

Condolences

Friday, May 21, 2004

HOUSE OF REPRESENTATIVES

Friday, May 21, 2004

The House met at 1.30 p.m.

[MR. SPEAKER *in the Chair*]

PRAYERS

CONDOLENCES

**Mr. Nizam Baksh
(Death of Son)**

Mr. Speaker: Hon. Members, I wish to bring to your notice the death of the son of our colleague, the hon. Member for Naparima. In the circumstances, at this point in time, I ask one Member each of the Government and the Opposition to offer condolences.

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, on behalf of the Government, I express condolences to our colleague, the Member of Parliament for Naparima and his family, on the untimely and tragic death of his son, Ashmead Baksh.

I do not think anyone can ever come to terms with death. I think when one is in a relationship such as with Mr. Baksh and his son, it is more tragic and extremely tragic, when death occurs in the manner in which it had. As a father of four boys, I feel it personally because I can empathize.

I think, and it is being said in the country, that citizens are now expecting their leaders, the Government, Opposition, churches and businesses to set aside whatever differences there may be to deal once and for all with the issue of providing that proper infrastructure, so that we can arrest the decline that has set in.

The scourge of crime is of tremendous concern to the Government as it is the one sore area that is negatively affecting our country. Over the last two weeks there have been different conferences in Trinidad. Just yesterday, the Chief Executive Officer (CEO) of BP, one of our large energy firms, was in Trinidad. Our economy is stable and things are looking bright. It is worth all our while to do what we can to arrest this problem with which we are faced. I feel certain that all of us would find that goodwill to come to the table to deal with the legislation that we should put in place.

Once more, I extend our condolences to Mr. Baksh and his family.

Thank you.

Dr. Adesh Nanan (*Tabaquite*): Mr. Speaker, we wish to put on record our sincere condolences to our colleague and friend, the Member of Parliament for Naparima, Mr. Nizam Baksh and his family. Today Bro. Nizam continues to mourn the death of his son Ashmead who was just a 29 year-old man whose life was snuffed out in less than 48 hours following his disappearance.

Ashmead was born on June 16, 1974. He attended the ASJA Boys College from 1985—1990, where he obtained his O’Levels. From 1990—1994, he attended the Barrackpore Senior Comprehensive School where he obtained A’Level passes in Mathematics, Physics and Chemistry. Ashmead graduated from the University of the West Indies in 1997, with a second class honours degree in Mechanical Engineering and worked as a trainee at Amoco Trinidad Limited from June 17 to August 27, 1996. He taught Process Plant Technology at the San Fernando Technical Institute from 1997—1998. He was the managing director of Able Equipment Rental and Services Limited from 1997, to his untimely death.

Ashmead was kidnapped on Friday, May 14, 2004. His car was burnt and he was found dead two days later. He was apparently tortured to death. He was shot twice in the back of his head and chopped about his body. His hands and feet were tied with wire and his body was set afire. His body was dumped on the side of the road at Platanite Trace, Penal. This senseless act took place a few miles from his home at Barrackpore.

Ashmead was a model citizen, a practising Imam at the Barrackpore Rochard Douglas Mosque. His life revolved around family, prayers and work. He was married for less than two years and now leaves his wife, Reshma, to mourn his untimely death. He was building his house for the last six years next to the very mosque where his funeral took place, a house he will never get to live in.

On a personal note, I remember Bro. Nizam inviting me to his Barrackpore home to fly kites with his children. He instilled the importance of community and family life in his children. Ashmead was a shining example of family and community commitment. His mother who gave birth to him and nurtured him for 29 years did not know where her son was last Friday and as she prayed for his return did not expect a lifeless body. She will never hear his voice again.

Ashmead was like a precious gem polished by his parents for years and today, this precious priceless gem is lost forever. Ashmead was loved by all. The tears that flowed at his funeral were like a river of blood. The entire Barrackpore community was in shock and grief. So incensed were the residents that they placed placards along the entire route to the house of mourning, expressing their disgust at the alarming upward spiralling crime rate.

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For the year 2004, families have been traumatized by 44 kidnappings and 94 murders. The editorial in the *Trinidad Guardian* of Monday, May 17, 2004, "Sinking Into The Abyss" on the front page, says it all.

"The country is descending into an abyss of violence and brutality,..."

On behalf of the Members on this side, once again, we express our condolences to the Baksh family. Let us take solace in these words taken from the holy Koran, "Well pleased, well pleasing, enter into my paradise".

Mr. Speaker: Hon. Members, I too join you in extending to the hon. Member for Naparima and his family my deepest and sincerest condolences. It was only on Sunday morning about 10 o'clock I had the opportunity of speaking with the hon. Member. At that time, he was not aware that his son was perhaps already dead.

On occasions like this, it is for us to be in sympathy with the Member and his family and comfort him as much as we can. I would direct the Clerk of the House to write an appropriate letter to the hon. Member and his family expressing the sentiments of the House.

I ask hon. Members to stand for a minute's silence.

The House of Representatives stood.

ANSWERS TO QUESTIONS

(CIRCULATION OF)

Mr. Ganga Singh (Caroni East): Mr. Speaker, with respect to the questions, on the last occasion because time ran out there was the indication that the answers would have been circulated. Those answers were not circulated. In the event that they are not yet prepared to be circulated at this meeting, certainly, we want the questions back on the Order Paper.

Mr. Speaker: I ask the Leader of Government Business to make sure that the answers are circulated in accordance with the Standing Orders which should have been shortly after 2.15 p.m. on Friday.

DEFINITE URGENT MATTER

(LEAVE)

Death of Ashmead Baksh

Miss Gillian Lucky (Pointe-a-Pierre): Mr. Speaker, in accordance with Standing Order 12 of the House of Representatives, I hereby seek your leave to move the Adjournment of the House for the purpose of discussing the following

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matter, as a definite matter of urgent public importance, namely, the death of Ashmead Baksh, the son of the Member of Parliament for Naparima, Mr. Nizam Baksh. The matter is definite since it relates to the specific death of a son of a Member of Parliament whose body was found slain in the most gruesome and brutal circumstances on Sunday, May 16, 2004.

The matter is urgent because this is the first opportunity since the death to raise the matter in this House.

The matter is of public importance because no one is safe. As the representatives of the public, it is our duty to deal with matters that threaten the life, limb and liberty of all law-abiding citizens including children of Members of Parliament.

Mr. Speaker: The effect of a matter of urgent public importance is the adjournment of the regular business of the House to discuss something of such national importance that it cannot be deferred.

Earlier on today, I discussed this matter with the hon. Member for Pointe-a-Pierre. Although in itself a serious and grievous concern to all of us, it does not qualify to be raised as a definite matter of urgent public importance. The matter touches all of us and we do indeed share the grief of the hon. Member for Naparima and his family.

It is for this reason as was discussed with the hon. Member for Pointe-a-Pierre, I have directed the Clerk to send out the appropriate letters to the relevant Ministers to have this matter dealt with on the Motion on the Adjournment of the House at its next sitting.

VENTURE CAPITAL (AMDT.) BILL

Order for second reading read.

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, I beg to move,

That a Bill to amend the Venture Capital Act 1994, be read a second time.

The intention of the Venture Capital Act of 1994, was to facilitate business activity through venture capital financing, by fostering an environment of innovation, risk taking and entrepreneurship and providing equity capital to small and medium-sized enterprises, so as to allow for the growth of that sector. That Act was amended in 1997, when the Venture Capital Incentive Programme (VCIP) office was brought into being. In 1996, there were regulations concerning the operations of the venture capital system.

Although the legislation is dated 1994, it was not until the last day of 1996, your humble servant had the privilege of registering the first venture capital company under the Act. At present, there are four. Very soon thereafter it was recognized by the players that the legislation did not provide the appropriate infrastructure for the development of venture capitalism in Trinidad and Tobago. The legislation of 1994 had a focus on the small and medium-sized enterprises.

One felt that it was extremely restricted. As a matter of fact, it was not only in Trinidad and Tobago that that feeling was shared. The firm of Luckwood Green Engineering which was employed to assist the last government with the development of the National Science Technology and Innovation Plan in 1999, felt that the venture capital legislation was too restrictive to do what one expected in Trinidad and Tobago. Dr. Richard Thurston, one of Luckwood Green's team members, said that there was considerable work to be done on the issue of venture capital. The current legislation in Trinidad and Tobago would have to be substantially amended, even written, to secure the kind of activity that is required in Trinidad and Tobago.

