

*Leave of Absence**Monday, January 23, 2006***HOUSE OF REPRESENTATIVES***Monday, January 23, 2006*

The House met at 1.30 p.m.

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

Mr. Speaker: Hon. Members, I have received communication from the hon. Member for Barataria/San Juan (Dr. Fuad Khan) requesting leave of absence from today's sitting of the House. The leave which the hon. Member seeks is granted.

PAPER LAID

Annual Legislative Agenda 2005—2006. [*The Attorney General (Sen. The Hon. John Jeremie)*]

Annual Legislative Agenda

The Attorney General (Sen. The Hon. John Jeremie): Mr. Speaker, a year ago, the Government moved to announce in advance, in the Parliament, its annual legislative agenda for the period 2004—2005. I propose, this afternoon, to speak briefly in general terms of the agenda itself and to give a progress report on the last agenda before turning to the agenda for 2005—2006.

When we spoke to the agenda last year, we noted that proper governance requires that Government should articulate priorities and develop and disclose to the nation and all of our peoples its plans and policies to deal with immediate, medium and long-term matters, which it proposes to treat with by the enactment of legislation. This is the second time that our legislative agenda will be announced in advance.

We demonstrate that this Government is committed to best practices in the principles of transparency and accountability in public matters. By disclosing the proposed legislative agenda in this manner, the Government shall give the public and parliamentarians sufficient time to study, debate and comment on the legislative priorities for the next parliamentary year well in advance of the actual debate of specific enactments.

On the last occasion, when the Government announced the annual legislative agenda, we indicated that the agenda would address measures covering a wide range of issues that are of importance to the citizens of this nation. Matters affecting

Annual Legislative Agenda
[SEN. THE HON J. JEREMIE

Monday, January 23, 2006

trade and integration, industry, finance, health, tourism and the administration of justice, including the criminal justice system, formed the basis of the last agenda. On that occasion, Mr. Speaker, the Government indicated that the agenda was not cast in stone and that it would be flexible so as to adapt as the need arose and as circumstances presented themselves.

The agenda cannot be expected to reduce the Government's inaction in dealing with matters which become critical during the course of the year or in respect of which meaningful enactments become available to deal with issues ahead of the anticipated time.

Mr. Speaker, precisely those conditions—matters of crisis and urgency—occurred during the last parliamentary year and the agenda was, in fact, flexible enough to allow for continuing parliamentary discipline, even as it accommodated a range of enactment to treat specifically with the criminal justice system in what was a necessary legislative intervention to attempt to check the spiralling crime wave. This flexible approach has worked and, as a matter of logic, we propose to continue with it this year.

The agenda this year again reflects the legislative framework as could be reasonably anticipated, given the state of readiness of the critical policy work of individual client ministries. Certain ministries, such as the Ministry of Education have developed, in conjunction with the office of the Attorney General, a capacity to generate the discipline, which is required to develop an appropriate agenda in-house. We hope to see more of this during the current parliamentary year.

I turn now to a progress report on the last agenda. Mr. Speaker, of the measures proposed in the last annual legislative agenda, a large number were successfully enacted into law in 2005. All too often, if we are not reminded, we assume that we have not delivered.

The Caribbean Court of Justice Act, and the Privileges and Immunities Act, which was incidental to the establishment of the Caribbean Court of Justice, were enacted as promised. The Caribbean Community (Removal of Restrictions) Act and all of the individual material pieces of legislation required to bring into being the Caribbean Single Market and Economy, which was successfully launched on January 01, 2006, were enacted as promised. They have radically altered our regional arrangements. A powerful foundation has thus been built for continued regional integration and the community must now live up to that promise.

In relation to crime and the administration of justice, the Indictable Offences (Preliminary Enquiry) (Amdt.) Act, the Criminal Procedure (Amdt.) Act, the

Summary Courts (Amdt.) Act, the Anti-Terrorism Act, the Bail (Amdt.) (No. 2) Act; all of which are intended to streamline the administration of criminal justice, were enacted as promised.

The Administration of Justice (Amdt.) Act, which was not promised, was also delivered. The Government and the Judiciary finally gazetted and brought into being the Civil Procedure Rules 1998, which are designed to speed up the pace of civil trials in the High Court. This was a significant achievement, which was delivered even though it was not promised. The new rules bring with them a new culture. Delay should not be tolerated and, above all, the system of justice should be made to work more efficiently. Continued collaboration of the Judiciary and the State is required for the effective implementation of the new rules and that shall be done.

Mr. Speaker, the Caroni Vesting Act, the Housing Development Corporation Act, and a host of pieces of subsidiary legislation, which were designed to and did achieve for Trinidad and Tobago Category One status in relation to civil aviation at the Piarco Airport, were also enacted as promised.

These are our legislative achievements in summary. They relate specifically to the criminal justice system, the economy as integrated within Caricom and the justice sector, both on the criminal and civil side generally. They relate as well to critical areas of Government's development agenda in relation to housing, agriculture and air transportation.

Mr. Speaker, I now turn to the legislative agenda for 2006. I turn first to national security. We recognize that the fight against crime must continue to be given the greatest priority by the Government. To this end, the Government proposes to persevere by enacting legislation in 2006 to establish the Special Anti-Crime Unit of Trinidad and Tobago; to make provision for a special kidnapping and firearm squad and to enact amendments to the Evidence Act. These changes are all designed to facilitate wider access to justice.

The police package, which comprises several items of legislation that are critically necessary to improve the efficiency in the police service, has been further revised following discussions with the Opposition and we hope to enact this legislation this year.

The Government also proposes to enact regulations to be made under the Justice Protection Act to treat with witness protection. The enactment of an efficient workable DNA statutory regime shall be brought into being by a new

DNA law. Contrary to popular belief, at the present time, DNA evidence is admissible in our local courts. The problem lies in the inability of the authorities to collect what is described as “intimate samples”. The legislation, which is on the books and was passed in 2000, unfortunately contained material deficiencies in this area. These shall be cured this year.

In the area of finance, the Government is committed to ongoing reform of the financial sector. A number of bills are at different stages of the legislative development process and should realistically be expected to be introduced during this parliamentary year to give effect to the fiscal policies of the Government. The Government proposes, as a critical area of financial sector reform, to enact legislation to provide for support in respect of insolvent and vulnerable companies.

As our economy grows and as there is a necessary reliance on credit to fuel growth, we intend to enact international best practices into our law to provide protection for the firm that might have expanded by credit into difficulty. A new regime, similar to chapter 11 reorganization law in the United States, shall form the centerpiece of our new insolvency law. This legislation is long overdue. Similar legislation has already been enacted in other Caribbean states—Barbados and Guyana for example—and Trinidad and Tobago is expected to follow this year the recent Caricom initiatives to modernize our company laws.

The Government would also seek to effect amendments to numerous other pieces of financial legislation to implement a modern regulatory and supervisory framework for this critical area of the economy. Among these bills would be the Financial Institutions (Amdt.) Bill, the Securities Industry (Amdt.) Bill and the Credit Union Supervision Bill.

In social development, the Government proposes to fix and to enact legislation aimed at assisting the victims of crime. The Criminal Injuries Compensation (Amdt.) Bill and the Criminal Injuries Compensation Regulations shall be enacted this year. These bills will provide for compensation in respect of the victims of crime. The parent Act was passed in 2000, but there were several flaws in that piece of legislation, which made it unworkable. We have fixed it and we shall enact the law. Other measures in this area may be possible in the current parliamentary year.

In relation to the administration of justice, the Government proposes to enact the Civil Registration Bill, which will seek to provide for the registration of citizens, residents and permitted entrants staying in Trinidad and Tobago for more

than three months. It is proposed as well to enact the Change of Name Bill, which will formalize the various procedures available to an individual to change his or her name, but which are not presently included in any law.

The Vital Statistics Bill is proposed for this year. This Bill will provide a system for more accurate recording of births, deaths, marriages, adoptions and names of individuals. Other measures in this area will include the Consumer Fair Reporting Bill, the Personal Property Security Bill, the Miscellaneous Provisions (Marriage) Bill, the Evidence (Amdt.) Bill, the Proceeds of Crime (Amdt.) Bill, the Trademark Bill and the Copyright (Amdt.) Bill.

Mr. Speaker, in relation to the environment, the maintenance of the environmental integrity of Trinidad and Tobago is important to the nation's overall socio-economic growth. Sustainable development, including the protection and conservation of the environment in our wetlands, continues to be a major goal of the Government's long-term strategic plan. Toward this end, the Government will seek to put in place an appropriate institutional and legal framework for environmental protection.

The National Environmental Policy 1998 has been recently revised and approved by Parliament and this policy would inform several pieces of legislation, which would be introduced, including the Basel Headquarters Bill, the Beverage Containers Bill, the Water Resources Management Bill, the Air and Noise Pollution Rules and the Green Fund Regulations.

In relation to manufacturing, as the hon. Prime Minister indicated in the national budget for 2005—2006, the Government will ensure that the manufacturing sector maintains its dominant regional position and will also help the sector to become competitive internationally.

1.45 p.m.

To this end, the Government will develop a comprehensive legislative framework that would facilitate the expansion of trade and investment and also create an environment for fair competition in the domestic market.

Mr. Speaker, I have highlighted some of the legislative measures which the Government intends to bring before the Parliament in the forthcoming parliamentary year. The Government intends to continue the process of strengthening and modernizing the existing legal landscape, as well as to continue to listen to key stakeholders to create new laws that will address lawlessness and criminal activities and other important areas such as family life, the environment, regional

Annual Legislative Agenda
[SEN. THE HON J. JEREMIE

Monday, January 23, 2006

integration, financial regulation and management, the administration of justice and trade.

The Government has circulated a list of Bills for the information of Members, some of which I have not specifically spoken to. As I mentioned earlier, this agenda for the period January 01—December 31, 2006 is and must be subject to change. This is the way it was last year. It worked well and it is the way we propose to conduct our business in the future; in an orderly and efficient manner, keeping faith with the aspirations and needs of all of our people.

Mr. Speaker, seldom is a plan for the future implemented as conceived. Last year the agenda was not. Important pieces of legislation such as the Heritage and Green Fund Bills were not enacted as anticipated, but the need to plan cannot be defeated by isolated difficulties in implementation.

Mr. Speaker, this is the agenda for this year. I thank you. [*Desk thumping*]

Mr. Ramnath: That was a brilliant contribution.

OCCUPATIONAL SAFETY AND HEALTH (AMDT.) BILL

Order for second reading read.

The Minister of Labour and Small and Micro Enterprise Development (Sen. The Hon. Danny Montano): Mr. Speaker, I beg to move,

That a Bill to amend the Occupational Safety and Health Act be now read a second time.

The point that we have reached today has been very long in coming.

Mr. Singh: Thanks to the PNM.

Sen. The Hon. D. Montano: The question of occupational safety and health has been an issue in the country since 1948 when the Factories Ordinance was first passed. But with all due respect, by the 1960s and certainly by the early 1970s, the Factories Ordinance had outlived its usefulness, in terms of the level of industrialization that was taking place in the country even at that time.

Coming through the 1970s, 1980s and 1990s, we as a people really found that the Factories Ordinance was no longer relevant to the needs of the society that we are presently in, much less relevant to the future plans that successive governments had for the development of the country. Therefore, work on the Occupational Safety and Health Act had started many years ago and work had been done on it by successive administrations. [*Crosstalk*]

OSHA (Amdt.) Bill

Monday, January 23, 2006

Mr. Speaker, from 1948 up till today, there have been several thousands of industrial accidents.

Mr. Singh: How many died since the Bill was passed?

Sen. The Hon. D. Montano: Of course, the question is, were any of them necessary and could any of them have been avoided. The question as to who should take precedence, those who were injured before the Act or after the Act, the fact of the matter is if you are a worker or the relative of a worker who had been injured, maimed or killed in an industrial accident, whether it happened before or after the Act was passed in January 2004, does not really make a whole lot of difference. Your loss is still the same. It is this that we recognize very well.

There are those who would say that it is only relevant for the persons who were injured or killed after the Act was passed and that is not so at all. I would not want to refer to them and call the names of all who were injured, maimed and killed since January 2004 out of respect for the privacy of those workers and their families.

The Occupational Safety and Health Act and the amendments that we have today are about the living. It is not about the dead. The architectural plans and policy framework behind the Occupational Safety and Health Act and the amendments that we have brought here this afternoon are about the future, not about the past.

Mr. Singh: Who dead, dead.

Sen. The Hon. D. Montano: Mr. Speaker, one of the things that we can look at is that clearly, legislation alone is not going to save lives. It is not going to protect workers or employees in the workplace. We have to develop a culture of safety on both the part of employers and employees. It is the mindset and the culture that what we do must be safe and that the environment that we create for ourselves must be safe.

Mr. Singh: What do you have against black people?

Sen. The Hon. D. Montano: I will ignore the racist comment, Mr. Speaker.

Mr. Speaker: Order.

Mr. Ramnath: That is a relevant question.

Sen. The Hon. D. Montano: One of the things that we can be happy about is that information at the Ministry of Labour and Small and Micro Enterprise Development would indicate that at least, in terms of the number of accidents reported to the Ministry between 2000—2005 there has been a drop in industrial accidents. In 2000, there were 443 accidents reported to the Ministry of Labour, Small and Micro Enterprise Development. In 2005 there were 265.

When one looks at the trend it appears as if there is a declining trend, in terms of industrial accidents although the number of fatal accidents increased to 18 in 2005, from five in 2000. That is very significant. Clearly, it is a sign of a number of things. The rate of industrialization and development in the country is clearly putting stress on the infrastructural systems that exist and both workers and employers must recognize that there are now greater dangers involved and that they must take care.

Mr. Speaker, as you know, the Act was passed in January of 2004. Cabinet almost immediately appointed an Occupational Safety and Health Advisory Council that was required to do a number of things. They reported later that year on three things: a National Occupational Safety and Health Policy; regulations and codes of practice for the Occupational Safety and Health Authority, an agency with which they were to carry out their functions and they recommended an organizational structure for the Authority and the agency. What was left to be done after they had reported was a review of the legislation, because we recognize that there were certain areas that required some tightening.

Mr. Speaker, as you know, I was appointed Minister of Labour and Small and Micro Enterprise Development in May 2005. Although I took up my duties in June, I was actually on leave at the time of my appointment. I immediately met individually with the leaders of the major unions in the country and I consulted with them on a wide range of issues including occupational safety and health. I was certainly brought up to date on that situation.

In August of last year, I had articulated to this honourable House, when there was a Motion on the Adjournment one afternoon, what my plan was, in terms of approaching the Occupational Safety and Health Act. For the record, what I said was that I was going to review the Act and I would have it reviewed by the end of September and we would look then at the prospect of proclaiming in parts, but in any event, I ought to have been ready by the end of December 2005.

Later on, I was again asked to publicly state where I was headed and what my timing was like and I indicated again in October, that I had completed my review of the Act and I indicated, on several different platforms, some of the difficulties

that I had found with the Act, some of which I knew from beforehand. It was not as if I was doing this in a vacuum. I was a member of the Cabinet and I was aware of some of the limitations that were contained in the original pieces of legislation.

I indicated then, because at that point, I began to feel that a major part of the process of dealing with occupational safety and health had to be the part dealing with workmen's compensation. You cannot deal with one without the other. I felt fairly strongly about that, on a personal level. I felt, while there was a draft Bill dealing with employment and disability benefits, the architecture to that Bill—while the policy was right—was wrong and we were looking at that to see if we could bring it into the amendments under the Occupational Safety and Health Act.

By the end of November, I had met with a stakeholders group. I had asked the major unions and the representative organizations of the unions that represented employers and a number of others to meet with me to review the amendments that I had drafted at that point, in terms of the Occupational Safety and Health Act. Their immediate reaction was that the compensation issues should be separated from the safety issues.

Taking that advice, immediately accelerated my timeframe because up until then I felt that I would be in a position to complete work on both aspects. By the end of March/April of this year I would be in a position to get it to the Parliament. That was dealing with both sides.

2.00 p.m.

Having now dropped off one part, we are now significantly ahead of schedule on just the safety and health aspect of the proposed amendments. I was able to meet with my stakeholders group again on December 07, and we went through the draft Bill clause by clause at that point.

Shortly after that, we sent it to the Cabinet—it was just before Christmas—and it went through the process that I have articulated; it goes to subcommittees of the Cabinet; it was sent to the Legislative Review Committee and then of course, it was to come here, and that was how we have managed to get it to this point. Having said that, let me turn to my brief which would deal specifically with the Bill and the provisions in it.

Mr. Speaker, as I have indicated, immediately upon the passage through the House of Representatives, the advisory team, the Safety and Health Council was appointed to examine what needed to be done to ensure implementation. This council had reported among other things, on the policy, the organizational structure,

OSHA (Amdt.) Bill
[SEN. THE HON. D. MONTANO]

Monday, January 23, 2006

codes of practice and regulations, and the necessary support mechanisms in any system of safety and health. Please allow me to highlight the main elements of Government's safety and health policy.

Number one, it envisions that Trinidad and Tobago would be free of work related fatalities, accidents, injuries and diseases.

Secondly, it outlines seven major objectives, firstly, the development in Trinidad and Tobago of a modern framework for the operation of decent standards of safety and health and the protection of the working population from injury and disease. Secondly, enactment of safety and health laws that would ensure that all persons who are employees of work or who are exposed to situations arising out of or in connection with work in an industrial establishment would enjoy adequate safety health protection and welfare amenities.

Three, enactment of law that is transparent and clearly identifies rights, obligations, responsibilities, duties enforcement and compliance mechanisms.

Four, creation of mechanisms to ensure that the law and safety in health institutions remain relevant to the changing world of work.

Five, development of a dynamic system of monitoring of the safety and health systems to ensure that emphasis is placed on prevention.

Six, development of a system of law which promotes voluntary compliance, but is strong on enforcement to deter behaviours that are contrary to the promotion of a high standard of health safety and welfare.

Seven, the development of a system of collaboration among major stakeholders, employers, unions, non-governmental organizations and government in the creation of an action plan, to ensure that the stakeholders believe and know that health and safety systems of work mean benefits to industry and the national economy. The law is therefore intended to develop in Trinidad and Tobago an enhanced safety and health culture. Some of the key themes of the policy are: prevention, priority setting, action planning, enforcement and compliance.

Cognizant to the policy, the technical staff in the Ministry and I conducted the review of Occupational Safety and Health Act, No. 1 of 2004. Our review identified some architectural flaws, which to our mind would result in an inability to have effective compliance and enforcement of the legislation. Furthermore, the Act seems to promote a high degree of criminal penalties as the main focus of prevention, contrary to the policy that underpins the Act. The Act empowers the Industrial Court as the major court for compliance and enforcement, but in reality,

many offences still came under the jurisdiction of the Summary Courts. Thus the Act failed to be true to the policy to decriminalize industrial relations as far as it is possible to do so. The question is, of course, why do this?

This approach is now well established in safety and health law internationally, since the emphasis is not on punishment, but on prevention. The application of stringent punishment is only in extreme circumstances. To explain this point, I draw Members' attention to paragraph 261 of the Robens Report, 1972 which influenced the United Kingdom (UK) Health and Safety at Work Act of 1974. The paragraph reads as follows.

“The fact is—and we believe this to be widely recognized—that the traditional concepts of the criminal law are not readily applicable to the majority of infringements which arise under this type of legislation. Relatively few offences are clear-cut, few arise from reckless indifference to the possibility of causing injury, few can be laid without qualification at the door of a particular individual. The typical infringement or combination of infringements arises rather through carelessness, oversight, lack of knowledge or means, inadequate supervision or sheer inefficiency. In such circumstances the process of prosecution and punishment by the criminal courts is largely an irrelevancy. The real need is for a constructive means of ensuring that practical improvements are made and preventive measures adopted. Whatever that value of the threat of prosecution, the actual process of prosecution makes little direct contribution towards this end. On the contrary, the laborious work of preparing prosecutions—and in the case of the Factory Inspectorate, of actually conducting them—consumes much valuable time which the inspectorates are naturally reluctant to devote to such little purpose.”

The following are the main criminal offences that remained under the Occupational Safety and Health Act of 2004. However, it may be desirable in the future that some of these offences should be changed to safety and health offences for determination by the Industrial Court because of their nature. So these remain as criminal offences. Number one:

- “10(2) An employee who wilfully and without reasonable cause does anything which results in the death or critical injury...
- 11(1) No person shall wilfully or recklessly interfere with or misuse any means, appliance, convenience or other thing provided in the interests of safety...

OSHA (Amdt.) Bill
[SEN. THE HON. D. MONTANO]

Monday, January 23, 2006

- 13(9) A person who sells or lets on hire, or as agent of the seller or hirer causes or procures to be sold...technology, machinery plant or material...”

not in conformity with the Act.

- 25I(2) Sale of machinery driven by mechanical power contrary to the requirements of the Act.
- 26(2) An occupier who operates as an industrial establishment without the certification of the fire authority.
- 26(10) Failure to give notice of an alteration to a factory.
- 26(16) Wilful obstruction of a fire officer in the performance of his duty.
- 46(4) Failure to report an accident that causes death.
- 47(2) Interference with the scene of an accident where death occurs.
- 48(6) Failure of an employer to notify about an occupational disease.
- 48(7) Failure of a medical practitioner to report his opinion that an employee is suffering from an occupational disease.
- 61 Failure to give notice of the occupation of a building as a factory after he begins to occupy it.
- 61(4) A person who removes, damages or defaces any document required by the Act.
- 72(4) Obstruction of an inspector in the performance of his duty.
- 73(5) Unauthorized disclosure of the results of the analysis of samples taken in an investigation.
- 76(2) Victimization of an employee who assists an inspector.
- 78(2) Unauthorized disclosure of information obtained by an inspector during the course of his official duties.
- 84(2) Failure to effect a remedy ordered by the court.
- 87 A parent who allows a young person to be employed in contravention of the Act.
- 88 Forgery of a certificate or the making of a false declaration in contravention of the Act.

As we speak of criminal offences, proceedings and penalties, may I look at a very significant offence of health and safety that is exercising the minds of many

governments worldwide, and that is corporate manslaughter. It is generally accepted that corporate manslaughter refers to when a person's death was caused by a management failure by a corporation. That failure constituted, conduct falling below that which can reasonably be expected of a corporation in the circumstances.

Courts in the Commonwealth have found it very difficult to convict corporations, their directors or employees for the death of employees in the course of employment. For example, the *P & O European Ferries (1991)* case failed because the court could not identify "the controlling mind"; that is the individual with the directing mind and will of the corporation. It is much easier to pinpoint the controlling mind in small enterprises but not in large ones.

Indeed, this was a matter which was the subject of an Attorney General United Kingdom (UK) reference to United Kingdom (UK) Court of Appeal in 1991, to which the Court of Appeal replied in 2000. The Attorney General United Kingdom (UK) asked the Court of Appeal to consider the following questions: one, can a defendant be properly convicted of manslaughter by gross negligence in the absence of evidence as to that defendant's state of mind? The court of appeal said yes. Two, can a non-human defendant, that is a company or business, be convicted of the crime of manslaughter by gross negligence in the absence of evidence establishing the guilt of an identified human for the same crime? The court of appeal said no.

Mr. Speaker, at this point, the Government does not intend to propose any legislation vis-à-vis corporate manslaughter before the matter is properly aired and studied. Permit me, Mr. Speaker, to refer to some other specific flaws that were reviewed and the ministry identify. Section 15(a) provides that an employee has the right to refuse work where he has reason to believe that there is serious and imminent danger to himself or others. This provision as drafted, can be construed to allow a worker, even if he is not directly affected, to stop working in support of those who may be affected.

Under certain circumstances, that stoppage could appear to be in the form of industrial action. It has been argued that this provision is just a codification of the right to remove oneself from dangerous work which already existed in the common law, and therefore there was no need to include it in the Occupational Safety and Health Act. This is in fact so, but under section 15, workers now have a specific legislative right to refuse to work where there is serious imminent danger to themselves, and this right is linked to the employer's duty to provide a safety and healthy environment at work.

2.15 p.m.

Let me emphasize that the right to remove oneself from emergency, serious or imminent danger is a fundamental principle of international standards in safety and health law; its inclusion in the Occupational Safety and Health Act is not a right to take industrial action. Indeed, in Trinidad and Tobago industrial relations law, there is no such right under those circumstances. However, the Industrial Relations Act allows the taking of industrial action, including strikes in the furtherance of a trade dispute. In this same Act the definition of industrial action does not include a failure to commence work or a refusal to continue working by reason of the fact that unusual circumstances have arisen which are hazardous or injurious to life or health. All this means, is that if one should remove oneself from danger or should refuse to do dangerous work it would not be deemed unlawful industrial action.

The current Occupational Safety and Health Act or our proposed amendment to it does not interfere with that provision. What is being done is that the provisions of an orderly approach to the exercise of the discretion to remove oneself from the serious or imminent danger at work.

Section 26(2) requires the fire authority to certify the safety of industrial establishments in Trinidad and Tobago every 24 months. The Ministry had concluded that this may indeed be a burdensome task.

Mr. Speaker, the advisory council estimated that some 27,000 businesses would be subject to that requirement, which would require the fire authorities to certify at least 60 businesses every single day. We felt that would not be workable. We have also recognized that the provision would be better served if there was a link to a general duty to conduct a risk assessment.

Section 43(4) provides that in every factory or industrial estate where there are more than two 250 employed, there is a requirement to provide and maintain an ambulance. The provision as it stands does not take into account that the requirement of an ambulance may not be necessary as a function of the size of the enterprise, but rather, it should be necessary only as a result of the associated risks of its operations. This Bill gives effect to the need to link the provision of an ambulance and other facilities to the associated risks.

Section 59 provides for the Chief Inspector's approval in respect of the undertaking of construction or alteration of factories with a further requirement that if there is a delay in the exercise of this function by the Chief Inspector he

only needs to give reason for the delay. This provision may create bottlenecks for business development.

Section 74 empowers an inspector to issue prohibition or improvement notices. We believe that the provision could be the subject of abuse.

Section 37 makes provision for medical examination of a person as a precondition of permanent employment. The provision discriminates against such persons since there is no requirement to medically examine persons who are already employed, in spite of the provision with respect to medical surveillance. Furthermore, we have determined that there is no duty on an employee not to be under the influence of an intoxicant while at work.

Act No. 1 of 2004 has created a safety and health offence, but nowhere in the Act is it defined or explained. In the result there is the likelihood of confusion about offences, and about which court would have the jurisdiction of certain offences, we believe that the Act needs such clarification to be fully effective.

Mr. Speaker, I wish to turn to some of the specific amendments contained in the Occupational Safety and Health (Amdt.) Bill, 2006. Hon. Members, I refer to clause 3 in addition to the deletion and insertion of certain words, and a change of the definition of "young person" makes provision for two new important definitions.

Firstly:

"'health surveillance' means the periodic review, for the purpose of protecting health and preventing occupationally related disease; of the health of employees; so that any adverse variations in their health that may be related to working conditions are identified as early as possible;

intoxicant means any alcohol, medicament, narcotics or psychotropic substances;"

Clause 7 provides two new duties for employees in section 10(1) after paragraph (d)

"To exercise the discretion under section 15 in a responsible manner;"

Section 15 you would recall, Mr. Speaker, deals with the right to refuse to work. Additionally, in the new paragraph (f) an employee now has the duty:

"to ensure that he is not under the influence of an intoxicant to the extent that he is in such a state as to endanger his own safety, health or welfare at work or that of any other person".

OSHA (Amdt.) Bill
[SEN. THE HON. D. MONTANO]

Monday, January 23, 2006

In this clause we have dealt with the anomaly where an employee could cause the death of another employee and be liable to a fine of \$10,000.

The new provision makes that worker liable in accordance with the Offences Against the Person Act.

Clause 8 makes the requirement of a risk assessment, not a mere requirement of the Act, but a duty cast on employers. I referred earlier to section 37, "medical examination as a precondition of employment". This section is now amended in clause 20 to make it the requirement that such a medical examination is to determine fitness for work. In essence, every employee can now be examined as a matter of course in the workplace as part of the health surveillance requirement under the Act and also to determine that person's fitness for work.

Clause 22 amends the Act in section 43(4) to make the provision of an ambulance not a function of the size of the enterprise but as a function of the risk determined under the employer's duty to perform a risk assessment. The employer is not only to provide an ambulance per se but emergency health facilities which may include an ambulance.

Clause 27 amends section 59 which deals with the requirement of an approval when a factory is being constructed to ensure that the inspector's duty to approve such construction is not counter productive to business development. The inspector is now under a duty to grant or not grant an approval in 30 days. If he does not act in the prescribed time the application is deemed to be approved.

Mr. Speaker, the Tobago House of Assembly (THA) was admitted as a member of the authority, therefore, clause 28 amends section 65 to include the THA. Clause 30 amends section 72 to protect the inspector from threats of violence or actions which may result in serious bodily harm and to make provision to cast a duty on inspectors to execute their duties under the Act, expeditiously, and with due care.

Clause 31 now limits the possibility of an inspector's abuse of the power to order improvement or prohibition notices. The persons who are affected can now lodge an objection at the Industrial Court. The objection operates as a stop order until the Industrial Court determines the matter. It is now a safety and health offence if someone without lawful authority removes, defaces or in any way tampers with a notice posted in relation to dangerous practices.

Clause 33 amends section 83 to create the specific safety and health offence and grants jurisdiction to the Industrial Court in such offences.

I believe we have, through these amends, created and enhanced a more manageable Occupational Safety and Health Act. The amendments have given effect to the ministry's policy to decriminalize industrial relations, and in particular, safety and health offences to the extent that it is possible. It is now very clear that the Industrial Court of Trinidad and Tobago is the main court for the resolution of safety and health at work issues. Moreover, as you would see, we have made consequential changes to the Act as determined by the new architecture for the compliance and enforcement of safety and health law in Trinidad and Tobago.

Mr. Speaker, we also took into consideration the necessity for a special majority for the passage of the amendment Bill. It is our opinion that unless the amendments themselves abrogated the bridge or infringed the rights and freedoms recognized and protected by sections 4 and 5 of the Constitution, there would be no necessity for a special majority in examining what we are proposing in this Bill. It is our opinion that it requires only a simple majority.

I can assure this honourable House that the safety and health landscape in Trinidad and Tobago will be better. Indeed, it is my humble view that as a result we have created an excellent model of safety and health legislation. Our next task is the passing into law of new workmen's compensation law. My ministry is now working on the elements of a draft bill which will support safety and health legislation by making provision for compulsory damages through a modernized workmen's compensation scheme. Accordingly, I commend the Occupational Safety and Health (Amdt.) Bill, 2006 to this honourable House.

I beg to move.

Question proposed.

2.30 p.m.

Mr. Harry Partap (*Nariva*): Mr. Speaker, we have before us for discussion today, a Bill entitled, "The Occupational Safety and Health (Amdt.) Bill, 2005". This Bill deals with amendments to the existing Occupational Safety and Health Act, 2004 which was passed in this House on December 05, 2003 and the Senate on January 13, 2004 and assented to by His Excellency, the President on January 30, 2004.

Mr. Speaker, eight days from today, it would have been exactly two years since the Occupational Safety and Health Act was assented to by His Excellency, the President but never proclaimed. That was not unexpected. The Minister a few minutes ago gave a clear appreciation of the problems faced by workers on the

OSHA (Amdt.) Bill
[MR. PARTAP]

Monday, January 23, 2006

factory floor. He knows that in 2000, five workers died in industrial accidents. He also knew that last year, 2005, the death toll rose three times—eighteen workers died; from five workers to eighteen workers. Yet his government made no move to proclaim the Occupational Safety and Health Act (OSHA) which was already passed in both Houses and assented to by the President. Two full years!

Mr. Speaker, I appreciate that the Minister felt strongly about workmen's compensation, yet he made no effort to bring a Bill that the UNC had left in the Ministry of Labour, Small and Micro Enterprise Development. It was called the Industrial Injury and Benefits Bill and that would have dealt with the workmen's compensation. It would have reviewed the whole workmen's compensation package and bring it in line with OSHA.

Mr. Speaker, the Minister made no attempt to bring this in so that it would match the OSHA at this time. He talks about the ministry is doing a revision and they are preparing a Bill. A few minutes ago, the Attorney General brought a legislative agenda for 2006 and there is only one item on that agenda for the Ministry of Labour, Small and Micro Enterprise Development. It is the Occupational Safety and Health (Amdt) Bill, the one that we are doing now. So no provision is made for the Industrial Injury and Benefits Bill. Yet, he comes here again, to con the Labour Movement. He comes here again to offer false promises to the workers of this country.

Mr. Ramsaran: That is his style.

Mr. H. Partap: But as it is said, that is his style.

The Minister must level with the workers of this country. He must level with the Trade Union Movement. I cannot understand how you know. You know that OSHA is important, workmen's compensation is important under OSHA. You knew that and you have failed to bring both Bills simultaneously.

Mr. Speaker, the Minister of Labour, Small and Micro Enterprise Development has not convinced us on this side that in getting the main legislation right as he argued, that it should have caused the suspension of the Act for two years. He did not convince us that there was need to suspend the proclamation of the Act. What I find curious, is a report carried in Friday's *Express* newspaper, January 20, 2006, at page 3. That report says and I am reading one of the paragraphs.

“Montano, who did not”

—I am referring to the Minister—

“attend Cabinet yesterday, insisted that before he assumed the portfolio no work had been done on this Bill at all until I got there. None. I found nothing! So I started it. I did it and I finished it within a space of three months,”

Mr. Ramsaran: Roberts.

Mr. H. Partap: Mr. Speaker, the hon. Minister is saying that it was not until October 2005 that it became obvious to him and his government that there were flaws in the legislation. That is what he is saying.

Mr. Ramsaran: They brought the Bill.

Mr. H. Partap: Because nothing was done since 2004 until October 2005 when he reached there. So therefore, the Member for St. Ann’s East, the hon. Anthony Roberts, was sleeping on the job while he was there. I am not saying so, that is what your colleague is saying. [*Desk thumping*] He is also saying that the hon. Member for Point Fortin, the hon. Lawrence Achong, was also sleeping on the job. I did not say so, that is what he said. He should know.

We are very disappointed on this side. We are very disappointed. So it means that between January 30, 2004 and September 30, 2005, a total of 21 months, no flaws were observed in the legislation.

Mr. Ramsaran: But they passed it in this House.

Mr. H. Partap: Of course, it was passed here. So we assumed that nothing was wrong with the Bill. The question is, why was there no move to have the legislation proclaimed by Ministers Achong and Roberts? Why was the legislation allowed to simply sit on the Ministers’ desks without any action or move to amend the law or to have it proclaimed? What a disaster for workers in this country. What incompetence of the PNM. It does not appear to us that Ministers Achong and Roberts were given the green light to have the legislation proclaimed. That is the problem, because the PNM was looking for a reason to hold OSHA in abeyance.

I understand the Member for Point Fortin—they could not ask him, because he would not allow it to happen, so they had to move him and put somebody who is compliant, who they could mould and do not have any interest in workers of this country.

Mr. Ramsaran: Who is that?

Mr. H. Partap: I do not know who it is. But it seems to me that it was Minister Montano who concocted the idea of flaws in the legislation in order to

OSHA (Amdt.) Bill
[MR. PARTAP]

Monday, January 23, 2006

put it on hold to give the PNM a reason. It appears that he was the mastermind behind the non-proclamation of the Act.

Mr. Speaker, in order to legitimize the long delay in proclaiming the Act, the Minister of Labour, Small and Micro Enterprise Development cried flaws. Now he had to put a hodgepodge listing of amendments that really makes no sense in terms of forcing the suspension of the proclamation of the Act. I looked at the amendments and I could tell you, clearly there was no intention on the part of the PNM to operationalize this Bill. None at all. They had no intention to do it. As I said, none of the 35 amendments proposed in the Bill before us was of any such significance as to prevent the proclamation of the Act. The amendments were in the main to delete or to substitute or to insert, and these did not alter the character of the various clauses.

I intend to go over in more details the proposed amendments contained in this Bill before us to show that the Minister of Labour, Small and Micro Enterprise Development was playing smart with stupidity—and I am taking the words of the Member for San Fernando East—he was playing smart with stupidity or smart by a half.

Mr. Ramsaran: By zero.

Mr. H. Partap: The hon. Minister moved around some of the clauses to make it appear that he was fixing the legislation. He has fooled no one but himself. These amendments have revealed him for what he really is, a fraud. The Minister is a fraud, he is a con artist.

Mr. Speaker: No, no, no. You can use more eloquent language, not fraud.

Mr. H. Partap: Mr. Speaker, I was simply following the Member of Arouca South when she called the political leader of the party an intellectual fraud and I was simply using that same phrase.

Mr. Speaker: No, I am objecting to your second phrase actually.

Mr. H. Partap: All right. I am sorry you did not rule at that time because I was not going to include it. But you have now guided me and you know that I would not want to go against your rules, so I would not say that. I would say he is a con artist and I would say that he is a clumsy juggler, that is what I would say.

Mr. Speaker: That is exactly what I ruled that you should not say. [*Laughter*]

Mr. H. Partap: I would not say that again. I would not say he is a con artist, I would not say he is a clumsy juggler.

Mr. Speaker, we on this side would support the amendments. We would do it, because we do not want to further delay the proclamation of the Act. That is all the reason why we would support it.

Ms. Seukeran: Because it makes sense.

Mr. H. Partap: No, it does not make sense to us. But we are not going to hold back the proclamation, because Mr. Speaker, we want to know what the PNM would do this time? We are going to give them the amendments. You know something. You know the Minister really believes he fools all of us here and I believe he really fools some of us.

The Leader of the Opposition, the Member for Couva North, the hon. Basdeo Panday, was prophetic when he debated the Occupational Safety and Health Bill on December 05, 2003. He anticipated the PNM when he warned during the debate what was the intention of the PNM. I just want to quote one sentence from the *Hansard*. They, he said, the PNM are here today again to scam the Labour Movement. That was on December 05, 2003. He went further and made this statement and I am quoting again from the *Hansard* of December 05, 2003. This is what Mr. Panday, the Member for Couva North, said:

“I had first thought that what they were going to do is exactly what they did on the last occasion when this Bill was put before the House, that is to ask that it be referred to a joint select committee. They knew that we were going to take the stand that we are taking now ...”

at that time and which was to support the Bill.

“and they knew that would embarrass them. They had intended that they would send the Bill to a joint select committee and kill it once and for all again. But information has come to us that you are now in that ineluctable position from which you cannot extricate yourself, and that you know that you cannot get away without passing the Bill today.”

That was on December 05, 2003 and I am continuing to read:

“Mr. Speaker, the strategy is to pass the Bill here today and when it goes to the Senate, to use the Independent Senators and so on to have the Bill sent to a joint select committee and kill it once again. We shall see. I hope I am wrong. I pray to God that I am wrong. But we shall see.”

That is the end of my quote from Mr. Panday's contribution on December 05, 2003. Mr. Speaker, the Leader of the Opposition was right on the button. This

OSHA (Amdt.) Bill
[MR. PARTAP]

Monday, January 23, 2006

PNM government, as I said, already had no intention to implement OSHA, but as the Member for Couva North had said, the PNM was stumped by the UNC action on this side, when we supported the Bill in December 2003. Caught in this trap, the PNM had to look for some disingenuous way to stall the legislation. They had looked for some disingenuous way to undermine the will of the Parliament.

Hon. Member: Words boy, words.

Mr. H. Partap: And they are experts in this field, you know.

Mr. Singh: That is genius.

Mr. H. Partap: They did it during the 2002 general election, when they stole the election and you would hear more about that. I see the Member for San Fernando West is smiling from ear to ear.

2.45 p.m.

Mr. Speaker, they did it during the 2003 local government election and most of them know what they did; and one only has to read the *Sunday Guardian* of January 22, 2006 and one will understand what the PNM is capable of doing. The report in the *Sunday Guardian* has now come to light which says that the PNM was involved in criminal activity by plotting to place cocaine and missiles in the water tank of the home of Sen. Baksh and the Chief Whip, the Member for Caroni East, Mr. Ganga Singh. You all should be hanging your heads in shame. You do not have any shame and you are still talking? [*Interruption*]

Mr. Speaker, they do not care about the consequences, or of what would happen to Mr. Ganga Singh and Sen. Baksh's family, in the same way they did not care about the consequences of holding back the Occupational Safety and Health Act (OSHA) to the workers. They did not care; that is not their business and they did not care about workers. [*Interruption*] Yes, they should set up a commission of enquiry date. You are talking so much. Set up a commission of enquiry and let us see what the real story is.

We are dealing with a bunch of crooks and raiders of the Treasury. We are dealing with people who are prepared to destroy the democratic institutions of this country so long as they can stay in office. That is all they care about. [*Interruption*] "Yuh doh know what ah talking about?" The PNM is a bandit government prepared to steal from the Treasury and if they cannot get their hands on the Treasury, they are prepared to take it like ants; burrow by burrow.

Mr. Imbert: Barrow or borrow?

Mr. H. Partap: Burrow. B-u-r-r-o-w; like you would use a wheelbarrow to move out sand and cement and things of the sort.

Mr. Valley: That is barrow boy.

Mr. H. Partap: Well, whether it is barrow or burrow, it does not matter. Yes, I have barrow. Yes, sorry, it is barrow. [*Laughter*] Whatever it is, the fact is you take it away barrow by barrow. [*Crosstalk*]

Mr. Speaker, you know my dearly departed mother used to tell me that a thief is a murderer and you know that saying is revealed today in the country that a thief really is a murderer. Already we have more murders committed than the days in the week and the days in the year. Some 387 citizens of this country were killed.

Mr. Speaker, 1,040 citizens were murdered since the PNM came into office on Christmas Eve in the year 2001, and 25 workers lost their lives at the workplace in the two years that the PNM was pussyfooting with safety and health legislation which was already passed in Parliament. Twenty-five lives could have been saved, 25 families could have been spared the trauma of losing loved ones if only the PNM had not failed to proclaim the Act. And, of course, the Minister is saying that this Act is for the living. It does not care. Who dead, dead, that is its policy. So really they did not care how many people were murdered in the year, it did not care how many workers' lives it snuffed out because it did not have the protection of legislation.

Mr. Speaker, this refusal by the Patrick Manning administration to proclaim the Occupational Safety and Health Act is the clearest indication so far that the Prime Minister and his Government never had any intention of providing the legal framework for the protection of workers in employment. That was not its cup of tea and it confirms in our minds exactly what one of their own—the distinguished Member for Point Fortin—had said, that the PNM was anti-worker and anti-union; and they are revealing this every single day.

The issues surrounding the non-proclamation of the OSHA reinforces what the Member for Point Fortin said when he walked away from Cabinet and this hapless, clueless, Minister of Labour, Small and Micro Enterprise Development has the audacity to make the claim that it was the PNM that brought the parent OSHA to fruition. You know the PNM has a habit of tinkering with history. I want the Minister of Labour, Small and Micro Enterprise Development to listen to the tortuous history of the OSHA legislation and the roadblocks placed by the PNM to prevent the passage of that law.

OSHA (Amdt.) Bill
[MR. PARTAP]

Monday, January 23, 2006

Between 1975 and 1995, OSHA legislation was drafted and redrafted under the PNM and it is still getting it wrong. The PNM never once advanced that legislation to reach Parliament. It was stuck in discussion and non-action. It was the National Alliance for Reconstruction (NAR) government that moved the legislation to the table of Parliament, but it lapsed because NAR lost the election and thereafter, the PNM took no action on OSHA between 1991 and 1995.

The Basdeo Panday administration took office in 1995 and the Bill was revisited; it was found inadequate and lacking in substance in several areas. A comprehensive revision was undertaken involving public comments, and exhaustive discussions at the tripartite level and the UNC administration brought OSHA to this Parliament on three occasions and we initiated debate. On two occasions it was referred to a joint select committee of Parliament and on each occasion amendments were suggested by the PNM in Opposition which were incorporated into the final draft.

Mr. Speaker, in 2001, when the UNC brought the legislation again for the third time, the PNM stalled by making seven objections to which we responded by the then Minister of Labour, Small and Micro Enterprise Development. We answered all the PNM's queries and gave all the assurances and the PNM still refused to give support to the legislation and, therefore, it failed because we did not have the three-fifths majority.

On December 05, 2003, the PNM brought that same Occupational Safety and Health Bill which it had rejected under the UNC back to this House. It made some changes by taking part of the legislation and putting it into the body of the Bill and so on, but nothing fundamental, it was the same Bill it brought back. We supported the Bill.

Hon. Member: They supported it, too.

Mr. H. Partap: They supported the Bill, but we gave support on this side and so it got the three-fifths majority.

Mr. Speaker, we never anticipated that the PNM would have used its anti-worker, anti-trade union animosity to concoct and connive, and forestall the proclamation of the Act which got full support from both Houses of Parliament. This was a blatant abuse of power by the PNM to stall the proclamation of the OSHA in order to satisfy its business partners and friends who preferred to remain in their comfort zone while workers lost their lives on the factory floor. That is how much they cared.

Mr. Speaker, without evaluating the recent struggle of the Labour Movement to have the OSHA legislation proclaimed—and I want to congratulate them—it must be recognized that it was the Opposition and the Opposition Leader now as Prime Minister and the UNC in government that really advanced the Occupational Safety and Health legislation to the point that it was enacted into law. We did it. [*Desk thumping*]

Even the Opposition UNC parliamentarians who are now in Opposition have kept up the struggle to have OSHA enacted and implemented and we did this through many avenues in this Parliament. The Speaker would know. We did it through “Questions to Ministers”, through “Motions on the Adjournment”, and during the last session of Parliament, the Opposition placed OSHA for discussion under “Private Member’s Day”. [*Desk thumping*] It is because of the persistence of the UNC both in and out of government that OSHA became a rallying point which was manfully taken up by the Labour Movement. [*Desk thumping*] We salute both the National Trade Union Centre and the Federation of Independent Trade Unions for their heroic struggle to ensure the safety and health of workers in this country. [*Interruption*]

Hon. Member: You can salute anybody?

Mr. H. Partap: Yes I can. I have the height to salute people. [*Laughter*]

Mr. Speaker, the amendments before us today are more semantics than substance. The Minister was engaged in shifting some sections interchangeably without any rational explanation. It would appear—he is my friend, you know. We are friends in height even though I am taller than he is. [*Laughter*]

Mr. Speaker, it would appear as though the Minister was creating an excuse to justify the long delay in proclaiming the Act. It is as if the Minister was engaged in semantics to give the impression that he was making some significant changes. However, in reality, the amendments were insignificant. They were more an exercise in gardening, sifting out the weeds, dotting the i’s and crossings the t’s and making some shifts from “in” to “on” and from “are” to “is”, and from “is” to “are”. That is what he was really doing.

3.00 p.m.

There were no fundamental changes that could have forced a delay in the proclamation of the Act. That is my point. My point is that nothing in the amendment should have forced the delay in proclaiming the Act. That is my point. Why wait for two years to bring this pack of nonsense before the House?

OSHA (Amdt.) Bill
[MR. PARTAP]

Monday, January 23, 2006

The failure to proclaim the Act was more a vendetta against workers and a slap in the face for labour leaders. There is nothing in these amendments to strengthen this legislation for workers. That is a myth. The Minister is saying that it would help the workers. I am afraid, I did not see it like that. In fact, for us on this side, the Act is now being weakened because of certain amendments.

Mr. Speaker, let me just go through some of the amendments that are before us today. Section 4 was amended. I am going to skip some of the amendments because they are only changing “is” to “are” and “in” to “and” and things like that. The amendments to section 4 are cosmetic. They are not fundamental to the Act. They should not be used as an excuse to refuse proclamation. You could have made your changes after the Act was proclaimed. Do it now! What you are doing now could have been done even though the Act was proclaimed. It has been done many times. They have made alterations to several laws and so forth.

We go now to clause 3(d) and the Minister has changed the age from “fourteen” to “sixteen”. Has there been an agreement on the age of a young person? Is it compatible with the Children Act?

Mr. Ramsaran: Not at all.

Mr. H. Partap: What was the rationale for the change? Perhaps the Minister could tell us. *[Interruption]* We had it at age 14 and they have moved it to age 16. I do not have any problem with that. What I am saying is that you should not use that to stall the proclamation. That is what I am saying. You could make it 17 or 18 or whatever—“stick break in all yuh ears; all yuh not listening”. Why did you not proclaim the Act and then make the changes?

Clause 6 is purely cosmetic. In fact, the original subsection 2(g) detailed the section of compliance. They were sections 7, 12, 37, 46, 75, 76 and I think Part IX and now you have moved that out and put a broad term. Nothing there should have caused the delay in proclaiming the Act. That is the point I am making. I am going to make that point until you understand it.

Mr. Speaker, they have done some amendments to section 9. As far as I am concerned, clause 6 weakens the Act insofar as the duties of the chief inspector are concerned. By deleting subsections (2), (3) and (4) the Bill would take the employer off the hook, in terms of his general duties to protect the safety and health of the public. I am saying that you have deleted that and you have taken away the responsibility that the employer would have had to ensure the protection of health and safety of the public. As far as I am concerned, this amendment shields the employer or the occupier from a critical compliance action.

They have amended section 10 and put in a new paragraph (e) which reads:

“to exercise the discretion under section 15 in a responsible manner;”

Section 15 deals with the right to refuse work. A worker can refuse work if he feels the conditions are bad. Do you know why they have put “to exercise the discretion under section 15 in a responsible manner” in there? That is to intimidate workers because they already have a duty while at work under sections 15 to 21. That duty is already outlined. It outlines the duty and responsibility for the worker, the employer and the inspector—that right to refuse work. So when you put that piece in clause 7(a)(e), you are telling workers to be careful. You are intimidating them and they may not want to take action; but they may be exposing themselves to danger. We are saying on this side that clause 7(a)(e) is unnecessary. It is unnecessary because you already have the duties there for the workers. There are also penalties as well if they do not do it.

Section 13 has been amended and it says:

“Every employer shall make a suitable and sufficient annual assessment of—”

This was already provided for in 25(g) in Part VI of the parent Act. It is already there. Putting this as an amendment to follow 13(9) in the Act is really semantics, and it offers no rational reason for delaying the proclamation of the Act. Why did you put it there? You are not telling us why. You have no reason. You just want to make it appear like you did something. Is that the reason you did not proclaim the Act? That is nonsense!

Mr. Speaker, they have also amended section 15. I have no problem with that.

In section 16, the word “promptly” was removed and substituted with the word “immediately”. That could cause you not to proclaim the Act? You have inserted the words “refusal or” before the words “intended refusal”. You have confused me there. Mr. Speaker, that confusion should not cause the Act not to be proclaimed.

Mr. Imbert: How much time would you say that?

Mr. H. Partap: As many times as I possibly can in the short time that I have. Imagine they are deleting section 72 and putting in section 74, and that has held back the Act for two years.

I am going to skip some of the amendments. The Minister has repealed section 25G and moved the contents to “General Duties”, but left 25K under “Safety“, even

OSHA (Amdt.) Bill
[MR. PARTAP]

Monday, January 23, 2006

though 25K has an implication for general duties. Why did you not move both sections 25G and 25K? You see this hodgepodge kind of thing is just to say that is the reason they held back the Act for two years. That is crazy talk.

I now go to the amendment to section 26. You have put in a new section 17 which says:

“An employer shall take into consideration the results of the annual risk assessment carried out pursuant to section 13A in determining what is necessary to provide a means of escape in case of fire.”

Do you know what that amendment has done? That amendment has empowered the employer to determine if it is necessary to provide a means of escape in the event of a fire, using his own annual risk assessment.

Under the present Act in section 26(2), it is the duty of the fire department to make such a determination. These are persons with the experience.

Mr. Imbert: We did not change that.

Mr. H. Partap: You have changed that. You have put in:

“An employer shall take into consideration the results of the annual risk assessment carried out pursuant to section 13A in determining what is necessary to provide a means of escape...”

When you had the fire on Henry Street, the fire department complained that the owner of the business had stocks straight up to the ceiling, and the walkway was clogged and people did not have access out of the building quickly. Now, they want to put that onus on the owner and the employer to say they are going to put a fire escape here or there according to their risk assessment. I am saying that decision must not be left with the employer or the occupier, but it must be given back to the fire department.

Again, the Minister of Labour, Small and Micro Enterprise Development has done a con job on workers. He is fooling the workers in this country.

Section 46A is a very significant section and they have deleted “(1)”. That is very significant. Did that cause the delay in proclaiming this Act?

If we go to clause 29, section 71 was amended. I am asking the question: Why do you want to change the condition where a suitably qualified medical practitioner is appointed as a medical inspector? Why do you want to change it? Why do you want to change it and make it very loose and say it is simply “an inspector”? I could tell you why you want to change it. Do you know why you

want to change it? You want to provide jobs for the boys. You want to put a CEPEP contractor to go out there and inspect these buildings. You want to put a CEPEP contractor to do that. You are undermining the integrity of the Act. That is what you are doing. Please look at it again. We are going to give you the support here today, but if you have to come back to make changes we would gladly welcome it.

Mr. Speaker, in section 74, they want to reduce the powers of the inspector. They want to circumscribe the inspector. If you have this amendment it is going to weaken the Act. The intention of the existing section is to ensure that the premises do not pose any threat to life and limb of workers, the public and even the employer. That is what the amendment in section 74 is doing.

Mr. Speaker: Hon. Members, the speaking time of the hon. Member for Nariva has expired.

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

Question put and agreed to.

Mr. H. Partap: I want to thank my colleagues for extending my time. I am not going to take the entire 30 minutes. Mr. Speaker, I was saying that amendment weakens the Act. It seems to us that the Minister of Labour, Small and Micro Enterprise Development is seeking every opportunity in these amendments to remove the employer from a legal responsibility to have industrial sites safe and healthy. I do not think this was the intention of OSHA. The intention of OSHA is to make industrial sites safe.

Mr. Speaker, they have also amended section 83, and I have no problem with that.

3.15 p.m.

Our position has always been that they should proclaim the Act and then amend—and it is still our position [*Interruption*] two years later. I am not even sure that the amendments before us are appropriate, but, as I said, we do not intend to hold back the proclamation, therefore we will give support.

I hope that, having been caught again, the PNM would not seek to hold back the Act to make amendments to the amendments. I hope they would not want to amend the amendments just to hold back proclamation. I would remind the Minister that Cabinet Note LC(96)42, dated October 10, 1996, outlines the

OSHA (Amdt.) Bill
[MR. PARTAP]

Monday, January 23, 2006

institutional arrangements to give effect to the Occupational Safety and Health Act. The document provides recommendations for regulating the OSHA, establishing the OSHA Agency, staffing, budget allocation and an organizational chart.

Mr. Speaker, I want to make a strong case for an early determination relating to the Industrial Injury and Benefits Bill which was left in the Ministry under the UNC administration. This Bill will replace the archaic Workers Compensation Act, which is hopelessly outdated.

This Bill, Mr. Speaker, will look after the compensation aspect of industrial injury. It is an essential piece of legislation to benefit workers injured at the workplace. As far as I can remember, this Bill had gone through the tripartite process, but it may be necessary to have it put out for public comment again. I am sure that between then and now there must have been changes in the work environment. I also wish to emphasize, Mr. Speaker, that the OSHA will be circumscribed if the Industrial Injury and Benefits Bill is not passed urgently.

The hon. Minister is to look closely at contract labour because that is a source of problems in this country. He should reopen discussions on this issue. Contract labour has been a source of tension in the Labour Movement as well because the level of exploitation of workers through this form of employment is great and we need to offer those contract workers some measure of protection.

There is a report in the Ministry from Dr. Syd Henry that is still available and I want to tell you that even though it was about five years old or so when I assumed office as Minister, the contents of the recommendations were valid then. I was looking at it last night and they are valid, even today, with regard to contract labour. There is a very good man at the Ministry of Labour, Small and Micro Enterprise Development, your advisor, Mr. Lennox Marcelle. I think he is an extremely good person in relation to this kind of thing and you should tap that resource before he gets disgusted and leaves.

There is another person again who went to most of the meetings in Geneva through the ILO. I do not think she is still at the Ministry, but Mr. Marcelle would know who she is. You can talk to him. Tap these resources and try to get that contract labour matter under control because too many contractors are not following the rules. They are not even following the rules of the companies that they work for and they are putting workers' lives at risk. Mr. Speaker, I beg the Minister to do that.

The International Labour Organization, as I said, has been formulating a convention on contract labour. I am not sure how far they have reached, but the

Minister would be well advised to keep this issue on the front burner if only to adhere to the ILO's principle of decent work; and that entails decent work.

On May 27, 2005, in introducing a Private Member's Bill on occupational safety and health in this House, I said that the UNC was going to insist that the PNM government complete the process of proclaiming the OSHA and that they monitor the implementation of the Act. I also said that we on this side would not give up until all workers feel safe in the workplace and all workers are confident that, at the end of the workday, they could be safely reunited with their families.

We are committed to this ideal and we will do all in our power to ensure that workplace safety is a priority. I tell the Minister and the Labour Movement that the UNC will not baulk at any piece of legislation that enhances the safety and welfare of workers in this country.

Thank you, Mr. Speaker.

Mr. Ganga Singh (*Caroni East*): Mr. Speaker, I congratulate my colleague, the hon. Member for Nariva, on his exposition this afternoon—very lucid and consistent with what the hon. Member for San Fernando East indicated.

My intervention in this Bill, really, is to point out what is emerging as an occupational hazard of parliamentarians in Trinidad and Tobago. When I took the oath of allegiance as a Member of Parliament, I indicated—and I will quote it:

“I, Mr. Ganga Singh, having been elected a Member of Parliament, do swear by the Bhagavad Gita that I will bear true faith and allegiance to Trinidad; will uphold the Constitution and the law and will conscientiously and impartially discharge the responsibilities to the people of Trinidad and Tobago upon which I am about to enter.”

It effectively made all of us employees of the people of Trinidad and Tobago. So I am here in my capacity as a Member of Parliament to serve the people's interest—the public interest. Therefore, when I read, in yesterday's newspaper the serious allegations being made, I felt that consistent with the Act, I would now have to look at the annual assessment of my home because I have an employee at home. [*Interruption*] Once you have contract workers, skilled or unskilled, they fall within the category.

The headline of the newspaper read, the *Sunday Guardian*:

“Ex-DEA associate, in Caracas: 4 PNM Jefes Plotted To Frame Baksh”

At page 5:

OSHA (Amdt.) Bill
[MR. SINGH]

Monday, January 23, 2006

“Special investigation
PNM plot against Ganga, too”

Mr. Speaker, when my constituents elected me on four occasions—1995, 2000, 2001 and 2002—to this Parliament, they did not contemplate this kind of thing. This really is not an attack against Mr. Baksh—I do not know if the contents are true; it is necessary for us to look at the contents—it is really an attack against the democracy of Trinidad and Tobago. It is an assault against the democracy when you begin to engage in the process of planting narcotics and the Act provides in the amendment that we have to ensure that employees are not under the influence of any kind of narcotics.

When this newspaper report speaks of a plot—I do not know Mr. Vernon Paul or Mr. Wilfredo Quintero. I want to read what it said—the whole thing. It says:

“Vernon Paul...in an interview last week in Caracas, said that he will give the DPP information that certain high-ranking People’s National Movement politicians were responsible for hatching the plan, together with a former senior man in the Jamaat al Muslimeen, to frame Baksh and Opposition Chief Whip Ganga Singh.

The intent of that plan was to help destabilise the UNC in the 2002 general election, he said.”

So whilst I take my oath here and seek to do my duty and speak freely and protest openly in this Parliament and pressure Ministers to account to the country, what is happening?

Mr. Speaker, the article goes on to say:

“During two days of interviews in Caracas, Paul, who appears to be well known by top business executives in the bustling city, gave details of how he came to know of the plot and what it entailed.

Among Paul's shocking disclosures was that a Venezuelan operative smuggled into Trinidad:

- 25 kilos of pure cocaine;
- two boxes of C-4 explosives, each containing five kilogrammes;
- seven FAL assault rifles;
- nine handguns;

- four missiles;
- one launcher;
- 250 boxes of 7.62 mm of ammo;
- 12 boxes of 9mm ammunition; and
- seven hand grenades.

Paul said of the four missiles and the launcher that came to Trinidad, two of the mortar bombs and the launcher were still unaccounted for, along with:

- the 250 boxes of 7.62 mm ammo, each box containing 50 rounds;
- the seven FAL assault rifles...
- the 9mm pistols with magazines; and
- 12 boxes of 9mm ammunition, each containing 50 rounds.

He said the weaponry was still in T&T, in possession of someone he code-named the B Man.

Paul gave the dates when meetings were said to have taken place at the homes of certain politicians. The DEA associate said the plan was that Baksh and Singh would be charged with drug trafficking and possession of ammunition after the illegal drugs and missiles were found at their homes.

Paul said: 'While Ganga was talking on the news that cocaine and missiles were found in Sadiq's water tanks, cocaine and ammunition were also planted at his (Singh's) home and he knew nothing.

The plan was to set up both of them, but the cocaine and ammunition were pulled back secretly from Ganga's house and he (Singh) did not even know that he, too, was to be set up'.

The plan Paul said, was that while Baksh and Singh were busy trying to get bail after their arrests, the PNM would call a meeting at its Balisier House headquarters in Port-of-Spain to discuss the arrests. One of the C-4 explosives would have been planted at Balisier House hours before, programmed to blow up the building before the arrival of any official.

The intention was that it would look like political revenge by the UNC for the arrests of Baksh and Singh, said Paul.

He gave the names of four PNM politicians whom he claimed brokered the deal to frame Baksh and Singh."

3.30 p.m.

Dr. Moonilal: Who are they?

Mr. G. Singh: I continue:

“He also gave code names for three of the men: Los Angeles, The Institution Man and The B Man.

‘The most stupid and dumbest man I have ever met in my life is The Institution Man.’”

Hon. Member: Who is that?

Dr. Moonilal: That must be Imbert. That is a code.

Mr. G. Singh: It goes on:

“‘He arranged meetings at the homes of politicians with politicians,’ Paul said.

Paul claimed he was ‘wired’ at those meetings and had taped the conversations. He said the tapes would be his trump card to prove the guilt of the people whose names he was calling.”

I go on, Mr. Speaker.

“Paul named the actual ‘planter’ of the bombs and cocaine in Baksh's water tank as dead kidnapper, Riad Abdool-Quadir, aka Apache, a former member of the Jamaat al Muslimeen who lived in East Dry River, Port of Spain.

According to police reports, Abdool-Quadir was shot dead in January 2003 in a ‘gang shooting’ in Princes Town, hours after he was fined in a Magistrate's Court for possession of ammunition.

Paul also said he had evidence that the arms and ammunition found at the Jamaat al Muslimeen Headquarters at Mucurapo during the police raid last October came from the same batch as that brought into T&T by the Venezuelan operative.”

Mr. Speaker, then he goes on to say that he is:

“willing to take a polygraph test to prove his story and issued a challenge for those whose names he called in his story to take the same test.

‘If I fail the lie detector test, then let the DPP lock me up for perjury or conspiracy to frame them fellas,’ he dared.”

Mr. Speaker, I have been raising consistently this matter in this Parliament about the missiles and cocaine found in Sadiq Baksh's water tank. I raised it in questions. I raised it as a matter of urgent public importance on May 14, 2004 and I spoke for 15 minutes on May 21, 2004 as a Motion on the Adjournment. This is an extraordinary crime, Mr. Speaker.

Mr. Ramsaran: Murderers!

Mr. G. Singh: When I think in the context of my oath, in this society, I think of three events. In this society today it is so easy to get set up and be killed. I think about the shooting of the car of President Hassanali when he was the President of this country. That crime traversed several administrations and went cold. Only when Mark Guerra died we were told that he was the principal suspect.

There was the murder of Selwyn Richardson, former Attorney General in the Cabinet of the PNM and NAR, in his gateway. The trail went cold when two persons were found murdered, quietly.

Thirdly, was the issue of the arms, ammunition and cocaine in Sadiq Baksh's water tank. Now we have this revelation.

I have information that the "B" man is—*[By order of the Chair, remarks withdrawn]* I have information.

Mr. Speaker: You are going good so far but I would advise you not to call people's names in the Parliament, especially if they are not parliamentarians here to defend themselves. Be careful! I would ask you not to call names.

Mr. G. Singh: Mr. Speaker, this is a heinous crime.

Mr. Speaker: I hear you but I am ruling, asking and directing you not to call names.

Mr. G. Singh: Then I—

Mr. Speaker: Furthermore, you would expunge the name of Mr. Abdullah. I am directing the press: television, radio and media not to report that at all. Please continue.

Mr. G. Singh: Mr. Speaker, I will then call the name of a parliamentarian who will have the opportunity to defend himself. Los Angeles (LA) is Larry Achong, the hon. Member for Point Fortin. "The Institution Man, the most stupidest and dumbest I have met in my life". "The Institution Man", is—*[By order of the Chair, remarks withdrawn]*

Mr. Speaker: You see.

Mr. G. Singh: I am not calling his name.

Mr. Speaker: By implication people would know who you are speaking about. No! I am directing that to be expunged. Again, I am prohibiting the press: television, radio and the printed press not to report that. Please continue.

Mr. G. Singh: To speak freely on a crime that is committed against the State, you preclude it. We will have other opportunities. What is clear is that there was a plot in the context of the 18/18 scenario in this country at the home of a certain politician, in order to influence the election process. Today in our society, when we speak about crime and you seek to have meetings with the Opposition in order to deal with crime, within the bowels of the PNM you have the criminals existing.

Mr. Speaker, it is very clear. Why has there been a delay in solving this matter? Why has there been this tardiness in bringing a resolution to this matter? Why does there seem to be the lack of political will in solving this crime? We requested, on May 21, that we utilize the services of the FBI and Interpol in order to have an independent and impartial investigation in this matter. The Minister of National Security came here and said that the police did not request it, so they had not communicated with him as to whether or not they required it and he had not proffered that assistance. We have a situation where the criminal element has entered the political arena and also a situation where a Member of Parliament—as my colleague, the Member for Nariva spoke, when we leave here we do not know who is planting what. Mr. “Fix It” has become Mr. “Plant It”. That is what is happening. In this society today we recognize the reality of the environment. Why the FBI and Interpol? Why not Scotland Yard to deal with this matter? This is an assault on our democracy. He was a sitting Member of Parliament. I was a sitting Member of Parliament. These are grave allegations. They go to the very core of our democracy and to the rule of law. We want clarity.

The Member for St. Augustine has issued a press statement today calling upon the Prime Minister to appoint a commission of enquiry for full disclosure on this issue.

Mr. Speaker, it is clear to us in the context that there will be no resolution of crime in this country while this matter remains unresolved. I thank you.

Dr. Roodal Moonilal (Oropouche): Mr. Speaker, it would appear that the crisis with health and safety in this country has reached the doorstep of Members of Parliament, Ministers of Government and officials of political parties. While

we meet to discuss the health and safety of workers in industrial establishments, we may well have to consider—given that we have heard such a chilling revelation and particularly the names of people being called and the fact that they are office holders in the PNM, Ministers of Government—debating the security of Members of Parliament, not only in the wider society exposed to the criminal element, but exposed as well to a form of political criminals that exist at Balisier House. It would well be that Balisier House is really a school for political criminals, from what we have been hearing from the Member for Caroni East.

Mr. Speaker, if three years ago a Member of Parliament had stood in this House and reported that there would be bombs in Port of Spain and St. James, we would all have looked at that Member with great distrust, apprehension and suspicion. Today, we have heard of bombings in Port of Spain and St. James so it is not farfetched that that story is believable.

The planting of the cocaine and missiles in the water tank of Sen. Baksh is a fact. That is not a dream; it might be a nightmare. If today, we are getting a further revelation based upon the finding, it is something that we should take seriously. I want to advise those on the Government's side, that they can laugh and giggle over serious matters. When a bomb went off in Port of Spain, the Member for Laventille East/Morvant said that was God making noise.

Mr. Hinds: I never said that!

Dr. R. Moonilal: Or something to that effect. What did you say? The long and short is that he made a joke out of it. People were injured and someone subsequently died and they were joking. Today they joke on this matter as well; a deadly, serious matter. The Commissioner of Police, Mr. Paul, another Paul, should take all steps necessary to conduct an investigation, apart from an independent enquiry into this matter. It is big enough. That is no small matter.

Mr. Speaker, I want to begin my contribution by also complimenting and congratulating the former Minister of Labour, the Member of Parliament for Nariva, Mr. Harry Partap, on a comprehensive contribution and critique of the measure before us, the amendments to the Occupational Safety and Health Act.

For the PNM, safety is last. They put safety last. This is really not a great concern of the PNM. The reason we are here today is because the Labour Movement in Trinidad and Tobago threatened, recently, to unite and erupt in protest, on the streets of this country. There were marches in Port of Spain, San Fernando, Point Fortin, Princes Town and Mayaro and they were threatening to

OSHA (Amdt.) Bill
[DR. MOONILAL]

Monday, January 23, 2006

cause a general strike, not only for one day, but for weeks. The Prime Minister, sensing that, acted immediately to call the labour unions to discuss the health and safety matter. After almost two years, there was no need to call the trade union movement to Whitehall. Suddenly there was a need to call the labour unions. They then concocted over 40 amendments to the Occupational Safety and Health Act, to legitimize why we are here today.

Mr. Speaker, as the Member for Nariva pointed out, nothing in the amendments will add to the OSHA. Nothing could have caused this delay. In fact, as we would demonstrate very soon, there are provisions in the amendments which actually undermine the OSHA. The amendments being proposed today will neuter the OSHA. It will take away the effect of the full Act. They are undermining and watering down the OSHA as a potent force to defend workers and promote a healthy and safe environment. Nothing in this list of amendments is related to any fundamental improvement in the OSHA.

Sometime in November you will recall that on a rare occasion the Opposition was successful in raising the issue of OSHA as a matter of urgent public importance. It was on November 09, 2005 the Opposition was successful when we raised the matter and outlined the history of OSHA. We also called the names of those persons who died during that year at the industrial place of work. We were extremely concerned that the Government was not moving to implement the OSHA while there were deaths at industries.

3.45 p.m.

I want to just address this matter. The PNM Government is a government that would use any argument conveniently. So, for crime they would tell you that you need to pass laws to deal with crime, but for the Occupational Safety and Health Act (OSHA) they would say, look, laws will not change accidents and fatalities. In fact, let me make it very clear to the Minister, while we all know at industry and particular industrial sites, there are risks associated, if you are working in the steel mill; if you are working on the Port, you may be exposed to more danger than if you were cutting cloth on Queen Street, we know that. There is an extent to which with all the care and caution in the world, you may not be able to prevent an accident. But industrial accidents are not caused by God, they are man-made accidents and fatalities, and putting a legal and regulatory framework in place, with adequate protection, duties, obligations, remedies and penalties, ensure that you lessen the incidents of industrial death and accident that is clear.

So to tell us every fortnight that passing the Occupational Safety and Health Act (OSHA) will not help, because we all know in the United States miners died recently. They have a very sophisticated framework for health and safety, we know there would be accidents, but nothing can excuse this Government from the incompetence on this matter. It was the editorial in the *Newsday* of January 14, 2006:

“The Government’s handling of the Occupational Safety and Health Act (OSHA) reflects the worst sort of technical and political incompetence.”

on the part of the PNM. The editorial ended by noting:

“If this situation continues for long again, the Government’s reputation for incompetence will become even more solidified. The OSHA must be revamped and implemented within the next few weeks at least. Any longer time frame is entirely unacceptable.”

Mr. Speaker, this newspaper, the *Newsday*, acknowledges the fact that incompetence is their default mode. Their presumption is one of incompetence. We are here today with our list of amendments. Members of Parliament were presented with a list of over 40 amendments—if you look, one amendment clause would have two or three matters—by a Government that passed the Bill. The Bill was passed in December 2003, and then piloted by the Member for Point Fortin. The Bill was passed by the PNM Government. The PNM Government comes back two years later to tell us that there are 40 amendments that are required.

Then the new Minister of Labour, Small and Micro Enterprise Development—recently appointed a few months ago—indicated that staff at the Ministry pointed out all these errors. But, as the Member for Nariva said, you could have proclaimed and implemented sections of the OSHA, and come back to make your minor changes. It was this very Minister of Labour, Small and Micro Enterprise Development, Mr. Danny Montano, speaking in the other place on Wednesday, June 15, 2005, a few days before Labour Day who stated:

“What we are looking at right now is the possibility that maybe there are parts of the Bill that we can proclaim in a very short space of time without having to do the whole thing.”

They acknowledged that that was possible, but did not do it. That is the level of contempt that this Government has for workers in Trinidad and Tobago.

OSHA (Amdt.) Bill
[DR. MOONILAL]

Monday, January 23, 2006

As the Member for Nariva rightly pointed out—apart from typographical errors and so on—there are some significant amendments planted in the list, not to improve OSHA but to undermine OSHA; to undermine the power of workers and trade unions. We have been informed that notwithstanding the meetings at White Hall, there are trade unions in this country, particularly those dealing in the heavy industry sector, who are objecting; who oppose violently the passage of these amendments. We were also informed that the Government did not see it fit to consult with those trade unions. Therefore, we would not be surprised that the unions will come out against these amendments.

When they brought the list of amendments to the House on Friday, they were presented to us, and we were graced by having a full weekend to look at the amendments; to debate them on Monday—Monday is not a usual sitting day for this House. We came on Monday to hear the Attorney General list—what is it he is calling it—the legislative agenda. He said by giving the legislative agenda that shows transparency and accountability. Mr. Speaker, what he did was cruel and unusual punishment for Members of Parliament on a Monday. We got the benefit of one weekend to look at the amendments. I do not know that members of the public have seen or have been discussing these amendments or have been studying them, and so on.

In October—as I mentioned a few minutes ago—the Minister of Labour, Small and Micro Enterprise Development came to the House to speak on this matter after the Member for Oropouche raised the matter for urgent public importance, and he gave an account of what he was doing at the time and told us there are several reasons why the Act could not be implemented. One major reason dealt with compensation for injury and death. He was saying—if I am to paraphrase instead of reading the entire *Hansard* account—the Act falls short in several areas, and a significant area was compensation for injury or death; that was a big issue, the Minister spoke at length on this matter.

Today, we have the list of amendments before us and no amendment deals with compensation for injury or death. But when explaining why the Government could not implement OSHA, the Minister said they had to look at section 86 of the Act that deals with compensation. When we looked at our list of amendments, there is no amendment to section 86, none; well, typographical corrections. The list of amendments on the left has no connection to section 86 of the Occupational Safety and Health Act. So, what were you doing in November? What were you saying? Who were you misleading? And why were you misleading us? To tell us in November, we cannot implement OSHA because of compensation, then they

bring a list of 48 amendments and none involves compensation. It is not only in the area of compensation, in other areas as well. The Minister said that there were other areas that required a second look. However, when we got the list of amendments, it was not reflected. This is the level of deceit and conmanship that one expects from the People's National Movement.

Mr. Speaker, to move on to some of the amendments, and let me make a blanket statement, that the amendments create more problems than the Act. The amendments will complicate the Act further; they will create more bureaucratic and administrative requirements; they will create more obligations, and sometimes obligations that are useless. One I want to refer to; whereas in the parent Act which deals with what is called risk assessment, and it is very simple, I hope to explain it quickly and in a simple manner. The parent Act at section 25(G) deals with risk assessment, in which employers would have to do an assessment of all the risks associated with their place of work and so on. They would do this assessment and it would be reviewed depending on changing conditions. However, in the new amendment, the Government now deals with annual risk assessment for employers. We need to be told who is an employer for the purpose of annual risk assessment. Surely, you cannot mean a doctor running a medical practice hiring two receptionists and a cleaner is an employer. Is that firm part of the amendment?

Otherwise, according to the Central Statistical Office (CSO) data, you will have 27,000 employers producing an annual report on health and safety to submit to the chief inspector. So, the chief inspector collects 27,000 reports every year and what is he doing with that? Who is analyzing that? Who is submitting that? It is just bureaucratic and wasteful; it cannot work. This is a country where 500 people cannot file integrity declaration; 200 or 300 people under the Integrity Act and some cannot file declaration. You have 27,000 employers to give you an annual report on safety. This cannot work, it is not workable.

Mr. Speaker, who are they submitting this to? When? By what date? As you know, under a constitutional amendment Act ministries of Government submit an annual report to the President—that is under our law now. You are telling 27,000 employers, produce a health and safety report with particulars and send it to the chief inspector. This is madness. What the Government should think about if they really want to go further, is to look at the industrial landscape, the sectors and you may put this for certain sectors.

It is very clear, 18 people died, the last one name Manning. *[Interruption]* The wrong Manning, baby. No, not the wrong Manning, I cannot say that. You

OSHA (Amdt.) Bill
[DR. MOONILAL]

Monday, January 23, 2006

can look at the 18 and say Point Lisas, the industrial estates, the Port Authority. We know where the accidents are coming; among contract workers in construction. If you want to subject employers to stringent requirements, do it in the sectors that are targeted, where you would have the most industrial accidents and deaths.

An employer selling food or cloth in Port of Spain would not have the same risk as a contractor on the Point Lisas Industrial Estate; as contractors who do marine work; who do welding and underwater welding and repairing ships and so on; they are exposed to more risks. You should classify those employers and get an annual report from them, not from every employer. This is really rubbish, it would cause more bureaucratic obstacles, and quite frankly it would not be implemented.

Another significant amendment, and this one, I do not know, the Minister would have to explain carefully what exactly is the intention here. As it is now, if a worker comes to the place of work and he is under the influence of alcohol—*[Interruption]* or the affluence of “incohol”—under the normal industrial relations practice that worker can be disciplined, suspended, depending on the situation, even dismissed.

4.00 p.m.

You can take action against that worker as it is now. That is a violation of the obligations of a worker that you will present yourself in that state at the place of work. That is an industrial relations action you can take; the worker, if he is in a union can take it up, but if he is not in a union he can still take it up, there are other measures for that.

What they have done with the amendment is to create an offence, and I want to read the amendment to section 10 of the OSHA where a worker must “...exercise the discretion under section 15...” refusal to work. Worker has to “exercise discretion under section 15...he must behave...in a responsible manner”. The Member for Nariva pointed out that. The worker is under now a statutory responsibility:

“to ensure that he is not under the influence of an intoxicant”.

—alcohol is one, but there are others—

“to the extent that he is in such a state as to endanger his own safety, health or welfare at work or that of any other person.” *[Interruption]*

And whereas before a violation would be a fine, we are being told that the worker would be treated in accordance with the Offences Against the Person Act—a criminal offence.

This Government cannot implement a breathalyzer on the highway to check if persons are drunk. We expect now that 27,000 employers would have 27,000 breathalyzer devices to go and test persons Monday morning for alcohol content in their blood. Again, this is just an excuse for taking two years. In fact, whoever came up with this amendment, himself, may have been under the influence.

This troubling issue of section 15 in the parent legislation, “the right to refuse work...” What is interesting is that this matter was the subject of a lot of controversy, particularly, among employers, because employers felt if this Act is implemented, as it is, workers can get up in the morning and decide when they go to the place of work the chair is shaking and that might damage them, so they are not working and they can influence everyone to stop working.

Incidentally, in the Ministry of Health and the Ministry of Education they have serious health and safety problems. In fact, the Government of the day is the main cause of violation of health and safety policies at the place of work. The Government is a big culprit at the Ministry of Education, it may startle you to know, but there is a division there where the management of the ministry agreed with workers that the conditions are so bad they could only work half of the day. Could you imagine that, and that is under a most distinguished Minister.

They agreed that workers can work half of the day and go home because things are so bad, the air conditioner is not working, ventilation is bad, furniture and so on. At the Ministry of Health quite recently, I think it is the payroll section, workers walked out because of poor health and safety conditions. So the Government is the main culprit in this matter.

Mr. Speaker, section 15—and this is interesting—said and I quote:

“An employee may refuse to work or do particular work where he has reason to believe...”

Now they are amending that to say:

“where he has sufficient reason”

They have included the word “sufficient”, so he must not only have reason, he must have sufficient reason and I quote:

OSHA (Amdt.) Bill
[DR. MOONILAL]

Monday, January 23, 2006

“he can refuse to work if the worker believes that there is serious or imminent danger to himself or others.”

If I am working on the port and I am in a particular section operating a crane and I believe this crane can malfunction, the equipment is bad, instead of four cables they have two working. And if that is my place of work I can refuse to work along with other workers and the Chief Inspector to draw their attention to a horrible practice that can kill or injure someone.

Today, the Government has changed that, what they have said is that you can stop working if there is a danger to yourself—only you—so the man who is operating the crane, only that person can stop working, not others in a section who may also be endangered because the person operating the equipment, the bolt in front will not drop on the driver, so as it is now they have changed by removing “others” so that only if you, yourself are in serious danger you can stop working. You can refuse, but not others.

Do you know what is the next effect of that from a trade union perspective? No worker, by himself, will refuse to work this way. The logic of collective action suggests that workers when they are together in a bargaining unit they take action collectively; that is how they get their strength, by their collective action. That, Mr. Speaker, is what they wanted to prevent, because if that worker takes action to say, “I refuse to use a piece of equipment because it can endanger myself”; the employer can move him, dismiss him or suspend him for failure to undertake the duties that he is supposed to undertake.

Recently, a case was before the Industrial Court, a worker on a platform offshore refused to work because of conditions on that platform in the night. Do you know what the employer did. He suggested to the worker, that if he cannot work on the platform, work in the office in janitor and maintenance work, that is the only other thing available. Now, can that worker move from a high range working as a technical personnel on a platform to a janitor in the office on shore? That is the problem, when you remove others you take away, as well, the right of workers to take collective action to highlight poor health and safety conditions; that is what you do.

Incidentally, I must draw your attention that this Government is aiming for First World or developed country status by what year is it now?

Hon. Member: Year 2020. [*Interruption*]

Dr. R. Moonilal: The year 2020. [*Interruption*] By murdering the Opposition, you say. Mr. Speaker, this Government is aiming for developed country status. Do

you know that in Guyana [*Interruption*] a nation that we all agree may take a few more years to get developed country status, a nation that we all agree may take a little longer to get developed country status because of Burnham and the PNM, in their Occupational Safety and Health Act, passed in 1997 they have kept that provision in section 15, “a worker may refuse to work or do a particular work if he believes that any equipment, machine, devise or article the worker is to use or operate presents an imminent and serious danger to the life or health of himself or another worker.” [*Crosstalk*] And they have taken this off. And Guyana kept that to give workers as a collective group the right to refuse work. [*Crosstalk*]

In the Act, it is very clear, you cannot abuse that right. There is a process now, where if you refuse to work within 24 hours the inspector comes there and inspects the place of work, undertakes tests and you return to work. And in any event, the worker under the Act continues at the place of work; he or she cannot go home and sleep; the workers have to stay there. Mr. Speaker, that is one attempt to undermine the trade unions and workers.

Another area, which I think is unworkable and really will pose more problems than solve, is where the Chief Inspector is required to investigate the refusal of workers to undertake work at the place of work. It is very instructive that they have made an amendment so that the inspector must act swiftly to undertake his work and come to some type of conclusion. But in section 18 they are making an amendment to add in—and I want to take this slowly because it could be lost—a couple of lines, which mean that the inspector must not only investigate within 24 hours the refusal to work, but must make a decision; they are adding in that. This is quite interesting. If you have a stoppage of work, the inspector comes quickly and gets a report; under the parent Act the inspector within 24 hours must reach on the site, undertake an investigation, but he is not required to make a decision in 24 hours. In the amendment they are saying in 24 hours he must make a decision.

This can involve testing chemicals, testing heavy equipment, getting facts and details on the equipment from a manufacturer in the United States or Europe. In 24 hours an inspector will get all the facts to come to a determination in 24 hours. But this is rubbish! Again, it cannot work. It just cannot work. They are doing that because they are bowing to the pressures from employers that they cannot refuse to work for more than 24 hours. That an inspector must make a decision in 24 hours; that is why they did that. [*Interruption*] That is what they are doing. The effect of that is to give in to the employers so that if you refuse to work in 24 hours you are back to work, regardless of whether the reason for refusal entails

OSHA (Amdt.) Bill
[DR. MOONILAL]

Monday, January 23, 2006

dealing with chemicals, testing chemicals, testing heavy equipment and so on. That is the effect of that.

Mr. Speaker, they have made several changes to water down the Bill, instead of “shall” you have “may”; an employer shall do nothing; he may do it; he shall not do it. They have done that as well. The effect of this amendment is to return power to employers, that is what this amendment does. It is to retain power; return the power to the employer.

In the parent Act there is a particular clause that says if you have 250 or more workers at your place of work, you need to have accessible a first aid kit, certain emergency health facilities and so on, but also an ambulance. In the parent Act section 43—[*Interruption*]

Mr. Ramsaran: They send ambulance in the oval.

Dr. R. Moonilal: Mr. Speaker, in section 43(4) there is provision for employers who would have more than 250 workers to maintain an ambulance and a first aid room of a prescribed size; they have taken out that; they have taken out ambulance and they have changed ambulance to emergency health facilities; now that could be two band aid and a panadol; they have taken out that and they have removed ambulance; so the ambulance left. [*Interruption*]

**VERNON PAUL’S ALLEGATIONS
(INVESTIGATIONS INTO)**

The Minister of National Security (Sen. The Hon. Martin Joseph): Mr. Speaker, once more I thank you for giving me the opportunity to make a statement in this honourable House.

I would stick strictly to the facts as I know them concerning this matter that seemed to have consumed some measure of debate in this Parliament today. On December 12, 2005 a gentleman by the name of Vernon Paul attempted to contact me at the Ministry of National Security ostensibly to provide me with information that he felt I needed to know.

Mr. Speaker, being aware of Mr. Vernon Paul and being aware of what it was that Mr. Vernon Paul wanted to supposedly provide me with information on; I am sure that Mr. Paul spoke to a senior official, law enforcement official at the Ministry of National Security.

Hon. Member: What date was this again?

Sen. The Hon. M. Joseph: December 12, 2005.

Hon. Member: Did you speak with him?

Sen. The Hon. M. Joseph: I did not. I deliberately did not speak with Mr. Paul because I know of him. [*Interruption*]

Mr. