ourselves, and we have had to bring ourselves back. However, at the end of the day we all recognized that we had a job to do and we were doing it. It is unfortunate, therefore, that the hon. Minister of Finance would suggest that the Public Accounts Committee did not seek to do its job, dispassionately.

With those few words, I thank this honourable House.

**The Minister of Housing and Settlements (Hon. John Humphrey)** Mr. Speaker, I was not a member of the Public Accounts Committee, but I am flabbergasted by what certain Members on that side of the House, who were on the committee, could put in the *Hansard* record of this honourable House. Members on that side gave the impression that this transaction resulted from a newly appointed Senator's approach to the Prime Minister with a problem. The

impression was given that the Senator was among a few individuals who had a pension plan with an insurance company which collapsed and that Senator was concerned, only, with his interest; that the only persons who had pension with that particular failed insurance company was the executive members of the trade union, which he represented.

Mr. Speaker, I am flabbergasted because that committee had access to, not only, the officers listed in the report but—I want to remind the House from where those officers came. In the report, under acknowledgments, it says:

“The Public Accounts Committee extends sincere thanks to the Parliament staff particularly the Hansard Section and the Committee’s Secretariat for their invaluable work on the Committee’s behalf.

The Committee also expresses its appreciation to all the advisors to the Committee:

- i) Representatives from the Auditor General’s Department
- ii) Representatives from the Ministry of Finance—Comptroller of Accounts Division

Finally, the Committee wishes to express its gratitude to those Accounting Officers and other officials from the Ministries and private sector organisations who made themselves available and complied with the requests of the Committee.”

Therefore, Mr. Speaker, the committee has acknowledged that nothing was in the way of the work of the committee. They had access to every officer they wished to access.

Mr. Speaker, I quote from page 1 of the report:

“During the course of the examination the Committee reviewed the following documents and reports which are listed hereunder. Two (2) packages of these documents are lodged in the Parliament Library.”

I looked through this very long list and particularly asked for the Parliament’s Library to furnish me with two of the documents listed hereunder:

- “vi) Order of Justice Anthony Lucky and
- xiii) Order of Justice Ivor Blackman dated December 09, 1996”

While sitting here, in a matter of a few minutes, I was able to peruse some of these documents. Mr. Speaker, we were given the impression that there were a few

beneficiaries; a few pensioners, who were affected by the collapse of this insurance company. In these documents, as part of the report of the Judicial Manager to the court in its proceedings, I came across a list with the estimated number of policies in force at February 18, 1988, which are as follows:

Long-term Business	No. of Policies:
Ordinary Life	1,061
Group Pensions	1
Group Life	3
Deposit Administration Contracts	1
Group Health	1
General Business (Motor)	11,000
Property	2,200
Other Classes (General Business)	300

**8.00 p.m.**

So Mr. Speaker, right away, Members can see that there are many people who are affected by the collapse of that company and not merely the executive of a particular trade union. But, to make matters worse, Mr. Speaker, you know Members are not censured for misleading this House. I have been in Parliament for 20 years and all presiding officers have censured Members of the Parliament for misleading the House except that in this term, Members are not censured for misleading the House.

**Mr. Speaker:** That appears to be a censure of the presiding officer. The fact that other presiding officers did things which this presiding officer is not doing is in itself a censure. Members should, in the best tradition, try not to do that unless one is coming on a substantive motion. But just apart from that, I may simply say, that the whole question of misleading, who decides who is misleading what? What against what? So that I think that that is rather murky, dangerous, deep water that we are going into. I think it is better if one sidesteps that one. I would suggest that.

**Mr. Humphrey:** I am on my feet. You want me to give way?

**Mr. Valley:** Yes, please. Because I know he is going along a premise which is really incorrect. He is looking at 1988. He made the point that in 1988 there were

about 3,600 policyholders, but by 1995—the judicial manager said it—there were only 100 policies in force.

**Hon. J. Humphrey:** Mr. Speaker, the *Hansard* record shows that only executive members of a particular trade union were the ones who had lost as a result of the collapse of that company, and more than one Member on that side had stated it and the Members who are on the committee have not corrected it! In fact, the last speaker from Port of Spain South, who is on the committee and who signed the report, these documents were accessible to him. I am going to put on record what is in the Court documents. I quote:

<b>"Summary of Group Life Pensions/DAC's</b>	<b>\$'000</b>
WINSURE staff (Inactive) as per listing	525
WINSURE staff (Active) as per listing	1,010
Public Services Association (as per proof of debt)	1,800
NUGFW Employees (as per proof of debt)	2,462
NUGFW Officers (as per proof of debt)	1,299
A. De B Consultants Pension Plan	2,887"

Mr. Speaker, it is not correct to say that the Government acted to do a favour for a Government Senator who happened to be an executive member of a particular trade union. Then, to make it even worse, it was being suggested that by that Government Senator accepting his position on this committee he was, in fact, doing something questionable.

**Mr. Valley:** Nobody said that.

**Hon. J. Humphrey:** That is what was being suggested and that is what the media, who are in this Chamber, go out of here and report. That is in just a few minutes of reading. I have the other file to read as well. If those members had done their work, they would have gone through these documents and they would have had a clearer picture of the whole collapse of the company. They would not have stood up in this House and misled the House the way they have done and, in misleading this House, misleading the national community at the same time. Mr. Speaker, I have been a Member of this House for a very long time and I am not comfortable when that happens here in the national Parliament. I am not being critical of the Chair, the Speaker has his own style, he will interpret the rules how he chooses, I accept that. I play by the rules, but I am not happy when Members

stand here, mislead the House, mislead the national community and do not tell the truth and they can get away with it. And the media picks up all of those things that they allege here and give prominence to them. I cannot say that I am happy as a Member of this House to be witness to that.

**The Parliamentary Secretary in the Ministry of Works and Transport (Mr. Chandresh Sharma):** Mr. Speaker, in making my contribution I want to indicate that what took place is based on the Insurance Act of 1980, which is very important and very instructive in this particular debate this evening. More than that, at no time did the quantum of money come into question. If one looks at the Cabinet Note No. 1831 of October 10, 1991, a sum of money was agreed to. Then again, Cabinet Note 2426 of October 1, 1992, again the quantum was the same amount agreed to. The difficulty in 1992 is that the then Government could not source the funds. The instructions were then to look elsewhere for a bailout. In addition to that, the result of concern in 1989 with the failure of WINSURE, was that the then Government mandated the Supervisor of Insurance to effect a bailout and at that time the intention was to employ ATTIC, the Association of Trinidad and Tobago Insurance Companies. It is at that time that Maritime Life Insurance—or the Maritime Insurance Company—became involved.

This evening we heard from the Member for Diego Martin Central that the present Minister of Finance did not take the advice of the technical people at the various ministries. It is very unfortunate that he would say that because it is the same Minister who did not listen to his technical people and that is how we ended up with the La Brea disaster. It is this same Minister who did not take advice and we gave away BWIA for a few dollars, and the very same minister who gave away National Fisheries. Today, it is very convenient to say to the House here and the national community that one minister did not listen and here you are seeing very clear evidence that hundreds of millions of dollars are involved. The same can be said about the Caroni Racing Complex.

So that the Supervisor of Insurance, being the officer in charge, with the responsibility to advise Government on insurance matters, overrides others who are not qualified or charged with the specific responsibility. So what we saw taking place is in accordance with the agreement sanctioned by the High Court. Now, one has to appreciate that judicial management was requested in this instance. Unlike Calico and United Securities Limited (USL), the judicial managers were requested by the controllers of WINSURE after the business had collapsed. So, the Insurance Act, very clearly states that the policyholders' interest must be maintained and secured at all times.



We had an opinion from an authority on insurance law, Dr. Denbow, who clearly indicated—again, the Member for Diego Martin Central chose not to indicate that this evening—that because of the failure of the insurance companies to comply with the law—I think it is section 136(4)—the policyholders continued to remain on the books. So there was a legal responsibility by the insurance company to those policyholders, and in this instance we are talking about 5,000 plus policyholders. So the insurance companies, having failed to do what the law instructed, there were no lapsed policies. So that the agreement entered into with Maritime was for all policyholders.

**Mr. Valley:** Mr. Speaker, just a correction. Dr. Denbow said that no policies were forfeited, that they had arrived at a lapsed position, but they were not forfeited; a distinction.

**Mr. C. Sharma:** Mr. Speaker, that makes the point crystal clear, that the policies were not forfeited for whatever reason, and the end product is that the policies continued to remain on the books. As a result, the responsibility in law is that the insurance companies were obligated to all the policyholders. So the bailout was for all.

So the first point is that the quantum of money agreed to in 1991, based on the Cabinet Note 1831 of October 10, 1991 made that point. Again, a second Cabinet sat in October, 1992, almost one year later, Cabinet Note 2426, clearly indicated no problems with the quantum of money. The problem then was how to find the money and a number of opinions were suggested, some were not taken up. At the time when Maritime had indicated an interest, the Government of the day thought that ATTIC should get involved and ATTIC indicated no interest in the matter, or were unable to come up with an idea and that is how Maritime got involved.

So there was a legal connection between Maritime and the Government at the time which provided for the transfer of liabilities with effect from January 1, 1990. It also indicated that Maritime would assume all risks arising after January 1, 1990—again, the Member for Diego Martin Central failed to indicate that this evening and we are both using the same notes—and undertook to cover those persons whose cover expired within two years. So here we have a situation where it has come to the attention of the public that a particular insurance company is in trouble. What do they do? The insurance company is not conducting business, the law provides that the policyholders must be covered or the insurance company can employ the same law which permits the existence to forfeit the policies and cause them to become lapsed. When they failed to do that, the court indicated—both

Justice Lucky and Justice Blackman—that they were covered. That is what the bailout was all about, to take care of all the policyholders from January 1, 1990.

We have heard about the valuation, and whether it was still valid. We have heard from an authority, one of the leading authorities in this part of the Caribbean, Mr. Tim Kimpton, Managing Partner in the firm of Bacon, Woodrow and De Souza, where he clearly indicated the current valuation might not be necessary. He based that as a professional, it was a professional opinion. He was of the view that if the list of liabilities is properly analyzed a new situation may not be necessary as data audit may be sufficient. This is especially true in this case where the list of liabilities has remained unchanged with the passage of time, notwithstanding the provisions of the agreement with respect to reinstatement. Again, Dr. Denbow referred us to section 136(4) of the Insurance Act which was never initiated. So it is very clear that the Government did the right thing by coming to the rescue of the policyholders of the insurance company in this matter.

Mr. Speaker, with regard to the issue about the interest. Interest is based on 8 per cent simple interest. By any financial measure in today's world that is the accepted norm, 8 per cent simple interest amounting to a certain sum of money.

**8.15 p.m.**

Mr. Speaker, the other matter I would touch on before I take my seat is, Dr. Denbow also gave a similar opinion in 1981 in a case involving a similar matter in Guyana. Again, members of our team were privy to that information and our files would indicate that. We were guided by the authorities of the day.

Another issue that emerged was that, the same public servants, top ranking as they were at the time who did a very good job, the same evidence that the Member for Diego Martin Central said we should comply with—and I agreed—the public servants indicated based on their professional opinion the course of action. They were the same public officers who told us everything was above board. Here we are being told that the public servants said differently, but at the end of day, they indicated to us, based on law, their work conduct and all the matters that came to their attention, that the transactions were clearly above board to the benefit of the policyholders. More than that, Mr. Speaker, this sets a very clear example of the Government's commitment to look at any matter requiring its attention.

They also indicated that because previous administrations had failed to execute the law which governs the operations of insurance which could have caused a financial downfall for all of us, had we not taken that particular course of action,

the law made it very clear what our obligations were. Everything that has taken place was based on law and the Government has attended to it.

I want to support the measures indicated by the Minister of Finance. We have been guided by the professional opinion of Dr. Claude Denbow, Mr. Tim Kimpton and the public servants, many of them professionals in their own right.

Thank you.

**Mr. Hedwige Bereaux** (*Member for La Brea*): Mr. Speaker, I had not intended to join this debate at all, but when I heard people in this honourable House talking about wasting money in La Brea, I get extremely upset and I think I need to set the record straight.

[MR. DEPUTY SPEAKER *in the Chair*]

No money was wasted on the development in La Brea. It still remains the only deepwater harbour in Trinidad and Tobago that is as secure. All that has happened is that the vindictiveness of this Government has stopped a development that would have redound to the benefit of the people of Trinidad and Tobago. In fact, today, the effect of the development—Point Fortin is showing how important La Brea and its deepwater harbour is.

Mr. Deputy Speaker, I heard the hon. Minister of Finance trying to say here that there was no corruption and that this report came on the basis of corruption with Northern Construction, and it said no corruption. I am looking at the signature page which has: Mr. Chandresh Sharma, Mr. Razack Ali, Sen. Philip Hamel-Smith, Dr. Fuad Khan, Sen. Selwyn John—of whom I say here should never have been on that committee; he had to benefit from actions likely to be taken as a result of this report, and if he had any sense of propriety, proper and fair dealing, he should have excused himself from that committee—[*Desk thumping*]—Sen. Barbara Burke, Sen. Dr. Eric St. Cyr, Sen. Danny Montano, Mr. Eric Williams—soon to be Dr.—and Mr. Kenneth Valley.

What is clear is that they all signed the report so they all agreed with the facts as stated here. It is simple, in the days of the NAR government a valuation was done which was shown to be \$35.7 million, and today, under this UNC/NAR Government, with a UNC finance minister they have agreed to pay to Maritime for the WINSURE matter, \$52.8 million, a \$17 million difference.

The Member for Fyzabad sought to show that because Dr. Denbow indicated the policies of insurance had lapsed but not forfeited, therefore, the liability was

still there. I agree with that, but that goes to show that the policies were forfeitable at the option of the insurance company and/or whoever had taken them out. It was not just a question of because they had lapsed, you could just walk back in. No, there was a cost to getting back in. Anytime the insurance company or the company that took over the portfolio chose to make those policies forfeitable, they were forfeitable at the option. Thus, saying that the liability was still there, even if a certain residual liability was there, it could not have been the same amount as it was in 1990 when the valuation was done. It is crystal clear.

I have dealt with Bacon, Woodrow & DeSouza many times. I have also dealt with that same gentleman. He would have said, if the liabilities were the same there was no need for a new valuation, and that is correct. Obviously with the number of lapsed policies and they being voidable, at the option of the insurance company, and seeing how tricky an insurance executive who is now our Minister of Finance is, any advice they would get would have told them, "As soon as you get the money to bail you out, you forfeit the policies." The only reason those policies had not been forfeited was because the deal had not been completed. But two days later after the money had changed hands, those policies would have been forfeited because they could have been at the option of the insurance company. If they had to do a valuation properly or look at what the liability was, they had to look at possibility of those lapsed policies becoming in good standing again, and what it would have taken. Knowing the situation in which WINSURE was and any new company coming in, a number of those policyholders would not have thought to do anything about it.

I say quite clearly that the public servants seemed to have said everything was above board.

**Mr. Valley:** They did not say that everything was above board.

**Mr. H. Béraux:** I was going to read it:

"3. That the officers of the Ministry of Finance, the Supervisor of Insurance, the Chief Actuary and Director of PSFMU, opined that the transfer:

is quite transparent. Based on all the Cabinet decisions and notes...the positions of the various senior Government officials are here for everyone to see."

Therein lies the problem, the danger and the mischief of what happened. In fact, what has happened is that the hon. Minister of Finance—whom I would only call hon. because of the tradition in this honourable House—so manipulated the system to hoodwink, to a large extent, a number of his Cabinet colleagues. That is where

the problem lies, not so much the way he did it, it all looked above board. If ever there was a slick attempt to outsmart this country, rob us of money and to transfer money from the state to private hands, this was it. I am pleased that the hon. Prime Minister—maybe he did not expect it, but this investigation has shown how Cabinet Ministers must be more vigilant, read the notes and check things out.

The hon. Minister of Finance is a cool customer, as we would say, but I have never seen him as agitated as today, seeking to talk about who wanted a job here and who may have been supportive of the others. The Member for Diego Martin Central read plain out that nothing was found on Northern Construction, nobody attempted to protect it. But what you see is a very slick attempt to transfer money from public to private. I believe I share the position taken by the hon. Member for Laventille East/Morvant to call for some kind of further enquiry as to whether or not some criminal activity did not take place. [*Desk thumping*]

**Mr. Barendra Sinanan** (*San Fernando West*): Mr. Deputy Speaker, I sat here for most of the afternoon and I was amazed at the contributions of Members simply because it appears to me that something is wrong. Somebody definitely is wrong. When the hon. Minister of Finance said that the report did not prove that there was any corruption, the point about all that is this, the report speaks for itself. This report when read by Members on both sides of the House, independent thinkers and non-partisan people of this country, they will have to come to certain conclusions. I ask, what conclusion would an independent thinker come to when reading this report?

It is important that the country believes what is in this report. It is important that the country believes the Minister of Finance and equally important that his Cabinet colleagues believe him. I cannot read their minds or yours, but I leave that with you. Examine your consciences, that is what you have to do. What conclusions would an impartial observer come to, reading this report? What conclusion will an honest Trinidadian and Tobagonian come to when reading this report?

There seems to be a problem with credibility in this whole affair. I am not saying that the Minister of Finance is culpable, perhaps he may be quite above board in the thing, but the question is that doubt has been established in this report and there is no escaping it; none whatsoever. I have a little problem with \$52 million being given to Maritime Life in this matter. I can see what \$52 million can do for Tobago. It can build a hospital and improve things in Tobago. It can also improve the health services in this country.

**8.30 p.m.**

When Members talk about protecting the small man I do not believe that. Nobody has stated on the Government side—and I want somebody to state that—how many policyholders? Do not tell me about 3,600 in whatever year and 1,600 now. Tell me factually how many policyholders will benefit from this \$52 million. Certainly not 3,600, nor 1,200 or whatever it is.

Mr. Deputy Speaker, I support wholeheartedly the conclusions of the Director of Budgets stated on page 6 of the report. This is a report commented on by the Director of Budgets dated, December 11, 1991. If my memory serves me right the NAR was still in government on that date. He raises some interesting points. In 5.8(c) he says:

- “(c) Any financial assistance by Government to the companies will establish an undesirable precedent which may be difficult to avoid in the future.
- (d) In terms of the future, what appears to be necessary is the strengthening of the relevant legislation to facilitate an intervention in the operations of insurance companies by the Supervisor of Insurance whenever it becomes necessary, with a view to avoiding a similar situation from occurring again.”

Mr. Deputy Speaker, let us look at the hundreds of thousands of poor people that lost money in the financial institutions. They were poor people too.

**Mr. T. Sudama:** Under which regime?

**Mr. B. Sinanan:** It does not matter which regime. You are missing the point. What did the government do then? They established the deposit insurance corporation which is contributed to by the finance houses and the Government. This is exactly what the Director of Budgets was alluding to in (d) “set up the necessary legislation”. In other words, have something similar to the deposit insurance corporation for failed insurance companies. This is what has to be done.

One cannot continue, as a matter of policy, to keep bailing out failed private enterprise companies. It is not the business thing to do. What will happen in this country if next week the biggest insurance company in this country folds? Is the Government going to bail that out? They are setting a dangerous precedent. The hon. Attorney General knows this. We are talking about equality of treatment and I remember certain cases that I knew he fought; legitimate expectation is what is involved here. Can you pay one company and deny another? I am saying to the

Government perhaps it is time—and I am sure probably the Attorney General will think about it and I am sure he is doing something about it—legislation is needed to protect failed insurance companies. We cannot keep bailing out insurance companies. I make the point again, how many policyholders are going to benefit by this scheme? I want to know the value of that benefit. Mr. Deputy Speaker, why Maritime Life? I will say no more on that.

Mr. Deputy Speaker, what is the value of the land at Balandra that is now in the ownership of Maritime Life? Mr. Deputy Speaker, you would know, and I am sure Members on the other side would know, that Balandra, Blanchisseuse and Toco are prime residential areas in this country now. I want somebody to tell me what is the value of that asset. Here it is we are taking \$52 million of taxpayers money to give Maritime Life to pay what is questionable. How many policyholders and what amount? We do not know. But apart from giving them \$52 million they have valuable real estate in Balandra. I do not understand; this Government is very charitable but to whom? I cannot see it is being charitable to the small man. This is not benefiting the small man, this is benefiting big business.

The Minister of Finance said he was not privy to a lot of the information that was made available to the committee. Whose fault is that? It is his fault. The Minister of Finance was a Cabinet Minister in the PNM government and he was there from 1991—1994. He never raised this. When it came up in the Cabinet of that time he kept silent. It was decided not to bail out WINSURE. He did not put up an argument that the government must bail out WINSURE, he did not say anything. As I said it is a problem of credibility; the coincidences are too astounding. Two days or one or two weeks after the present Government is in office this thing comes up. It may be perfectly above board but the coincidences create a question of credibility.

Mr. Deputy Speaker, I firmly believe that, if the Government is listening and if the Prime Minister is listening, this \$52 million will not be paid to Maritime Life. What is necessary is to determine the true number of policyholders that will benefit or are entitled to benefit under this arrangement, the amount of money and to pay them. I am sure that will not come up to \$52 million. It definitely will not come up to \$52 million.

[MR. SPEAKER *in the Chair*]

Mr. Speaker, Maritime Life has acquired that through the purchase of assets of WINSURE—valuable real estate—and here it is, apart from the value of that real

estate this Government is seemingly giving the company \$52 million on the premise that it is to pay the little policyholder.

Mr. Speaker, we are creating, as the Director of Budgets says here, a dangerous precedent. As I say what would an honest independent person think and gather and what conclusions would he come to reading this report? There is doubt.

I call on the Prime Minister to stop the payment of that money to Maritime Life. I call on the Government to determine the number of policyholders who will really benefit and the quantum that they will benefit by and to pay them that money. It will not amount to \$52 million, I am sure. It is an easy thing to do. Those legitimate policyholders can get back their money. They can get the premiums paid plus some rate of interest. This is a commercial enterprise. WINSURE was in business to make money. They failed, therefore, they suffer the consequences of that. When you, as a shareholder invest your money in a business and it fails who must bail you out? The Government? Do not tell me for one minute the Government is seeking to protect the small man. If that is what they are doing they are going about it the wrong way.

As I said before, I sat and listened to the contributions of Members and as an independent thinker and an independent person I cannot help but come to the conclusion that this report raises some doubts and there is a major credibility problem with the major players concerned with this matter.

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

**Mr. Kenneth Valley** (*Diego Martin Central*): Mr. Speaker, as is normal I think I should start by thanking all my colleagues in the House who participated in this debate. As I said in opening, this report is a unanimous report signed by all members of the committee. That consists of some six members from the Government, three from the Opposition and one independent member; it is a joint committee.

I can assure you that as Chairman of the committee the draft of the report which I brought to the committee was amended seriously. It was amended because we were attempting to arrive at consensus.

The Minister of Finance this evening started by making the point that nowhere in the report he saw the word "corruption". Mr. Speaker, the reality of the situation is that corruption can be spelt in many different ways. I do not think that, like the word "lie", the word "corruption" in a House Committee Report would be appropriate. This is why in the report, if one looks at the *Hansard*, one would see



that there was some consideration with respect to the concept of culpability and we decided that we would allow the report to stand on its own. As my colleague from San Fernando West said, the independent observer reading the report must come to his own conclusion.

Mr. Speaker, when we looked at observation 8 on page 25 it says:

“The possible option of commissioning of a current evaluation of the liabilities of WINSURE may have been obviated...”

A nice diplomatic word, Mr. Speaker.

“..by the setting of a fixed sum in the Cabinet Note for \$35.7 million... plus simple interest at 8% thereon.”

Mr. Speaker, if that does not talk about corruption I do not know what does. Because we are aware who it was—

**Mr. Sudama:** Mr. Speaker, would the Member give way? Mr. Speaker, this is the problem we have when Members do not read the full text. If he went on to read the next sentence:

“Expert witness Mr. Kimpton expressed the view that a current valuation may not be necessary if the quality of the information on the liabilities was of a high standard, since a data audit may be sufficient to determine the current value of the long term liabilities.”

**Mr. Valley:** I do not know what is the point he is making. I do not really care how you come to current valuation; whether you do a full actuarial valuation or you do a data audit. If you look at our recommendation you would see that we took that point that, in fact, one does not have to do a full actuarial valuation because the committee was informed that a full actuarial evaluation would cost some \$200,000 and would take some time. Therefore, we were content to be guided by a data audit. All we want is a current valuation, whether it is a data audit or a full actuarial valuation so that is a nil point. The point I am making with the sentence I read from 8 is that we were constrained given that the Minister of Finance included that clause in the Cabinet Note to the effect that the value of bonds would be \$35.7 million plus interest at 8 per cent per annum, that obviated the need to do a current valuation.

**8.45 p.m.**

**Mr. Sudama:** There was no need.

**Mr. K. Valley:** All I am saying is what that point is driving at is the concept of corruption. It goes on to say at 9:

“The reliance on the valuation done as at December 31, 1989 without any adjustment for subsequent events, specifically, adjustment for any possible change in the composition of the liabilities coupled with the accruing of interest on the full amount of the bond which was supposed to be issued as of January 1, 1990 would most probably affect the amount that falls to be funded by the state.”

Diplomatic words. But, who do you think it means? It means that he very well overvalued the liability to the state.

**Mr. Sudama:** Were those your words? Were these words your words?

**Mr. Speaker:** No. Please, please, Minister of Planning and Development. That is not right. We cannot proceed with that.

**Mr. K. Valley:** In the report, Mr. Speaker, at 5.44 on page 20, it says:

“The committee noted that the sum of \$52.836 million which was approved by the Cabinet included the statutory reserve requirement for all policies which were in force as at January 1, 1990 plus simple interest on the reserve at 8% to December 31, 1995. However, the Agreement which was approved by the court order on December 09, 1996 placed the burden on the policyholder whose policy required to be reinstated to be solely responsible for the reserve on the reinstated policy without taking into consideration the amount paid by the Government on behalf of that policyholder.”

What are we saying?

“When the Committee inquired what would Maritime do with such funds not required and or utilised for the reinstatement of policies, the Chief Actuary expressed the view that, ‘they fall to surplus’.”

I do not know what he thinks that means, Mr. Speaker.

“The Chief Actuary also informed the Committee that a similar situation may exist with respect to policies which are not reinstated for one reason or another since part of the shortfall that the Government is required to pay relates to policies which were in force on January 1, 1990, and which may have reached a lapsed situation subsequently.”

**Mr. Sudama:** Yes, we read it. What is the point you are making?

**Mr. K. Valley:** The point I am making is that one can talk about the concept of corruption in many different ways and, Mr. Speaker, the fact that the Minister of Finance is now ready to accept an actuarial valuation—we will accept a data audit in the interest of time—when his people, the Ministry's officials were counselling him to have a current valuation done, that the bond must be based on the current market value of the liabilities, that by itself suggests that he has now accepted that there was some misfeasance in the calculation of the liability.

**Mr. Sudama:** Misfeasance by whom?

**Mr. K. Valley:** Mr. Speaker, his technicians advised him to do so.

**Mr. Sudama:** By whom? By his technicians? I do not understand that.

**Mr. K. Valley:** He did not accept it. They tried on about four or five different occasions. He did not accept it. This evening, quite *en passant*, he says, "I have no problem accepting an actuarial valuation." I am happy that he has now accepted that. [*Desk thumping*] But you see, I do not believe that it is simply a question of negligence given the counsel of the advisors, given the speed with which he wrote that letter to the Chief Executive Officer of Maritime Life. The Cabinet Note did not even dry. They took that decision on March 21; it was not even confirmed; but on March 22, he was writing the Chief Executive Officer. Normally, you would know, Mr. Speaker, that the Permanent Secretary would write such a letter, but he had to write it, because he was trying to place the Government under obligation.

More than that, in December, when they decided to give \$25 million to Maritime, before the Note went to the Cabinet, the money was in Nova Scotia bank. It is all in the report. On his instructions, Cabinet did not approve the Note until January 2. It was not confirmed until January 2.

**Mr. Sharma:** Would you give way? Just on a point of clarification. That is an unfair comment to make. It was based on the court order and not on the Minister's instructions. We are both aware of that in the same report.

**Mr. K. Valley:** That is not correct. The report that you signed stated quite clearly that the Minister instructed that it be done. The report says that quite clearly.

**Mr. Sharma:** Quote it! Quote it!

**Mr. Sudama:** It said it was paid to the liquidator.

**Mr. Breaux:** The court ordered the Government to pay! What kind of madness is that?

**Mr. Sudama:** Let's adjourn! Let's adjourn!

**Mr. K. Valley:** On page 16, it says:

“On December 30, 1996, the sum of \$25 million was paid to the liquidator and is in an *escrow account* at the Bank of Nova Scotia until the Scheme of the Life portfolio of the WINSURE Companies is confirmed by the Supervisor of Insurance. This sum was approved by Cabinet for release on December 23, 1996. During examination the Committee was informed that the sum was released because of the request made by the Liquidator on May 23, 1996 and on December 11...”

**Mr. Sudama:** Was approved by Cabinet to be paid to the liquidator.

**Mr. K. Valley:** “...1996 in a letter addressed to the Permanent Secretary, Ministry

of Finance, that he anticipate a cash requirement of \$25—\$30 million on the acceptance of the scheme. The sum of \$25 million was paid to the liquidator.”

It goes on to say, Mr. Speaker, I am sure, that when questioned that it was done—because there is no public servant who will do it without a Cabinet approval. Cabinet approved it. It was confirmed on January 2, and there is no public servant who will act on an unconfirmed decision unless on the instructions from the Minister.

**Mr. Sudama:** No, no. On the instruction of Cabinet. We have to decide immediate action.

**Miss Nicholson:** Cabinet, and you read it. Read over what you just read and resolve the matter.

**Mr. K. Valley:** All right. I would find that, Mr. Speaker.

But the point I am making is that there was that urgency on the part of the Minister to get the funds moving. More than that, it was that whole concept that it was hidden in the supplementary appropriation that came to Parliament and were it not for the vigilance of the Opposition, \$52.8 million would have gone to Maritime Life by this time, because if you look at the schedule of payments, the last payment was supposed to be made on September 30, 1998. For what, Mr. Speaker? For what?

The Minister tells us this evening that he was not aware of the comments of the Director of Budgets, that he came into office in 1995 and that is a 1991 break.

**9.00 p.m.**

Mr. Speaker, as I said earlier today, the Minister asked for a brief and the Supervisor of Insurance prepared a brief for the hon. Minister of Finance. In that brief the Supervisor of Insurance stated the position of the Director of Budgets.

**Mr. Sudama:** What page? Let me check what you are quoting.

**Mr. K. Valley:** I am quoting now from the brief.

**Mr. Sudama:** What brief? Is it in this Report? I do not have that document. How do I know you are quoting correctly?

**Mr. K. Valley:** I can give it to you. I can send it to you. At paragraph 4(iii) of the brief, the Supervisor of Insurance quoted that the Director of Budgets on December 11, 1991 submitted his comments which in substance advised that:

“he saw no justification for the Government’s involvement since the companies were privately owned and controlled. Resolution to their problems should exclude financial input by the state.

- (ii) If the insurance company is willing to assume the portfolio the company should be liquidated.
- (iii) Government’s financial assistance would set an undesirable precedent which may be difficult to avoid in future...”

It is all there.

**Mr. Sudama:** What date was that?

**Mr. K. Valley:** This is the brief submitted to the Minister at the end of 1995 or 1996. It is not dated.

**Mr. Sudama:** That was 1992.

**Mr. K. Valley:** It is not. It is the brief that he requested when he came in.

**Mr. Sudama:** The year 1992, check it. Under your regime.

**Mr. K. Valley:** Mr. Speaker, for the Minister to say that he did not read it is really moving away from the truth.

He said also that the Cabinet Notes I quoted, he did not see. There is the Cabinet Note in which the Minister made the amendment in his handwriting where

he stated clearly—it is here—the condition that the amount of the bond shall be the original sum plus simple interest at 10 per cent per annum to December 31, 1995.

**Dr. Rowley:** In his own handwriting.

**Mr. K. Valley:** In his own handwriting. Then, the note suggested that he instructed the officer to make certain amendments to the note. When one looks at the note that went to Cabinet and was approved, one would see that it is the same note. So, when he comes here and says that he did not see the Cabinet Note, it is really a variance of the truth.

He, Mr. Speaker, also said that the advice from the Supervisor of Insurance was to rescind the decision of 1992 modified to reflect current realities. The Supervisor of Insurance provided two options, as I stated. He stated that, “Listen, either you are going to go along with the policy decision of the last Government, i.e., that the company ought to be wound up; or if you want, go back to the 1991 decision, but you would modify to reflect the current state of the portfolio”. That is not the advice the Minister took. The Minister counselled himself. He took half of it. Yes, he went back to the 1991 position, but he did not modify the amount of the liability to fit the current state of the portfolio.

Instead, what he did was to take the amount spoken about in 1991, \$35.7 million, and said, “Let us give them 10 per cent on that”. Ten per cent at first, and then he said, “All right, let us bring it down it will not look so bad. Bring it down to 8 per cent” and arrived at a figure of \$52.8 million when the liquidator himself was saying that what he needed was between \$25 million and \$30 million. The first submissions to this note suggested that the Ministry of Finance people estimated the liability to be some \$32.5 million. That is the reality of the situation.

Now, he tells us also that this is all based on a Scheme of Transfer sanctioned by the court, but do you know what he told his people? When the people said, “Listen, you know, really, we should take this thing to the Cabinet”. He said, “No, let us sanction by the court first and then let us go to the Cabinet. Can we have all of this done by month end?” And, the Cabinet has never seen the Scheme of Transfer.

When the Cabinet thought they were dealing with a current portfolio, although he slipped in the 10 per cent—you see, he knows finance. Some people, as soon as they hear about finance they decide that is too high for them. He slipped in that condition that the value of the bond will be \$35.7 million plus 8 per cent, but there was still that vagueness there suggesting that he was dealing with a current

portfolio as at December 31, 1995. So the Cabinet, most likely, thought they were dealing with taking over liability as at December 31, 1995. But, the scheme that was approved by the court spoke about taking over this portfolio as at January 1, 1990; quite different from what was contemplated by the Cabinet.

More than that, Dr. Denbow said that the policies were not forfeited but were in a lapsed situation. He also said that clause 136(4) of the Insurance Act had to bow to the agreement, and the agreement entered into here by the parties said that if the policy was in a lapsed situation then the individual, first of all, had to pay up the back premiums. More than that, he had to prove that not only he was in good health, but that there was no change in his health from the time he bought the policy.

Mr. Speaker, here we are talking about 1995/1996, so most likely one bought this policy as late as 1980 or even 1985. Is it likely that there would be no change in one's health from that time to 1996? This is what the clause is saying. It says that if the policy is in a lapsed situation there must be proof satisfactory to Maritime and at no cost to Maritime, that the health of the life assured under the policy has not deteriorated since the issuance of the policy and that proof must be received during the sixth-month period subsequent to the agreement.

First of all, Mr. Speaker, since the agreement was dated September 30, 1996 all of this is really academic because it says in another part that unless acted upon within six months it is of no effect. So, technically, there is no risk. Six months from September 30, takes us to about March, 1997. So, this is all gone now. This is what the agreement talks about. So that it was the individual policyholder who had to pay all the back premiums and prove evidence of insurability.

So, Member for St. Augustine, while there was some 3,600 policyholders, even then some of them were in a lapsed situation in 1988, the judicial manager who is also the liquidator told us, under examination, that at present the only policies which are in force are those which are coming via salary deductions which total about 100. That is what he said.

**Mr. Sudama:** The policies are only forfeited.

**Mr. K. Valley:** They are not forfeited but are in a lapsed situation. If they are in a lapsed situation, the agreement says what must happen. The agreement says, first of all that one must pay the back premiums and also prove evidence of insurability. More than that, the question is: What happens with that sum?

Let us assume your policy lapsed some time in 1993, remember in 1990 the Government, based on this, put in some amount of moneys in the fund for you. But, if your policy lapsed before 1990, the agreement says you are responsible for all of that. So that the reserve amount that the Government is putting on your behalf really goes to the company, not to your benefit.

In fact, I am extremely happy that the Minister has conceded that the correct thing to do is to have a current valuation. While we may disagree with the policy decision of the Government, we have to respect their right to that policy decision. One government said it will transfer the portfolio to Maritime, we came in and said, "No, that is not the correct use of state funds". If this Government believes that they ought to do that, fine, but if they are doing it they must do it on a basis that is really correct. I cannot use the word "transparent" because I want to come to that concept of "transparent".

I agree the whole process has been transparent. I agree with the public servants. When my friend—I think it was the Member for Barataria/San Juan—asked the question I smiled, because I know public servants. Very indiplomatically, the gentleman said it exactly. He said, "Of course it is transparent. Based on submissions you have seen everything. We gave you everything. We told you what we said and what the Minister said. Based on all the files that you have seen it is extremely transparent. As far as the Ministry is concerned there is no malfeasance.

**Mr. Sudama:** What is your grouse?

**Mr. K. Valley:** My grouse is simply that the \$52.8 million is an amount that is in excess of what is the true estimate of the current liabilities with respect to this portfolio. It is highly inflated and that all that is required is that one does an evaluation. As long as there is the time, let us do a full actuarial valuation. If that is going to take too long, we can very well use the concept of the data audit. The data audit concept is simply that if we know what the liabilities were; if we have an evaluation done as at January 1, 1990, then we can use that audit trail and say so many policies have lapsed, therefore, we have to deduct for that and make allowance simply for what is there at present. That is the concept, Mr. Speaker.

The other concept, of course, is that Maritime was not at risk between the period 1991 and even up to now. So, the whole concept of their getting all of this money cannot stand because they were not at risk.

I want to make a few other comments with respect to some of the contributions of other Members. The Member for St. Augustine looked at some



information which is dating back to 1988. As a fact, in 1988 there were roughly about 3,600 policyholders. Even at that time, as I said, some of them [Interruption] 1988.

**Mr. Humphrey:** The year 1996. It is information from the gentleman—

**Mr. K. Valley:** Even at that time there were some policies which were in a lapsed state.

Mr. Speaker, all we are saying is that with the passage of time most of the other policyholders would have sought out alternative coverage. So that the portfolio today, based on the advice of the judicial manager is about 100.

The Member for St. Augustine also said that we argued that the bail out was merely to bail out NUGFW. That is not the point we were making at all. The point we were making is that the letter that the President of NUGFW sent to the Prime Minister suggested that the pension plan that he was talking about was for the benefit of all union members and that is not so. As we said in the report at page 24(vii):

“The NUGFW pension plan which was held at WINSURE was for the employees of the Union and who may have been members of the Union. It did not encompass the full NUGFW membership.”

That is the point we were making.

### **9.10 p.m.**

The letter suggested that it was for the full membership, and that was not the case. In any case, when I looked at that letter, I wondered how my friend, Sen. John, could have known all that information pertaining to Maritime (Caribbean) Life Limited. I do not want to suggest anything.

At the first meeting Sen. John requested of the Chairman, given his involvement, that he sit as a Member. I said I had no problem. Where there were 10 Members, he was merely one of 10, and I saw no problem with his sitting as a Member of the committee. Sen. John was ill for part of the period and did not attend most of the sittings. I thought that we were protected because it was merely one member of a large group.

Even in the committee there was this argument about the forfeiture and lapsed situation. Dr. Denbow said quite clearly that policies may have arrived at a lapsed situation. It is reported that they were not forfeited. Nobody took the time to

write. Forfeiture merely requires a month's notice that in the next month those policies would be forfeited given that we are in the lapsed situation. That was not done and we accepted that. However, both Dr. Denbow and the Treasury Solicitor informed the Committee that in any case the agreement sanctioned by the court took precedent over 136(4). The agreement spelled out clearly what would have happened in the case of a policy in a lapsed situation.

The public servants said that everything was above board. That was not what they said. They said that it was transparent, based on all the information submitted—you can see clearly what happened here. That is the point they were making.

The amount of \$35.7 million that the Cabinet of 1991 and 1992 approved. Let me just say that the Cabinet of 1992 was not approving anything. The Cabinet of 1992 was rescinding a decision. They were saying they were not doing this, therefore, there was no consideration whether the \$35.7 million was appropriate, whether it was too high or whether it was too low. What he said also was that Tim Kimpton said that there was no need for a new valuation. Again, the Minister should have continued. The point Tim Kimpton was making was that if the information was there one can do a data audit, meaning that if there is a valuation a check would show which policies are still in force to make an adjustment with respect to the liabilities, rather than doing a full actuarial valuation. Of course, the better thing would be a full actuarial valuation but the committee understood that such a valuation would cost roughly \$200,000 and would take some time.

**Mr. Sudama:** The Member is trying to save \$17 million.

**Mr. K. Valley:** I do not have a problem. Let us do a full actuarial valuation. I would prefer that.

**Mr. Sudama:** How can you be so illogical?

**Mr. K. Valley:** The Member for Fyzabad has a question.

**Mr. Sharma:** On a point of clarification. The Cabinet Minute of 1992 talked about \$35.7 million, and being unable to raise the funds I asked to find other media so that the \$35.7 million was confirmed.

**Mr. K. Valley:** My friend from Fyzabad and I had a number of differences. Quite simply we were rescinding and the Cabinet was not confirming anything. That was not an issue. That was a valuation done in 1990 and if one is looking at it even in 1992 then, given a two-year period, one could have relied on it somewhat.

One would have had to do a data audit but, to rely on it in 1996, some six years later, that is really stretching it.

Mr. Speaker, I end by once more thanking the Members of the Public Accounts Committee. I really enjoyed working on this assignment. From time to time I was tested most severely by my good friend, the Member for Fyzabad. In the end, however, we were able to come up with a compromise report sayings things in a very diplomatic way so that we could have achieved what we set out to do—the total support for a report. I thank my colleagues sincerely for that. I thank every Member, including the Member for Fyzabad. At one time we thought that would be the one Member who would not sign the report, but he saw the wisdom in signing the report because they were the facts as told to us by the officers. I am extremely happy.

I thank also the members of the staff of the Public Accounts Committee who really did a fantastic job.

**Mr. Sudama:** Were they responsible for the language?

**Mr. K. Valley:** They were not responsible for the language at all. The Committee Members, especially the Vice-President of the Senate, Sen. Hamel-Smith, did quite a lot of work on the language of the report. As you know Ken Valley would say things as he sees them. Even my colleague from Barataria/San Juan brought in the fine language.

I really appreciated the fact that the Minister has now accepted that an actuarial valuation ought to be done to determine the liabilities. I ask the Government to refrain from effecting any transfer. They cannot in any case, until the scheme is confirmed by the Supervisor of Insurance who has said that he is going to have the independent auditor do the actuarial valuation. The Minister has said also that he has no problems with the recommendation of the report, and I also thank him for that.

Mr. Speaker, I therefore recommend this report for the support of the House. I thank you most sincerely.

*Question put and agreed.*

*Resolved,*

That this House take note of the Report of the Public Accounts Committee on the question of payment to Maritime Life (Caribbean) Limited for assuming the obligations of the West Indian National Insurance Company and Wiunsure and the payment to the National Carnival Commission to liquidate debts to Northern Construction Limited, which was laid in the House of Representatives on Friday, November 7, 1997.

**NEGOTIABLE INSTRUMENTS  
(DISHONoured CHEQUES) BILL**

**Senate Amendment**

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move,

That the Senate amendments to the Negotiable Instruments (Dishonoured Cheques) Bill listed in the appendix be now considered.

We had completed clause 2, and by agreement, we will take the rest of the amendments together.

*Question proposed.*

*Question put and agreed to.*

*Clause 3.*

*Senate amendment read as follows:*

- A. In sub-clause (1), delete the words “A person”, and insert the words “Notwithstanding any other written law, a person.”
- B. In sub-clauses 2(a) (ii) and 2(b)(ii) delete the words “shall” and “may” respectively and insert the word “will”; and
- C. In sub-clause 2(b), delete the words “representative drawer” and insert the words “payee, holder or bearer”.

**Mr. Maharaj:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

*Question proposed.*

*Question put and agreed to.*

*Clause 4.*

*Senate amendment read as follows:*

Delete clause 4 and insert the following new clause—

4. (1) Where the drawer of a dishonoured cheque is charged with an offence under this Act, the following provisions shall apply—
  - (a) when the drawer or representative drawer of a cheque has insufficient funds with the drawee to cover it and other outstanding cheques at

the time of its utterance, the drawer or representative drawer, as the case may be, is presumed to know the insufficiency;

- (b) a drawer or representative drawer, as the case may be, of a dishonoured cheque is presumed to have intended or believed the cheque would be dishonoured upon presentation by a person if—
  - (i) the drawer or representative drawer had insufficient funds with the drawee at the time of its utterance to cover it and other outstanding cheques; and
  - (ii) the drawer or representative drawer had insufficient funds with the drawee at the time of presentation.

(2) Where a cheque is dishonoured because the drawer has insufficient funds, a notice or protest may be issued and duly served by the drawee to the drawer of the cheque with a copy to the person who presented the cheque through his drawee.

(3) Where the drawer of a dishonoured cheque is charged with an offence under this Act, the prosecution may seek to prove the dishonour by the production in evidence—

- (a) of the notice or protest of the dishonoured cheque; or
- (b) of an affidavit of the drawee or the authorized representative of the drawee together with a copy of the notice or protest declaring the dishonour,

and this shall constitute *prima facie* evidence that the cheque is a dishonoured cheque.

(4) Where a drawer or representative drawer, without the consent of the payee, stopped or countermanded the payment of a cheque, or otherwise caused the drawee to disregard or dishonour the cheque, and failed without reasonable cause to return or tender the return of the property obtained or the value of services rendered within a period of three working days from the date the cheque was stopped or countermanded, or otherwise caused to be disregarded or dishonoured, this shall constitute *prima facie* evidence that the drawer or representative drawer had the intention to stop or countermand payment or otherwise to cause to the drawee to disregard or dishonour the cheque at the time of its utterance.”

**Mr. Maharaj:** Mr. Speaker, I beg to move that the Senate doth agree with the House of Representatives in the said amendment.

*Question proposed.*

*Question put and agreed to.*

*Clause 5.*

*Senate amendment read as follows:*

Delete subclause (2) and insert the following new subclause—

“(2) A drawee who recklessly—

- (a) issues a notice or protest under section 4(2); or
- (b) swears to an affidavit under section 4(3)(b),

commits an offence and is liable on summary conviction to a fine of ten thousand dollars.”

**Mr. Maharaj:** Mr. Speaker, I beg to move that the Senate doth agree with the House of Representatives in the said amendment.

*Question proposed.*

*Question put and agreed to.*

*Clause 6.*

*Senate amendment read as follows:*

In subclause (1) b)—

- A. After the word “order”, insert the word “the”; and
- B. After the word “which”, insert the word “may”.

**Mr. Maharaj:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

*Question proposed.*

*Question put and agreed to.*

*Clause 7.*

*Senate amendment read as follows:*

1. In subclause (1)—
  - A. Delete the words “only by the false representation” and substitute the words “by the *bona fide* belief”;

- B. Insert after the words “cover the cheque” the words “and the cheque is dishonoured”; and
  - C. In paragraph (b), after the word “with”, insert the words “and satisfactory to”;
2. In subclause (2)—
- A. Delete the words “A person” and substitute the words “Subsection (1) does not apply to a person”; and
  - B. Delete the words “may be prosecuted immediately under this Act or any other law”.

**Mr. Maharaj:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

*Question proposed.*

*Question put and agreed to.*

**9.20 p.m.**

#### ADJOURNMENT

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move that the House do stand adjourned to Friday, May 15, 1998 at 1.30 p.m. On that date we shall do Bill No. 3 on the Order Paper, A Bill entitled, “An Act to provide for community mediation as an alternative to litigation for certain summary offences”.

**Mr. Speaker:** Hon. Members, before the question of the Adjournment is put, I wish to draw to your notice that leave was given for two matters to be raised. One is with the Member for Laventille East/Morvant.

**Mr. Kenneth Valley:** Mr. Speaker, by agreement, the Member for Laventille East/Morvant and the Minister of Local Government have agreed that that matter be postponed for the next sitting of the House.

*Assent indicated.*

**Mr. Speaker:** We have the other one by the Member for Diego Martin Central.

#### **Mr. Julian Rogers (CCN) (Work Permit Denial)**

**Mr. Kenneth Valley (Diego Martin Central):** Mr. Speaker, this matter relates to the refusal of the application from Caribbean Communications Network (CCN) for a work permit for Julian Rogers. I start by asking the Government even at this

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late stage to reconsider its action. I say that because from what has been coming out of the Government, it appears that the Government's case is a strictly legal one governed by the Immigration Act, Chap. 18:01, of 1969.

In recent times we have moved forward quite considerably. We have accepted the concept of liberalization and globalization. Earlier this evening the Member for Barataria/San Juan made the point that sometimes he feels that we in this House are guilty of paradigm paralysis. When one listens to the argument on this issue coming from the Government, one cannot help but believe that that concept is rather valid. We hear the concept that we are traitors because we are suggesting that Julian Rogers' work permit ought to be renewed. We are hearing that this gentleman who is not from Trinidad is taking bread out of the mouth of Trinidadians. That is completely oblivious to the changes which have been taking place in the world at large and the Bill which talks about freedom of movement for skilled labour. That has been legislated in this Parliament.

At one time in Trinidad and Tobago this Act was extremely valid. That was the period of negative listing, fixed exchange rate and exchange control. In other words, the Government appears to be operating in a paradigm past. In this country we have negotiated bilateral investment treaties with the United Kingdom, Canada and the United States. In each of those treaties there is a provision which liberalizes the whole concept of work permit. These countries take the stand that if they are coming here to invest their money, they cannot be told whom they should or should not bring. By agreement we have done that. There are some controls but they have been liberalized greatly from what is stated in this Act.

We have gone to Caricom and argued the case. The concept of freedom of movement of skills in the Caribbean is a critical part of that whole concept of the single market and the economy. This Government has endorsed that programme. Here is a programme dated May 24, 1996, on the National Consultation Seminar on the Single Market and the Economy with the Hon. Basdeo Panday, Prime Minister of the Republic of Trinidad and Tobago doing the feature address. When we look at the papers and issues to be discussed, we see the right to move and seek employment. That is a critical element. The free movement of factors of production is a critical element in that single market and economy concept. We have endorsed that. This national consultation was in preparation for a Caricom consultation to be held in Barbados. Again, we see that the right to move and seek employment was one of the papers to be discussed at that seminar. The paper is here for Members who so desire. It talks about free movement of labour,



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elimination of need for work permits and other impediments to intra regional movement, facilitation at immigration points, elimination of need for passport and freedom of travel.

The point I am making is that at the Caricom level, we have been in the forefront of this movement for the single market economy and all elements. The free movement of labour is a critical element in that. This other document talks about the schedule of activity moving towards that. I also made the point that at the Conference of Heads Meeting held in Belize in 1995, when we were discussing this matter, the *Summary of Conclusions of the Sixth Intercessional Meeting* reports that Trinidad and Tobago proposed to waive work permit requirements for a wider group of skills. While some of the other Caricom countries were talking about having it for graduates, we were saying that bearing in mind our requirement in Trinidad and Tobago, that we would want to waive the work permit requirement for a wider body of skills. We were conscious of the fact that given the energy development which is taking place in Trinidad and Tobago and our shortage of manpower, we had to put the conditions in place so as to attract some of our skills from the wider Caribbean to come here to work.

**9.30 p.m.**

**Mr. Speaker:** The Member has 15 minutes. It is not really permissible to be interrupting him like that. I appeal to the hon. Minister of Planning and Development to conform.

**Mr. K. Valley:** Mr. Speaker, I thank you.

We were also conscious of the economic factor that the rate of economic growth in any country is connected, among other things, with the level of skills in the country. It has been shown by research, time and time again, that the higher the skills level in the country, the higher the economic growth.

More importantly, I understand that the Minister has said on a few occasions that Mr. Roger does not qualify under the Act for the free movement of skills in the Caribbean. When I look at this legislation, it seems clear that it is sufficiently flexible to allow for a Julian Rogers. I do not want to go into it, given my limited time, but I suggest that if the Minister were to look at section 8(1)(b) one sees that Mr. Rogers can qualify under that condition. The whole tone of the legislation seems to suggest one of inclusion rather than exclusion. We have to be very careful what we do in Caricom. We have always taken a leadership position in Caricom and this action by the Government has sent shock waves throughout the English-speaking Caribbean.

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The Prime Minister of Barbados has already spoken about the concept of reciprocity. It is also provided for in this legislation. Section 12 of the Act states:

“(1) A qualifying Caribbean Community state’s reciprocal rights and privileges comprise the rights and privileges conferred by the law of that state on the holder of a passport issued by the Government of Trinidad and Tobago who would, in relation to that qualifying Caribbean Community state, satisfy conditions analogous to those required under the Act.”

That means obviously, that if we treat a citizen of Barbados in a particular manner, then that Government has the right to treat one of our citizens in a similar fashion.

From where I sit, Mr. Speaker, we have worked too long and hard to get to the position in Caricom where we could be making gains towards the single market and the economy. The action of the Government could very well set us back 30 years. It creates a nervousness in the environment which is unwarranted at this time.

Mr. Rogers has indicated that he would apply for residency. Under the Act, he has merely to satisfy a one-year residency requirement to qualify, given that the Minister is so inclined. I suggest, therefore, to a Minister for whom I have the highest regard, that he take a very sympathetic approach when Mr. Rogers applies for his residency. It is in the interest of our country as a whole to try to correct the impression that is being created in the wider Caribbean—to try to change the perception that Trinidad and Tobago wants to be isolated from Caricom.

It is with this in mind, I thought I should bring this Motion to the House and ask the Government to consider carefully what it is doing with respect to this matter. I suggest a hand of friendship to our closest neighbour, Barbados. Although the government of a country may want to be statesmanlike, the little people may bring pressure on it to act otherwise. That, we can ill afford in the Caribbean at this time.

I thank you.

**The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore):** Mr. Speaker, I thank the Member for Diego Martin Central for raising this issue. It will give us ample opportunity to look at the Caricom issue as opposed to the work permit issue, by law.

It is amazing that while the Member for Diego Martin Central quoted from section 12 of the Act, he quoted only sufficient to make the point that a qualifying

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Caribbean Community state has reciprocal rights and privileges which comprise the rights and privileges conferred by the law of that state of the holder of a passport. Generally, this Act caters for this, but one of the conditions is that the person so referred to is able to satisfy the conditions of this Act for any right or privilege conferred by the Act.

I should like to refer to section 8 and dispel the belief that I am mistaken in claiming that under this Act, Mr. Rogers does not qualify. Under section 8, it states quite clearly, not that a university graduate is acceptable, but rather, the Act is very specific about the nature of the qualifications required so as to leave no doubt in anybody's mind that if someone goes to university and acquires a certificate or diploma, that the term university graduate, if so applied, is covered in this Act.

**Mr. Valley:** I do not want to take away from the Minister's time, but that is 8(1)(a). I am referring to 8(1)(b). It says 8(1)(a), (b), (c) or (d) and so forth.

**Sen. Brig. The Hon. Theodore:** Let us deal with (b).

"...or

- (b) a certificate from the Secretary-General of the Caribbean Community attesting that university level qualification possessed by the applicant satisfy the conditions for recognition of Caribbean Community skills qualification, such certification to be issued on the recommendation of the University of the West Indies."

I quite accept that if one wants to pursue this line, one will need to apply to the university to have a look at the qualifications we are speaking about which are not covered, but rather to ask the university to determine whether or not the qualifications held reach the standard of a degree of the University of the West Indies or the University of Technology.

Section 8(1)(a) sets the tone and the other subsections show that other qualifications, which approximate and are certified by the university as meeting the standards, will be acceptable. For instance, section 8(1)(e) states:

"a certificate from any authority, designated by the Minister by Order as an accrediting authority for the purpose of this section, attesting that university level qualifications possessed by the applicant satisfy the conditions of recognition of Caribbean Community skills qualification, such certificate to be issued on the recommendation of the University of the West Indies."

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At every stage, we come back to the overriding definition of the qualifications required under this Act.

Let me approach this in a different way because the Member for Diego Martin Central did say that I have limited time and I do not want to pursue this matter of interruptions.

**9.40 p.m.**

When this Bill first came to the House, there was a section where the professions were identified and funnily enough, those which were amended in this very House, the qualifying occupations were given as accountancy, dentistry, engineering, law and medicine. Maybe the section which says “any other profession or occupation prescribed by the Minister under section 11” would have applied.

Unfortunately, the Members on the other side did not pursue this argument, they not only opposed it, but we referred to, and we depended almost exclusively on section 8. The argument was why limit the professions only to these persons, what about other professionals who may have been excluded? The option was taken that instead of limiting it to qualifying occupations under which the media, carpenter and all other professions or occupations could have been included and according to this, under section 11, it would have been:

“The Minister may, subject to an affirmative resolution of Parliament make regulations generally for carrying out the provisions of this Act and in particular prescribe trade, professions and other occupations.”

It seems as though this Bill which came from an original Caricom draft, because there are at least four other Caricom states whose Bill is almost identical to ours. This, I see, embodies the whole spirit of Caricom that is being bandied about today, and the spirit of Caricom is contained in this Bill where one is trying to reduce the barriers and open up the market. Then again, when the Bill was here, this consideration did not seem to be as intense and the Bill which was approved prescribed that in order to qualify, one would be guided by the qualifications set out in section 8(1). Those sections are the ones which give the standing.

I am not particularly interested in arguing one case because what seems to be the approach is that while under section 8, the idea was to broaden the scope so that anybody in any profession who held one or other of these degrees could enter, that was taken to be a much better idea than adding to the various categories as we went along, but then again, one must take things in their balance and one of the

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provisions which was catered for here is amendment. I remember it being said that while the term “Caribbean Skills Nationals” tended to suggest that the skills meant trades and other persons who hold various skills, while that might have been the original intent—and that is where we would eventually arrive—at this starting point it was felt to be prudent to categorize and limit the number of persons who would be catered for under this Act. With that in mind, I am sure that the Member for Diego Martin Central would say I am sure that he could have, at the time, looked at it in this way, but as I have heard earlier, hindsight is always 20/20 and we always know what should have been done at the time.

This Bill in both the Senate and this House satisfied the requirements of the Caricom market which, as was pointed out by the Member for Diego Martin Central, would lead to the single market and the economy. One must tread carefully and while we are being criticized for the contents of this Bill, I have copies of the Bills which were passed in other jurisdictions all of which give the same conditionalities for entry into their territory.

As far as where Trinidad and Tobago has reached today as inkeeping with the pace which the region is going, perhaps we are a little ahead, and I fully appreciate the point made by the Member for Diego Martin Central that we need to maintain our leadership role in the Caribbean.

**Dr. Rowley:** Thank you for having said so, and I do not fault much of the law which you are quoting. I ask the Minister whether he agrees that damage has been done to our interest in Caricom, and if so—

**Mr. Speaker:** This particular mechanism does not allow for other Members to speak.

**Sen. Brig. The Hon. J. Theodore:** Thank you, Mr. Speaker I would take it in the spirit in which it was intended and, with your permission, I would proceed.

The Trinidad and Tobago Bill has not sought to go contrary to what the Caricom member states intended, so it is unreasonable to claim that anything this Government has done with respect to immigration in any way goes against the spirit of Caricom, and the very Caribbean Skills National Bill was designed in the manner in which Caricom wanted. One must not be too anxious to condemn the Government of Trinidad and Tobago because we are still in line with what is going on and it is all well and good to claim that damage has been done, but maybe it is a little premature to determine that. The manner in which the whole issue is being treated seems to be designed to cause damage, that is where damage would be done.

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**Mr. Valley:** Given that damage which might have been caused, could you say what steps the Government intends to take to correct that?

**Mr. Speaker:** I think that Members need to check a little more carefully into the procedures with respect to matters raised. There is some conclusion with this, and definite matters of urgent public importance, as my good friend from La Brea would tell us; but please, it is a 15-minute period that you have and which he has, and the 15-minute period is almost over.

**Sen. Brig. The Hon. J. Theodore:** Thank you, Mr. Speaker, but I welcome the opportunity to clarify what I said and I do not want the Member for Diego Martin Central to suggest that I said damage is done. What I said is the manner in which the issue is being treated, and the way in which the publicity is going, could cause damage. Well, the people responsible would cause damage, but I do not feel that the Government should be made to be the scapegoat and suggest that we are doing anything that is in any way designed to go contrary to the whole Caricom initiative as far as the market and the economy goes.

My main point is that the Bill reflects what is contained in many other countries in the Caribbean, it is true to its intent as duplicated in other Caricom states, and the point is while the Bill has not yet been proclaimed, the intent is there, and one of the problems with not proclaiming it is that regulations are being designed to avoid the very point which the Member made. Any delays at immigration, and any problem with persons coming here who are qualified to come under the Act, these regulations would make sure that people who are coming here would be able to be treated in the manner which was intended and all this is in order.

Basically, I am quite satisfied that under the law as was admitted, the matter of the work permit is certainly not in question, and from the Caricom standpoint, I am also satisfied that at this point, we are in line with the progress we are making and it is disappointing that the mechanisms which could have been used to have additional categories added, or exemptions made by the Minister with affirmative resolution were not taken as an option. Perhaps it is a good thing because it would have gone differently from Bills which were passed by the other Caricom territories.

I am comfortable that we are in line and keeping pace with our Caricom neighbours and there should be no undue need for cause and what, as I said earlier would cause the problem, is maximizing the situation and creating unrest and uneasiness among the citizens, not only in Trinidad and Tobago, but as you said, the country of our closest neighbour—maybe the next closest; Grenada being the

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closest—our next closest neighbour is Barbados. I do not believe that anybody who is responsible would see any motives in what took place here. There was certainly, unfortunately, in the newspaper a headline which suggested that Rogers must go. There is the suggestion that he was expelled. Nobody expelled anybody, nobody has been deported and the record shows that work permits issued in this country are issued for one year in the first instance, and the average stands for three more years. I am not aware that it is the practice to extend work permits on six occasions for anybody.

What happens when the person comes, that person is under the work permit regulations where the firm is to advertize and an understudy is to be trained. At the end of the four years, the person leaves either on the completion of the job, or to be replaced. If we are taking the work permit issue on the one hand and suggesting that it is impinging on the Caricom issue, we have to remember that we are still guided by the Immigration Act and there are laws in Trinidad and Tobago. The pattern has been set and this case is more the exception by the length of time that the work permit has been issued. It was issued on six occasions.

Do you know the kind of persons who apply for work permits from Caricom countries? They are medical doctors 40 per cent, university lecturers 40 per cent; managers and directors of companies, who come here to form companies, the investors of which we spoke, 10 per cent; investors 5 per cent and others like technicians; engineers; religious organizations, 5 per cent. These are the people from Caricom countries who apply for work permits here and all are people who are required and whom we need. I am not going into detail with names and how many persons from the other Caricom territories are actually working here. I wish to confirm what I said just now that on an average, applicants, excluding university lecturers and medical doctors are given three extensions of one year each and the applicant generally spends about four years here at the most.

**9.55 p.m.**

Basically, Mr. Speaker, when the time is up the employee is meant to leave. I really hope that the matter of what we have done would not be taken out of proportion and made to look like some act that persons were condemning. I think it is important that we look at the facts and the situation and not take the view that Mr. Julian Rogers, in particular, is being used as a scapegoat, as the case may be.

I am very glad to have had this opportunity to deal with the other issue but the conditions in the Bill clearly stipulate what is going on. As far as I am concerned

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once this Bill is proclaimed, one would find that everything would be moving quite smoothly between Trinidad and Tobago and our Caricom neighbours.

**Mr. Speaker:** I was about to say that you would be allowed a little extra time because of the interruptions.

**Sen. Brig. The Hon. J. Theodore:** I beg your pardon, Mr. Speaker, I would have reacted had I been told a minute or two ago. I, however, appreciate being given the extra time. I welcome the opportunity and I trust that we have been able to clear the air a bit this evening.

I thank you, Mr. Speaker.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 9.59 p.m.*