Based on the concerns expressed by Dr. Thurston, on January 05, 2000, the then Cabinet appointed a team to review the venture capital legislation. That team was chaired by the then president of the Tourism and Industrial Development Corporation (Tidco) Vishnu Ramlogan and included Ms. Monica Clemens who is at present general manager of the Securities Exchange Commission; Dr. Patrick Watson; Ms. Judith Mark; the administrator of the venture capital administration in the VCIP, Mr. Rabindra Jagnauth; partner Ernst & Young; Mr. Allan Clovis owner of Cariwak Hotel, the chairman of the Small Business Development Company; a representative of the Ministry of Trade and Industry; a representative of the Bankers Association; a representative of National Trade Union Centre of Trinidad and Tobago (NATUC) with Mr. Clive Pegus acting as legal advisor. On January 05, 2000, that decision was taken.

The committee went to work and on July 11 presented its report to the then Minister of Trade, Industry and Consumer Affairs, the hon. Mervyn Assam. The report is 80 pages long and I have no intention of going through the whole report. I want to refer to some aspects of the executive summary. I think it would be worthwhile to get an appropriate background to the amendment before us. The task force said that while in 1994, we were looking at the small business sector, given the changing circumstance in Trinidad and Tobago—we are thinking of this science and technology park and developing Trinidad and Tobago—there ought not to be the restrictions on the venture capital legislation that currently exists.

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Under central issues, the executive report said that the major issues which engaged the attention of the task force could be summarized as follows: What should be the objective of the venture capital regime in Trinidad and Tobago? What is the domestic and international environment in which venture capital has to develop in Trinidad and Tobago? Are incentives required to stimulate the industry? If so, should incentives be reserved for the small and medium-sized enterprises, or should incentives be differentiated to accommodate specific sectors? Should venture capital be regulated statutorily? If so, should the legislative framework have as its focus, the grant of incentives, or the overall regulation, management and development of the entire industry, or both? What specific regulations should be applicable? What supporting institutions are necessary? What roles should be played by these institutions? What reforms in the education system are required to create and develop an entrepreneurial class in Trinidad and Tobago? Is there a special role for the State in the promotion of the venture capital industry? The committee also considered the experience of British Columbia which provided the model for the Trinidad and Tobago programme, as well as venture capital regimes in the rest of the world to determine best practices.

I would go straight to some of the problems identified. In looking at the current legislation, the committee found it was too restricted and limited the size of the venture capital company to an authorized capital of \$20 million. It limited the size of the qualified invested company to an authorized capital of \$3 million and not more than 75 employees. It required that the majority of directors must qualify as residents of Trinidad and Tobago. The current legislation has a restriction on the type of investment that can be made by an investor. An investor can only invest in one class of shares in the qualified invested company. I can say that this was particularly difficult to meet. A venture capital company must invest in a qualified invested company within 12 months from the date of its registration. By the end of the second year, there was the requirement that 80 per cent of the funds of the VCIP be invested in the qualified invested company. That has been extremely difficult.

Only last night, I was looking at an article on venture capitalism that suggested in the United States, they get about one in a hundred. They look at a hundred companies and make investment in one. Other research suggest that in the United States the concept of venture capitalism is well developed. A number of firms provide venture capital in the United States. It is quite different from Europe and developing countries where there is a more conservative approach. If in the United States you are talking about one in a hundred, one can see how much more difficult it is in a place such as Trinidad and Tobago.

The current legislation also limits the venture capital company to a maximum of 49 per cent holding in the qualified invested company. The venture capital company cannot invest in a number of areas at present. There is a requirement that part of the investment of an individual in a venture capital investment company must go into an investor's protection account, in the amount equivalent to the tax of saving earned on the investment. The venture capital companies are required to divest their investment after five years, but before the tenth year.

The committee found that most of these restrictions hampered the development of the industry. The then Cabinet approved—I think it was in August of 2000. In its review of venture capital throughout the world, the committee developed a list of best practices for venture capital regimes. I want to indicate some of these to point the way as we look at these amendments.

They found that a significant proportion of venture capital companies tend to specialize in the financing of a single sector. They get to know a sector and specialize in it. There is nothing wrong with that. Some people would argue that one ought to have some diversification to spread the risks. The experience is that a venture capital company may limit its investment to a particular sector that they know.

The venture capital provides the major source of financing for start up companies. Traditional banks tend to shy away from the start ups. They want to lend only to the tried and tested. I can tell you how difficult it is to get funding for start up ventures. Given where we are today and where we want to go, it is extremely important that we provide the environment and infrastructure, so that start up companies or persons with new ideas and innovators can get funding for their projects. More importantly, given our positioning of Trinidad and Tobago we expect a sizable number of new firms would be ideas based or knowledge based. That is more difficult to finance by way of debt, since the asset is human rather than physical. It would assist in providing an environment for venture capital so that equity financing may be made available.

The research also found that venture capital market thrives where the Stock Market is sufficiently developed to facilitate flexible introduction for the venture capitalists and where there is a strong entrepreneurial culture pervading in the entire society, from the education system to the industry. They also found that although there is usually a low approval rate of projects, the point I was making a while ago, the ratio of investments to issued capital of venture capital companies is very high. Based on that, the task force concluded that the venture capital legislation should provide a facilitative and liberalized regime for the financing of high risk but potentially high-growth businesses. The legislation should remain

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incentive based as it is at present. Its policy orientation needs to be re-focused to provide for the development and regulation of all venture capital companies. The current focus on the small business sector, while initially understandable, could not be guaranteed to generate and stay in the development of the venture capital industry.

It said further, specifically the restricted provisions in the Act, with regard to the registration requirements, business and investment conditionalities need to be removed, or substantially modified. The task force is also of the view that legislation should also address measures to inspire investors' confidence at the permitted stage of the industry in Trinidad and Tobago. Based on that, the task force listed a number of recommendations and I can tell you by and large, that those recommendations are reflected in the legislation before us.

The then government accepted the report of the task force on September 6, 2000. When this Government came in, based on the fact that the environment has changed, we asked a committee to look at the report of the task force and advise us on the way forward. We reported to Cabinet, but given the changes to the operating environment since 2000, including the establishment of the Business Development Company—we changed the Small Business Development Company to the Business Development Company.

Early in 2002, we brought in the National Entrepreneurship Development Company (NEDCO) and set up a committee to look at the financial sector reform. We thought it best that the recommendations of the task force should be reviewed by a committee comprising persons from the Ministry of Trade and Industry, the Venture Capital Programme, as well as persons from the Ministry of Finance. They looked at the reform agenda. The review committee confirmed the recommendations of the task force. In other words, they remained valid. That view was supported by the Minister of Finance. Given our positioning of the whole financial sector, we need a good foundation for the venture capital regime in Trinidad and Tobago to go forward.

Under the proposed legislation, we are increasing the authorized share capital of the venture capital company from \$20 million to \$100 million. We are proposing that the limit of the qualifying investing companies be increased from \$3 million to \$50 million. Understand what that means. We are removing the employee requirement. While under the current legislation one is limited as to the share capital of a venture capital company and the type of company in which one can invest, now there is a broader range of companies. Existing companies rather

than simply start ups, can now apply to be a qualified invested company and be positioned to take advantage of the opportunities in the Americas.

Whatever we are doing today must be consistent with our overall Vision 2020. Our positioning of Trinidad and Tobago is as a manufacturing platform, a transshipment hub, as a business and financial sector of the Americas. Government can either say that it would put \$100 million into a venture capital fund; put bureaucrats to run that, or provide tax incentives so that the private sector can put money into venture capital funds operated by the private sector, where they would make their decisions based on return and risk considerations but, at the same time, we would be providing an avenue for these businesses to acquire funds for expansion. In the main, we accepted the recommendations of the task force. Those are the amendments to the venture capital legislation.

The task force dealt with other areas they thought should be amended. Those did not find favour with us at this time because of the fact that we had established a committee to look at the whole financial sector. You would remember that in May 2003, we brought the Green Paper on financial sector reform and it went out for public comment. We received those public comments and are upgrading the report to a White Paper which ought to be coming to Parliament rather soon. Last Tuesday, we had what we considered to be the final presentation to the stakeholders. We are simply crossing some "t"s and dotting some "i"s, then, on to Cabinet, to Parliament with the White Paper. While we were looking at the overall financial sector, we did not consider it advisable at this time to go forward with those other recommendations which touched on other aspects of the financial sector, preferring instead to wait on the White Paper and its discussions.

With respect to the amendments to the venture capital legislation, the Government accepted those recommendations and those are the subject of the Bill before us.

In terms of the legislation one can note the following four points. The first is that the amending legislation widens the scope of the venture capital legislation in about three or four important respects. I have already spoken about the venture capital investee companies; their increase in the limit from \$3 million to \$50 million and the increase in the venture capital company from the authorized capital of \$20 million to \$100 million. There is also a widening in the scope of the areas in which a venture capital company can now invest.

Under the current legislation the concept of eligible investments in the oil and gas area are excluded, but they would now be included in the legislation. There is the issue of what type of investments they can make. We have widened that to

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include a definition of equity which would include preference shares and cumulative preference shares. While the current legislation talks about having one class of shares, we have now widened that to say that a venture capital company can invest in a company via preference shares, cumulative preference shares or ordinary shares.

Secondly, we are putting some strictures on fund management. We borrowed the concept of fit and proper. We have said quite clearly in the legislation that the person managing a venture capital fund must have certain qualifications.

Thirdly, we recognize that in the Companies Act of 1995, there are some changes where we are now saying that the venture capital company must be incorporated in accordance with this Act or continued under the Act.

Fourthly, you would see in the legislation that the administrator is given some more powers. Those are the critical aspects of the legislation. That is by way of background.

The amendments to this legislation were accepted by the last government in 2000. They were reviewed by this Government. We concluded that they were still valid and important as we go forward. It is in this context I am recommending them to the House today.

Under the venture capital system, the investor gets a tax credit equal to the marginal rate of tax for his investment. In effect, the Government is contributing 30 per cent. Government has the option. It can put \$100 million in a venture capital fund and say it wants to develop the country. There are high risks in investment that the private sector or the banks may not want to handle and set up a fund; put some managers to manage it and say you decide the area of tourism or technology. We are going to Wallerfield and we expect some nice things to happen there. It would need financing. The Government can do that or, alternatively, it can widen the scope of the venture capital legislation and say that it would contribute 30 cents on every dollar you put. It is a partnership between the private sector and the Government. In this way we believe that it would be more efficient because it would be market-based, market driven and private sector driven.

In this context I recommend this legislation to Members of this House.

Question proposed.

Mr. Winston Dookeran (*St. Augustine*): Mr. Speaker, the Member for Diego Martin Central gave a very comprehensive account that has led to the amendments before us. I would like to make a few comments on the issue of venture capital

and its functioning in Trinidad and Tobago. In so doing, I ask the question as to whether the objectives laid out in the reports which were referred to by the Minister, would be achieved by the amendments that are being proposed.

Essentially, venture capital in the context of our country is the conversion of tax credits into equity financing. That is at the heart of the matter. The extent to which there can be equity financing, evolving out of the tax credits which are foregone revenues, would determine the success of this venture. It has been described that venture capital is one of the missing links in the financing for economic development. Many countries in the world, including our own, have not had a very good success rate in introducing this form of financing for economic change. It still remains a missing ingredient in the array of measures for financing economic change. Why are we promoting venture capital as a means to finance economic change?

The Minister spoke about the role of the Government and was at pains to outline that the Government's role was catalytic and setting the administrative apparatus in place; the appropriate incentive structure and leaning onto the actual mechanics of financing, the private sector. We have no problem with that.

There are three basic functions that venture capital would perform in our economy but, by itself, it would not do so. I was disappointed that the Minister said that he was delaying the other legislative measures until he could deal with the financial sector reform package. Today, the gap between savings and investments in this country remains fairly large. The average rate of investment is 20 per cent less than the rate of savings, according to some figures of a few years ago. I am sure that this has not changed considerably. This is against a background where when we exclude the petroleum and energy sector, our rate of saving is not considered to be high by international standards. I do not wish for us to go through the motion of establishing measures that may or may not work, without dealing with some of the fundamental environmental changes that are required for it to work.

The first function of venture capitalism is to try to reduce that gap between savings and investments. What are the complementary measures other than venture capital that are supportive of that particular function? Perhaps, the Minister may point towards new legislative changes which he has proposed and is promoting, but in this House, we are yet to feel the sense of confidence that will bring about the necessary changes in the environment of investment.

Today, the environment of investment is fraught with many difficulties. In that context, one needs to look not only at the economic instruments at work, but also

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at the political management of our country, to see the extent to which we can inspire confidence in the way we manage and govern ourselves.

It is important to deal with this very vexing question of raising our level of investment in the country to meet the existing level of savings that we would require, more than simply by the introduction of amendments to the Venture Capital (Amdt.) Bill, 2004.

The second objective of the Venture Capital (Amdt.) Bill would be to create the investment, or reduce the gap between employment and growth in the economy. One of the measures outlined by the hon. Minister suggested that he was removing one of the employment requirements. I am sure there is good reason to do so, but it does mean we would have removed one of the objectives of creating employment within the legislative structure. I have no problem with that because perhaps, in decision-making it might have been too restrictive a feature. We must look at the issue of employment and growth.

One area that was outlined which I would strongly support is the expansion of the scope of activities to include the energy, oil and gas sectors which were originally excluded in the first formulation that was before us. In that sector most of the opportunities for venture capital may arise. That is an untapped area, yet, in Trinidad and Tobago, to enhance the manufacturing sector with the use of natural gas to encourage mid-size capital projects, hopefully, this provision would open the doors for that particular area of activity to be accelerated.

The third and equally important function is to change the mix between equity and debt capital financing in Trinidad and Tobago. Based on figures of a few years ago, the sum of over \$2 billion was mobilized for debt financing in Trinidad and Tobago, while only in the same year, the sum of \$241 million was mobilized by equity financing. This is a major issue as it involves more than simply the amendments to the Venture Capital Act. I was hoping that the Minister would have outlined some of the measures to increase, other than true venture capital which is restricted essentially to high-risk investment, as to how we can increase that level of equity financing in Trinidad and Tobago.

Once again, the issue of confidence emerges. Why do people prefer to use debt financing to equity financing? It is because they prefer to let others take the risk; they themselves would not take the risk. The banking system is placed in a position to take the risk. Why is the society not prepared to take their risk in their country? It requires more than what has been laid out before us today. These are important issues: the question of reducing the gap between savings and investment;

the question of building the connectivity between employment and growth and the question of reducing the disparity between equity financing and debt financing.

The very essential function of venture capital is to provide the risk capital, but that would depend on the political management of the country. The extent to which we can do so would depend on the confidence people have in the political management of the country, apart from the economic situation.

2.30 p.m.

There is no doubt that we are fortunate today, in having before us, certain external developments that have led to a very positive picture in the energy sector in our country. But could we say the same about the political management in our nation? Is anyone doing a risk profile of Trinidad and Tobago in order to make an investment that is of a high-risk nature, be it in the technology or energy sector? We would feel comfortable with the degree and extent to which there is good political management of this country.

I say to you in this House, that unless we deal with the issue of the political management of this country, venture capital amendments or not, there shall be no increase in risk capital in Trinidad and Tobago. [*Desk thumping*] And that, I hope, would engage the attention of the Government in its attempt to build that confidence and in its attempt to establish clearly that we are on a path of good governance. There would be other opportunities to debate that but at this time, as we try to introduce measures aimed at encouraging risk capital, we can only do so in an environment that is supportive of it.

Venture capital aims at high risks and high reward activity. An entrepreneur takes the risk in setting up such a company by accessing the tax credits that are made available, as the Minister pointed out. Tax credits that are equal to the marginal rate of tax to either individuals or companies and then encourage whether at the lower end or at the upper end, equity financing in other companies that would take these risks as well. We have always had problems in taking risks in this country. It is true that the Venture Capital Act of 1994, which was subsequently amended, so I am told, has had a very slow take-off. In spite of the fact that there has been some venture capital legislation for almost ten years in this country, according to the figures up to year 2003 only two companies have been registered. I do not know what the current position is but by any standard it is a very low performance rate.

Notwithstanding the fact that we may have had to change as the Minister attempts to do today, many of the policy frameworks within which venture capital

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will be introduced in our economy, but it is very strange, and the Minister himself said that venture capital is aimed at fostering an environment of innovation, risk-taking and entrepreneurship. Let me deal for a few moments with the issue of innovation. Unless there is a very solid environment of innovation where there are, in fact, new designs and new opportunities emerging on a continuous basis, and there is a culture of innovation, we would not be able to use the venture capital mechanism as effectively as we would like to.

According to the *World Economic Competitive Report*, which was done by the World Economic Forum, the issue of innovation has been one in which Trinidad and Tobago has scored rather low—I believe we are ranked 60 somewhere out of 80 countries and as has been pointed out—and it is one of the major areas in which there is need for major policy changes, for new thinking, for major shifts and strategies. We must not fall prey to the fact that without changes in the policy to change the environment, for such legislation to work, would bring about the results. It is therefore critical in bringing about these legislative changes that have been outlined today, that we do take appropriate steps to increase the culture of innovation; that itself is a major area. The innovative index in this country is very low so we cannot be talking about risk capital based on a low level of innovation. We need therefore to supplement what we are doing with a major policy framework and resources to bear on that framework for increasing our innovation in this country.

When I looked at the clauses before us in the amendments, I noticed that many of these clauses deal with the administrative aspect. It was pointed out, that the legislation before us widens the scope in terms of the area of investment, in terms of the definition of equity capital and we have no problem with that. It is the result of works that were undertaken by technical persons, and as the Minister pointed out this was work that was passed from a previous government to this present Government, so there is no real issue on widening the scope. It has been pointed out that the strictures on front managers were to be more stringent. The application of the fit and proper role might be an important one to introduce here. Our concern would obviously be in the transparent way in which such a decision would be undertaken. You cannot build good governance with low transparency. You have to build good governance with high levels of transparency and in that sense, once we have to employ the fit and proper rule in order to decide on who is granted front manager's role or not, that will be a matter of public concern in this country unless there is confidence in the transparency of decision-making at the public level.

The third area pointed out was the fact that the Companies Act of 1995 would now be recognized and that takes care of many of these issues that have been

outlined in terms of the ambiguity with which that particular matter has been dealt with by the previous legislation. Although the Minister did not quite explain what he meant by it; he said that the administrator would now be given more powers, and I was not quite clear what these additional powers were and whether such powers would, in fact, nullify certain goals of the legislation to encourage private sector participation. There is no problem with these particular measures but when we look at the clauses before us, we see many of the clauses with changes in order to rectify the administration of the Act, and this is fine. Clauses 1, 2, 3, 4, 6, 8, 9, 10 and 11 are in some way or the other dealing with these matters in order to put proper administrative systems and proper front manager's criteria and proper recognition of the Companies Act in place. They do not change the economic climate, they only change the bureaucratic organization within which we are operating, and so often this Government has confused bureaucracy with performance. Increasing bureaucracy does not mean that there would be increased performance. It is an aid to performance. How many times have we not made that distinction and we think that by putting these things in place by themselves would generate the environment? It is only in clauses 5, 7 and 12, that we see some fundamental changes in the Bill before us.

Clause 5 increased the amount of equity capital from \$50,000 to not less than \$500,000 and I was wondering why the words "not less than". Is it an exclusion clause to exclude capital of less than \$500,000? Does it mean that the Act is now going to apply only to the middle size and, perhaps, larger size companies? Would it not apply to firms with less than \$500,000? I can see it increasing to \$500,000 but not necessarily increasing to a point of not less than \$500,000, and not more than \$100million. We can see the limit from the top. But I cannot see the limits from the flooring, and I was wondering if the Minister would want to explain the rationale for that particular clause of increasing the equity capital from \$50,000 to not less than \$500,000. Is it that there are some investors that are now available to use the tax credits that are made possible by this Bill? Is there such a list of investors on the pipeline that has led the Minister to want to increase these levels at this time, or is it based on the general policy position of the technical report that was done by Dr. Thurston, I believe, or earlier on, in this report?

Clause 7 of the Bill increased the amount of capital with which a venture capital company shall carry on business from \$20 million to \$100 million, and that is fine. That increases the scope and we have no problem with increasing the scope. Clause 12 will require a qualified investee company to have no more than issued and fully paid up share capital as prescribed by the Minister. It also removes—and this is the point I made earlier—that investing companies should

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have a prescribed number of employees, and I was wondering why it was necessarily to put that to remove that particular restriction.

Mr. Speaker, three of the clauses deal with substantive issues that have been raised by the report of which the Minister spoke. He said, for instance, that the report that was done in 2000 that was submitted to the then Minister of Trade and Industry, Mr. Meryvn Assam, looked at the objective of the venture capital regime in Trinidad and Tobago; it looked at the environment; it looked at the incentive structure; it looked at the role of the state; it looked at the British Columbian model and other models that were available to it for scrutiny. In other words, the work of the committee was of a wide-ranging nature. It did deal with the issue of environment of innovation which I speak about; the environment of risk-taking; the environment of good governance. It did deal with these issues and in that sense, there must be some commitment to these issues or else we may find that the poor performance of the Venture Capital Act, Venture Capital Incentive Programme of the last ten years would not fundamentally change—unless there is something that I do not know—unless there are, in fact, agents at work who want to have access to this tax credit at this time.

The Minister's argument was that we must do everything in the context of the opening up of the Americas; and he is right, that this is necessary to do so. But the question does arise. Would it, in fact, be able to achieve these goals unless we are able to deal with what has been laid out by the report of the technical people in trying to establish the clear objectives and the clear environment in which this venture capital legislation should take place?

The current initiative is really twofold. The Government would provide investors with an incentive equal to the highest marginal tax rate for the individual and companies. The tax credit, if not claimed, could be set off against tax assessed for succeeding years of income until fully utilized. And I agree that this is a partnership between the State and the private sector, but it is an enormous concession that would only work if the other environmental issues of innovation, good governance and political management are in place.

Is this incentive all that is required? I ask that question; whether or not we can rely only on the tax incentives? Many times investment decisions are made without regard to tax incentive. There are other factors that come into play for risk capital to take place. People do not respond only to tax incentives especially in climates in which there is great uncertainty, so is there a need to go beyond the scope of using this incentive? I do not know whether the reports that were referred

to have raised other issues of incentives. But, perhaps, it is something that we should look at closely.

The prime objective of a Venture Capital Incentives Programme is to increase the supply of risk capital to the business sector. Would that tax incentive be able to perform that function? It had been in existence before. It is true that it was existing in a more limited framework but it was existing for the last ten years, and it has only brought about two registered companies in this period. Three now, I am told. So the more fundamental question is: Are these the right incentive structures that are required in order to increase the supply of risk capital to the business sector that would foster the expansion and the preservation of businesses, as well as the creation of new jobs?

I wonder if we are not caught up in the orthodox system of incentives; if we are not caught up in the old system where we use the tax measure as a means of incentives, where, perhaps, investors look at the tax gains as the final decision in the decision-making apparatus rather than the first one; whether or not perhaps we need to have the proper incentives for infrastructural development for telecommunication; whether or not we need to have a competitive communication environment where there is a low cost of communication, where telecommunication should be of a low cost. That, perhaps, is a more important hindrance to investment today than tax incentives in Trinidad and Tobago. And, therefore, I wonder if the Government is not caught with the old paradigm of tax incentives being used and thinking that by giving tax incentives there would be people flowing to take them when truly people are looking at the cost of doing business in Trinidad and Tobago; the transaction cost of doing business. They are increasing tax incentives and the transaction cost is increasing at the same time. I wonder if the Government is caught up with that orthodoxy and, therefore, they had to see beyond that orthodoxy in order to try to put an environment in place that would really make this work. What we are talking about here is to really make the thing work, and not to go through the motions of legislative changes when we are not tackling the fundamental issues to make it work.

Mr. Speaker, it is in that kind of environment of the low cost of doing business, the low cost of transaction, the high degree of innovation that opportunities would arise for high risk taking. Tax incentives would be an essential part. It may be a necessary condition but it is not a sufficient condition. I am saying that in the framework in which this legislation is being put forth that we may need to put some emphasis on those other areas of activities which are important as well.

Perhaps, there is need for legislative changes and the Minister did say that he would bring new legislative changes in the financial world. We have spoken on

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the Insurance Act and we have seen the pace at which these things do take place in our country. The world is changing very fast and our system of legislative changes is moving very slowly and, therefore, what would happen is that by the time these legislative changes are brought to the House they would have to be updated again. The Minister talked about that; the rhetoric and the reality challenges. There is a big gap between the rhetoric and the reality. And that is another area that we need to look at in terms of improving upon the right conditions to this Venture Capital (Amdt.) Bill.

Previous governments, we are told, assessed the situation and decided that they wanted to analyze the measures that are required to make it work and this Government has endorsed those measures. In terms of business development, there is no real problem with the provisions in the Bill before us other than the few questions I have asked with respect to the limitation on the entry level or on the lower level, which I would really like to find out. Why a restriction at the lower level and not at the higher level?

Mr. Speaker, perhaps we would have a better Bill before us, one in which there is more scope but it may not be a Bill that is operating in an environment that is conducive to its use. Quite frankly, I would have expected the Minister piloting this Bill to have set that environment in place rather than setting the process of the bureaucracy that led to this change which are two different things: the process of bureaucracy, that is how the committees have been established, and what they do.

What are the environmental requirements to make this Bill work? What tax incentives would be required? How are those things being dealt with? They are important areas. Could we, in some years, come to find that there is no increase in registration on venture capital in Trinidad and Tobago? Or is it that now that it has opened it up to the energy sector, there are a list of companies that are searching for that particular measure of seeking tax credit? Is it therefore going to be given to those who least required it? For in the energy sector while it has one positive aspect in terms of its viability without tax incentives, are you going to lose tax foregone in that sector in order to be able to encourage equity financing in that sector?

Mr. Speaker, generally, there is little controversy with most of the issues in this Bill but I have raised these issues if only to put into context the relevance of dealing with the bigger issues surrounding these Bills in the Parliament.

In terms of business development, it is but a step in the right direction; in terms of whether or not it would close the gap within reality and rhetoric, we have

to wait and see. We have raised these issues only to suggest to you that in the final analysis, one can put as much as one can in the legislative agenda but the critical issue is good governance, transparency and political management. That is where more emphasis is needed to be placed in this country if we are to make use of the measures that are being passed in this Parliament. Thank you.

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, let me thank the Member on the other side for his contribution and his support for the legislation before the House. I would simply try to touch rather quickly on some of the issues raised. I must say first of all, I was taken aback after what I thought was an excellent contribution as the Member attempted to undermine his credibility. After supporting the legislation noting that it had its genesis from the last government, the Member went on to argue about the tax credit whether, in fact, that is the catalyst to get the technology industry going and nobody, of course, is saying that. One is aware of the other things that are critical. The difference is while one has to come to the Parliament with respect to the legislation; one does not have to come to the Parliament with respect to the legislation; one does not have to come to the Parliament to do the other things which are being done and which are seen to be done.

What is the reality? The reality is that as we position Trinidad and Tobago there is need for risk capital, there is need for innovativeness and one has to deal with that via education and, over the last 10 years, it is incorrect to say that the Venture Capital Incentive Programme did nothing. While there has not been an abundance of ventures getting financing, the Venture Capital Incentive Programme has been out there providing the education and, of course, they need to concentrate perhaps, more on that, and they would tell you that the mandate now is to forge a closer relationship with NEDCO, with the Business Development Company and really get out there and sell the concept of entrepreneurship. The problem in a country such as Trinidad and Tobago is with the abundance of family firms where one does not want to take that decision to have other people come into their businesses as it were. We have somehow to attempt to change that orientation. The Venture Capital Incentive Programme is charged with that responsibility. There is an abundance of literature available. There are now professional qualifications in the whole area of venture capitalism that one can bring to bear on the whole area and the Venture Capital Incentive Programme is charged with doing that.

The Member asked about the transparency role for the fit and proper person I want to point the Member to the legislation where it states quite clearly at clause

6:

“The Act is amended by inserting after section 5, the following sections:

Fund Manager 5A. A person who—

(a) Is the holder of a degree or professional qualification

(i) as an Accountant;

(ii) as a Chartered Secretary;

(iii) in the field of law;

(iv) in the field of Business;

(v) in the field of Economics; or

(vi) in the field of Management,

from an accredited university or other accredited educational institution; and

(b) has at least two years working experience in finance, management, accounting or such other qualification as the Minister, after consultation with the Administrator, may by Order prescribe,

shall be qualified to act as a Fund Manager.”

I hope that is transparency. *[Interruption]* That is not transparency? I do not understand. Please, enlighten me.

Mr. Dookeran: Mr. Speaker, I was making the point about the eligibility criteria but what I was referring to is a decision-making as to who shall, in fact, qualify and who shall not; whether that process would be transparent.

[MR. DEPUTY SPEAKER *in the Chair*]

Hon. K. Valley: Mr. Deputy Speaker, a venture capital company registered: it says that Mr. X is the Fund manager. It says Mr. X is qualified to be a Fund manager because he is an accountant, he needs two years' training; that he is a fit and proper person because he is not an undischarged bankrupt and so forth. The administrator does not have a say at that point as long as the person meets the rules outlined here, then the person is so qualified, and if he does not then he is not so qualified. And that is what we attempted to do in the legislation. The other issue raised by the Member is what he calls the cost of doing business in

Trinidad. He made the point that the tax credit may not be important and that what is important are other conditions.

Mr. Deputy Speaker, what is the reality? One would grant that yes, the negative in the environment now, is the criminal activity. There is no evidence yet that that is affecting the economy and it is incorrect also to say that it is simply because of what is happening in the energy sector. There is a contribution. But if you were to speak to the Chamber of Commerce, and if you were to speak at various chambers, if you were to speak to the Manufacturers' Association which has just held a very successful trade and investment conference, they would tell you that things are good and they expect them to get better. At the same time I congratulate them for having a very successful event. See what is happening; unless we are blind, we cannot miss it. The cost of doing business in Trinidad and Tobago is going down.

[MR. SPEAKER *in the Chair*]

Mr. Speaker, yesterday I had the pleasure of hosting 15 Venezuelans who came to Trinidad to look at investing in Trinidad and Tobago. I spent quite a bit of my time as Minister of Trade and Industry speaking with potential investors in the non-energy sector. They see what is happening and they see Trinidad and Tobago as a good platform to get into the Americas and that is our positioning. What we are doing by this legislation is making equity capital available or providing the environment to make equity capital available to risk ventures which existing firms, existing manufacturers, who may wish to expand because of the now larger markets, may need to get into those new markets.

It is not simply start-up we are talking about. Whereas the current legislation had a sort of myopic focus on the small business sector, on the start-up company, this legislation is really liberalizing the environment looking even at existing companies. We are talking about companies with equity capital of up to \$50 million, so that we are really talking about that big middle road company, existing companies and it is incorrect also to say that venture capital is simply a conversion of tax credits into equity financing. It is a conversion of 30 cents on the dollar. That is why I am saying it is a public sector/private sector partnership. In any \$1.00 investment, it means the Government would be contributing 30 cents and the private sector person contributes 70 cents. That is what it means, with the private sector person having total sway—he and his board—on how those funds are invested in the qualified investee companies.

We are doing that because we recognize the risk that he is taking, the fact that there is a high failure rate among businesses and so forth. But more importantly, if

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we want our medium size firms to grow, we have to provide them with the avenue for equity capital. And that is what we are doing. When we speak about a movement away from debt to equity this is the environment, the foundation that we are providing so that high-income taxpayers would now see the wisdom of saving on their tax making a contribution to the venture capital companies of their choice.

Mr. Speaker, by removing the restriction in terms of share ownership of the venture capital company, we are now saying if you want, and if you have your idea and you have your funding, you can put your money into the Venture Capital Company, your own company. You take your money as an individual, put it into a venture capital company and develop your idea and the Government would help and give you a tax credit for doing so, or you and your friends. No longer are you limited to the 49 per cent equity. A venture capital company conceptually now can own 100 per cent of an investment. We are providing the environment because we are seeing what is around; this is a critical piece of the jigsaw. We have to do a number of things: the same time we are developing Wallerfield we must provide the environment for the financing. We cannot be talking about Wallerfield where we are going to have our innovators, our creative people, the IT Park and they need financing and there is no avenue. And that is why this legislation is critical.

On Tuesday when we met with the stakeholder and Financial Sector Reform, and the programme calls for the venture capital legislation to be in the Parliament by June of next year, I could have told them that is going to the Parliament on Friday, because we considered it critical. Providing financing is critical if we want to do what we say we want to do. So it is a jigsaw and I take the point there must be the supporting structure but we are working on those at the same time that we are working on the legislation agenda. We have to put in the different pieces at the same time and that is what we are doing and hopefully within a few weeks, the Minister of Finance would be bringing the White Paper on Financial Sector Reform to the Parliament.

The gap between the savings and investment—is it not what we are doing? Providing another pillar to narrow that gap when we say that you have a 30 per cent tax credit for investing and we say further that within two years of investing 50 per cent of that—we have reduced it—rather than one year we are saying within two years 50 per cent of the funds must be invested; within four years 75 per cent of the funds must be invested. Are we not providing the environment to narrow that gap? But I take the point that we have to do other things with respect to the stock exchange and so forth to attract some of the family-owned firms to go public, and that has been engaging our attention. That has been engaging the

attention of the Financial Sector Reform Committee. Those issues would be dealt with. The Member wanted to know why they were removing the employment restriction. And that is what it was, a limitation.

Under the current legislation the Venture Capital Company could not invest in a QIC if there were more than 75 employees in that QIC. So that in addition to the fact that equity capital was limited, that it could not have equity capital in excess of \$3 million, it could not have more than 75 employees so we are removing that limitation. We are now saying that we want employment to grow. You can invest in a company that has more than 75 employees or which may grow to more than 75 employees. That is what we are doing. By providing the infrastructure to allow for larger companies, more companies. Indirectly we are also providing that environment for employment growth. More importantly, I made the point that we believe that there is need for equity investment especially in the knowledge-based area where, of course, you are talking about a better bank for the dollar in terms of human resource numbers, as distinct, for example, from the energy sector where the capital/employee ratio is much lower.

The Member asked why we have increased the minimum from \$50,000 to \$500,000. In 1994, the current legislation spoke about \$50,000. Today we are speaking about a minimum of \$500,000. *[Interruption]* Your colleague asked a question. Can I respond to him. *[Interruption]* Do not answer him? This is not energy so you do not understand it. I do not have any vested interest in this. When I became a Minister, I divested whatever shares I had. The records would show.

Mr. Speaker, one would think that is reasonable. Because there is very little investment given the type of companies you are really looking at because part of the problem was that nobody really wanted to invest in the small companies. *[Interruption]* I am really indifferent with respect to that. It did not appear to be a recommendation from the task force. I have checked. I am indifferent if one wants to leave it at \$50,000; it does not matter. The point is the minimum size 10 years ago—and I think there are persons on the review task force looking at it who thought that there ought to be some increase. They have increased it to \$500,000 and, quite frankly, I had no difficulty with that. If Members feel strongly it should remain at the \$50,000, I would have no difficulty. We are moving from \$20 million maximum to \$100 million. And that is five times, a sizable number.

Mr. Speaker, we are aware that supporting this initiative must be an education initiative with respect to entrepreneurship and that is the mandate that I have asked the VCIP to take on board; that we need the VCIP with the other institutions such as NEDCO, and BDC ought really to design programmes and courses and so

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forth to inculcate in our people, perhaps at a very young age, the entrepreneurship spirit and go forward.

Therefore, with these few words, I recommend this legislation to this honourable House. I thank you.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

Clauses 1 to 4 ordered to stand part of the Bill.

Clause 5.

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

Mr. Dookeran: Mr. Chairman, in clause 5, as the Minister indicated in his presentation, I would suggest that we keep the lower of \$50,000 instead of raising it to \$500,000.

Mr. Valley: Let me just make the point and I am advised here, that within one year—I do not have a difficulty—according to the legislation within 12 months the minimum capital must be \$500,000 under the 1994 legislation. So you may start at \$50,000 but you have a 12-month period to get to \$500,000. What they were saying is that they were just starting at \$500,000. I do not have a difficulty if we leave the same \$50,000 and then we go to \$500,000 within 12 months. Mr. Chairman, we can make that change.

Mr. Chairman: What is the amendment?

Mr. Valley: Mr. Speaker, at the time of his application for registration, that is in 5(b)(d), the venture capital company equity capital of not less than five hundred thousand dollars; we are going to delete the existing section.

Mr. Chairman: What is the amendment in clause 5 (b).

Mr. Valley: Instead of \$500,000, change that to “fifty thousand dollars and not more than one hundred million dollars”.

Question put and agreed to.

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

Clauses 6 to 8 ordered to stand part of the Bill.

Clause 9.

Question proposed, That clause 9 stand part of the Bill.

Mr. Valley: Mr. Chairman, we want to delete clause 9. In other words, we are not repealing section 11. Section 11 of the original legislation says that within 12 months you have to get to \$500,000 and we are leaving that.

Mr. Dookeran: Why so quickly?

Mr. Valley: The original legislation says on registration you have \$50,000 but within 12 months you have to get to \$500,000, and that is what we agreed to leave. This clause was removing that because what they were doing was saying that from day one, you would be at \$500,000.

Mr. Dookeran: I was wondering if you should not change the original legislation from a 12-month period to some more reasonable period.

Mr. Valley: That is a policy issue now. That is something quite different. We are going back to the original position and we have not had any difficulty with that for 10 years.

Mr. Dookeran: You had no registration.

Mr. Valley: We had. I started at \$50,000 and went to \$500,000.

Question put and agreed to.

Clause 9 deleted.

Clauses 10, 11 and 12

Question proposed, That clauses 10, 11 and 12 stand part of the Bill.

Mr. Valley: Mr. Chairman, I beg to move that, Clause 10, 11 and 12 be renumbered as clauses 9, 10 and 11.

Question put and agreed to.

Clauses 10, 11, 12, renumbered clauses 9, 10 and 11, ordered to stand part of the Bill.

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

House resumed.

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

ACCREDITATION COUNCIL OF TRINIDAD AND TOBAGO BILL

Senate Amendments

The Minister of Science, Technology and Tertiary Education; (Hon. Colm Imbert): Mr. Speaker I beg to move,

Accreditation Council of T & T Bill
[HON. C. IMBERT]

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That the Senate amendments to the Accreditation Council of Trinidad and Tobago Bill, listed in the appendix be now considered.

Question proposed.

Question put and agreed to.

Clause 2.

Senate amendment read as follows:

- A. In the definition of “course” delete the word “attitudes” and substitute the word “aptitudes”
- B. In the definition of “technical college” or “technical institute” delete the word “or” and substitute a comma and immediately after the comma insert the words “or polytechnic”.

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

Question proposed.

Question put and agreed to.

Clause 4.

Senate amendment read as follows:

In subclause (1)—

- A. Delete paragraph (a) and substitute the following—
“(a) two or three persons nominated by tertiary institutions or institutions involved in technical or vocational education or training, including a nominee of the association most representative of tertiary education institutions in Trinidad and Tobago;”
- B. In paragraph (c) insert immediately before the word “two” the words “one or”.
- C. Delete paragraph (e) and substitute the following—
“(e) one person nominated by the organizations most representative of employers and one person nominated by the organizations most representative of trade unions.”

Question put and agreed to.

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

Question proposed.

Question put and agreed to.

Clause 7.

Senate amendment read as follows:

Delete the word “and” in the first place where it occurs and substitute the word “or”.

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

Question proposed.

Question put and agreed to.

Clause 8.

Senate amendment read as follows:

- A. In subclause (1) delete the words “national” and “education” and substitute the words “local” and “post secondary and tertiary education” respectively.
- B. In subclause (2)—
 - (i) Delete paragraphs (a), (b), (d), (e) and (j) and substitute in the appropriate alphabetical sequence the following paragraphs—
 - “(a) to maintain a list of accredited post secondary and tertiary institutions operating in Trinidad and Tobago and a list of accredited programmes and awards offered in Trinidad and Tobago;
 - (b) to accredit post secondary and tertiary institutions operating in Trinidad and Tobago and the programmes and awards of such institutions;
 - (d) to recognize accredited programmes and awards of foreign institutions operating in Trinidad and Tobago;
 - (e) to advise on the recognition of foreign programmes and awards and the recognition of post secondary and tertiary institutions operating in Trinidad and Tobago;

- (j) to seek to raise the quality of post secondary and tertiary education delivered in Trinidad and Tobago to the standards set by the Council;”
- (ii) in paragraph (h) insert immediately after the word “relationships” the words “including joint accreditation exercises”.
- (iii) in paragraph (i) delete the words “tertiary” and “college” and substitute the words “tertiary college”, “technical institute” and “polytechnic”.
- (iv) in paragraph (r) insert immediately after the word “the” in line one the word “standards” and a comma.

C. In subclause (3) delete the words “must be registered” and substitute the words “shall register”.

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

Question proposed.

Question put and agreed to.

Clause 9.

Senate amendment read as follows:

In subclause (2)—

- (i) in paragraph (b) delete the word “and” .
- (ii) in paragraph (c) delete the full stop and substitute a semi colon.
- (iii) insert immediately after paragraph (c) the following new paragraph—
 - “(d) to enter or co-ordinate appropriate arrangements with such other competent authorities, public or private, responsible for the accreditation of institutions or the recognition of accredited programmes and awards.”

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

Question proposed.

Question put and agreed to.

Clause 10.

Senate amendment read as follows:

- A. In subclause (1) insert before the word ‘directions’ the word “policy” and delete the words “of a general nature”.
- B. In subclause (2) delete the word “the” in the third place where it occurs.

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

Question proposed.

Question put and agreed to.

Clause 11

Senate amendment read as follows:

- A. Renumber clause 11 as clause 11(1)
- B. Delete the marginal note and substitute as the new marginal note the word “Appeals”.
- C. Insert at the beginning of subclause (1) the words “Subject to subsection (2)”
- D. Insert immediately after subclause (1) the following new subclauses—
 - “(2) in any other case a person directly affected by a decision of the Council may appeal the decision to the Appeals Committee on the following grounds—
 - (a) that the Council failed to comply with the procedures laid down in this Act or any regulations or rules made under this Act and that the failure amounted to a significant breach of such procedures;
 - (b) that the decision of the Council is based on information that is substantially incorrect or is of insufficient weight to support the decision; or
 - (c) that the decision of the Council is arbitrary or unreasonable, or inconsistent with or unsupported by the policies of the Council.

- (3) For the purposes of this section there is established an Appeals Committee which shall be comprised of three persons appointed by the President.
- (4) Hearings before the Appeals Committee shall be conducted in such manner and in accordance with such rules as may be prescribed.
- (5) The decision of the Appeals Committee shall be final.
- (6) The Appeals Committee with the approval of the Minister may make rules prescribing the matters required by this section to be prescribed.”

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

Question proposed.

Question put and agreed to.

Clause 14.

Senate amendment read as follows:

- A. In subclauses (1) and (2), delete the words “with the approval of the Minister”.
- B. In subclause (2) immediately after the word “determine” insert a comma and the words “except that salaries in excess of one hundred and twenty thousand dollars per annum shall be subject to the approval of the Minister”.
- B. Insert immediately after subclause (2) the following new subclause—
 - “(3) The Minister may by Order increase the limit stated in subsection (2).”

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

Question proposed.

Question put and agreed to.

Clause 15.

Senate amendment read as follows:

In subclause (3) delete the words “in any case”.

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

Question proposed.

Question put and agreed to.

Clause 18.

Senate amendment read as follows:

Insert before the words “deem fit” the words “with the approval of the Minister with responsibility for finance”.

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

Question proposed.

Question put and agreed to.

Clause 22.

Senate amendment read as follows:

Renumber clause 22 as subclause (1) and insert immediately thereafter the following new subclauses—

“(2) The Council shall, within six months of the end of each financial year, submit to the Minister an annual report dealing with the activities of the Council and containing such financial statements and such other information relating to the operations and policies of the Council as the Minister may require.

(3) The Minister shall cause a copy of the audited accounts prepared in accordance with subsection (1) and a copy of the annual report submitted under subsection (2) to be laid before Parliament within three months of receipt by him.”

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

Question proposed.

Question put and agreed to.

Clause 23.

Senate amendment read as follows:

- A. In subclause (1) delete the words “subject to subsection (2)” and the comma.
- B. In subclause (2) delete all of the words immediately after the words “agent of the Council”.

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

Question proposed.

Question put and agreed to.

Clause 24.

Senate amendment read as follows:

Delete and substitute as follows—

“24. There shall be kept in the Ministry in such manner as may be prescribed separate Registers of all post secondary and tertiary institutions registered or accredited in Trinidad and Tobago and all of their accredited programmes and awards.”

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

Question proposed.

Question put and agreed to.

Clause 25.

Senate amendment read as follows:

In subclause (1) insert between the words “body” and semi-colon at the end of paragraph (a) the words “in accordance with such regulations as may be made under this Act”.

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

Question proposed.

Question put and agreed to.

Clause 26.

Senate amendment read as follows:

- A. Delete subclause (1) and substitute the following—
- “(1) No institution shall carry on the business of post secondary or tertiary education or use any of the words ‘university’, ‘college’, ‘tertiary college’, ‘polytechnic’, ‘community college’, ‘technical college’ ‘technical institute’, or ‘technical university’ in its name unless registered under this Act and any regulations or rules made under this Act.
- (2) A registered institution shall not
- (a) alter its accredited programmes without prior approval of the Council;
- (b) misrepresent to the public the recognition gained by it for its programme or awards.”
- B. Renumber subclauses (2) and (3) as (3) and (4) respectively.
- C. In subclause (3) as renumbered delete the words “subsection (1)” and substitute the words “subsections (1) and (2)”.
- D. In subclause (4) as renumbered, insert immediately after the word “Register” the words “and cause that information to be published in the *Gazette* and in at least two daily newspapers circulating in Trinidad and Tobago on at least two consecutive occasions.”
- E. Insert after subclause (4) as renumbered the following new clause—
- “(5) An institution which fails to comply with subsections (1) or (2) is guilty of an offence and in addition to any other penalty imposed by this section is liable on summary conviction to a fine of twenty thousand dollars and to a further fine of five hundred dollars for each day that such offence is continued after written notice of the offence has been given by the Council.”

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

Question proposed.

Question put and agreed to.

Clause 28.

Senate amendment read as follows:

In subclause (3) insert immediately after the word “Minister” the words “and shall be laid in Parliament within three months of receipt by him”

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

Question proposed.

Question put and agreed to.

ADJOURNMENT

The Minister of Trade and Industry (Hon. Kenneth Valley): Mr. Speaker, we were able to achieve our business today before the Member for Oropouche got to the House. [*Interruption*] That is the point because one relates to the Minister of National Security. I sent for him and I told him he should be here for 5.00 p.m. I have just sent an emergency call for him and I do not know whether the Minister of Agriculture, Land and Marine Resources would do the one directed. We are not sitting next week.

Mr. Speaker, I beg to move that House do now adjourn to Friday, June 05, 2004.

Mr. Speaker: But before you do that—[*Discussion with the Clerk*]

Mr. Speaker: Hon. Members, the question is that the sitting be suspended for five minutes to allow the Minister of National Security to arrive.

Question put and agreed to.

3.30 p.m.: *Sitting suspended:*

3.40 p.m.: *Sitting resumed.*

Hon. K. Valley: Mr. Speaker, I beg to move that the House be adjourned to Wednesday, May 26, 2004 at 1.30 p.m. I wish to advise Members that, on that day, the Government expects to have a Finance Committee meeting, after which we would be debating—I think that the Member for Siparia has a matter to be debated—then we would do the government motion on the Order Paper and then the Food and Drugs (Amdt.) Act, Chap. 30:01, by the Minister of Health.

Mr. Singh: Mr. Speaker, I just want to indicate to the hon. Leader of Government Business that I hope that the documentation for the Finance Committee reaches us at least 48 hours in advance, in accordance with the Standing Orders.

Adjournment

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Hon. K. Valley: I can assure the hon. Member that arrangements would be in place so that he could get it around midday on Monday.

Mr. Singh: You promised it last week, you know.

Sen. Sadiq Baksh
(Investigation and Closure of Drug Matter)

Mr. Ganga Singh (*Caroni East*): Mr. Speaker, I rise to speak on a motion, which reads as follows:

The failure of the police authorities and the Government to diligently investigate and bring to closure the finding of illicit drugs—cocaine—and missiles at the home of Sen. Sadiq Baksh, a sitting Member of Parliament, on July 17, 2002.

This Motion seeks to bring to the fore the gravity of the find of cocaine and missiles at the home of a sitting Member of Parliament, its telling impact and assault upon democratic principles in our country and the tardiness by the Government and the police authorities to bring about a resolution to this matter. Mr. Speaker, why is there a delay in bringing the perpetrators of this act to justice? Almost two years have elapsed from July 17, 2002 and nothing has been achieved to date. This investigation is now suffering from a lack of credibility and legitimacy. It has assumed the mantle of a crime that has been covered up. It appears that, in this country, only when someone dies, as when Mark Guerra was killed, we then found out that he was, by virtue of the police authorities, the person responsible for shooting up the President's car. At that time the President was Noor Hassanali.

In order to appreciate why the Government is not providing the necessary resources to solve this crime, one can perhaps harken back to July 2002. It was the time in our political history of a parliamentary deadlock, 18/18, when the incumbent Prime Minister was removed illegally, unconventionally and unconstitutionally by the then President A.N.R. Robinson, who is now obviously enjoying the fruits of his action. Mr. Manning was installed as Prime Minister and, having convened Parliament in April of 2002 and having failed to elect a Speaker, he was in a political bind. Elections had to be called.

The operators of the PNM, after six years in the political wilderness, were desperate to hold on to power for its patronage and perks. It was power at all costs. The so-called marginal seats of Ortoire/Mayaro, Tunapuna, St. Joseph and San Fernando West were selected for special treatment. The hon. Sadiq Baksh

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was at that time the incumbent Member of Parliament for San Fernando West and he was especially targetted.

It has been said in Trinidad and Tobago—and today it is a truism—that how you are elected will determine how you govern. It is my considered view and the view of many that, in order to win the election, the PNM entered a pact with criminal elements in the society. They abandoned the sacred and embraced the profane. Indicative of that is the recent finding guilty by the court of the hon. Member for Tunapuna of assault on a public official, the Mayor of Chaguanas. Mr. Speaker, in any decent society, that Minister by virtue of his personal conduct would have submitted his resignation to the hon. Prime Minister, but he remains guilty of a criminal act and he still remains a minister.

Reflective of the embrace of the profane and of the criminal element in the society, is a recent report by Wendy Campbell, carried on page 3 of the *Guardian* of Friday, May 07, 2004:

“Junior cop alleges colleagues knew of...

Plot to discredit former MP Baksh

Eight to ten policemen knew about an alleged plot to plant missiles and cocaine in a water tank at the home of former San Fernando West UNC MP Sadiq Baksh.

This was the claim on Wednesday by a junior policeman who has been under the watchful eyes of his seniors.

He alleged that the cops conspired with officials of a political party to set up Baksh, because the San Fernando West seat was a marginal one.

It was felt, the informant alleged, that if members of the constituency could paint a bad picture of Baksh, then he would lose the seat.

The five kilogrammes of cocaine—”

I say as an aside, Mr. Speaker, that cocaine appears to be the preferred drug of the PNM.

“The five kilogrammes of cocaine, which carried an estimated street value of \$1 million, and the two missiles, described by the officials as anti-aircraft missiles, were found on Baksh’s premises on July 17, 2002.

The blue and yellow missiles measured about two feet in length and bore the markings 120 mm M5 TPSR.”

Mr. Speaker, I do not know what that means. Perhaps the Member for San Fernando East, seeing that he is the head of the National Security Council, knows what that means.

Mr. Speaker, therefore there is in this situation, as late as May 07, 2004, a police officer making the allegation that eight to ten policemen knew and that party officials—and I am happy that the General Secretary of the PNM is here. He is a senior party official. [*Interruption*] He is the former General Secretary? No, he is the General Secretary of the PNM. He was then and he still is. Therefore, there is a serious allegation.

This article of the *Guardian* dated May 07, 2004 corroborates what we said on July 18, 2002. You know we could make reference to all the newspaper clippings—*Guardian*, July 18, 2002.

“PNM informer told me of set-up says Singh”

“Drugs, missiles at Baksh home”

I want to read into the record the response of the leader of the PNM and the then Prime Minister. This is an article in the *Guardian* of the same date—July 18, 2002—by Gail Alexander.

“‘PNM not involved in any plot’, says Manning

Prime Minister Patrick Manning has dismissed the UNC claim that the PNM planted cocaine and missiles at UNC MP Sadiq Baksh’s home.”

He went on to say:

“I would like to distance the PNM very definitely from any such activity that is taking place and we propose to take every step to ensure that this is a matter that is properly investigated and anyone found culpable in the matter would be brought to justice.”

This is it, the Prime Minister almost two years after. This is what the investigating officer had to say by letter dated February 28, 2003 to the hon. Sadiq Baksh from police officer, Supt. Dyo Mohammed. The investigating officer states:

“I have checked all available information but I have not unearthed anything substantial as to how these items came about in your water tank.

With regard to the missiles found, I must also inform you that the manufacture and the origin have not yet been traced.”

We on this side call for an independent investigation. We call for the involvement of the Federal Bureau of Investigation (FBI) and the New Scotland Yard. He would

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leave no stone unturned. This is such a grave matter. Why did he not use the resources of the State to bring about a resolution of this assault on democracy in this country?

Mr. Speaker, why are the Government authorities unwilling to utilize the services of the FBI or the New Scotland Yard to solve this crime? Are they afraid that the FBI or the New Scotland Yard would uncover a connection between this crime and the very hierarchy of the PNM? Are they afraid that the policemen who would be held culpable—these eight to ten policemen—would be found in certain sections of the police service, for example in the southern task force and in the Anti-Corruption Bureau? Any self-respecting society searching for developed nation status, a society with a measure of decency, with the rule of law at the centre of its politics, would leave no stone unturned to solve this treasonous and heinous crime.

The Prime Minister, when he said that they would leave no stone unturned to bring this about if anyone was found culpable—there was no integrity in that commitment. If there was integrity in that commitment, why did he not provide the police authorities with experts from the New Scotland Yard?

Mr. Speaker, why did he not bring in, as we did in the Deochan Ramdhanie matter, a polygraph—lie detector—expert to examine the testimony of this policeman and the testimony of several high officials of the PNM? We did that with Deochan Ramdhanie. We did it in the Clint Huggins matter. This is a crime, which they want to cover up. We brought in the DEA then. Why is this Government afraid? Is there a connection between the cocaine in Sadiq's tank, the cocaine in the diplomatic pouch and certain high PNM officials?

For example, there were nine other kilogrammes of cocaine destined for Canada, London and New York—the cocaine destined for Canada in care of Jacqueline Britto; the cocaine destined for London in care of Bissoon Boodhai and the cocaine destined for New York in care of Hyacinth Mocund. These are the people—all Foreign Service people—who were appointed over the last two years, and you are talking about a ring, a trans-Atlantic, trans-Pacific ring of cocaine dealers within the foreign Ministry.

Mr. Speaker, why are they not, in this particular cocaine matter, looking at the other 12 diplomatic missions? Forty-eight bags leave the country on an annual basis. Over the last two years ninety-eight bags left this country. How many nine kilogrammes of cocaine went? In each pouch you can put three kilos because that is the maximum.

You have eight to ten policemen. This is not an ordinary crime; it is an extraordinary crime and it requires an extraordinary response, but what do we have? We have official deception; we have dissembling; we have a lack of resources. All I can say in the current circumstances is that it is clear that the Government wants to cover up because there are people within the hierarchy who are guilty of cocaine trafficking and guilty of this crime, which is heinous and treasonous of the State of Trinidad and Tobago.

The Minister of National Security (Sen. The Hon. Martin Joseph): Thank you very much, Mr. Speaker. Let me, first of all, apologize to Members for having detained them.

With respect to the Motion, the failure of the police authorities and the Government to diligently investigate and bring to closure the finding of illicit drugs and missiles in the home of Sen. Sadiq Baksh, let me inform this honourable House that on Wednesday, July 17, 2002, as a result of information received, a party of police officers under the supervision of the Senior Superintendent, Southern Division, went to the home of Sen. Sadiq Baksh and found the following items:

A nylon knapsack containing six parcels of cocaine;

2 US-made 120 mm M5 motor bombs each 580 mm in length and 520 mm in diameter and an approximate weight of 30 pounds respectively

Investigations into the discovery were immediately initiated. According to the Commissioner of Police, a forensic analysis was done to identify the substance contained in the knapsack, which revealed that the substance in question contained cocaine.

With respect to motor bombs, the Commissioner of Police has advised that Interpol, Washington has confirmed that the mortars, which were manufactured in the United States of America were inert rounds specifically manufactured for trading purposes. Investigations to establish how the mortars arrived in Trinidad and Tobago as well as to ascertain the identity of the person or persons responsible for placing the substance and the mortars at Sen. Baksh's home are ongoing and are being spearheaded by senior officers of the Southern Division.

I think we need to note that the police have indicated that in some instances they have been having problems with respect to the persons they have been questioning in terms of obtaining information from them. To date there has been no conclusive evidence to enable an arrest. The question of calling in independent

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investigators has not been raised by the police. These investigations are continuing and I do not propose to anticipate their outcome.

I thank you.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.00 p.m.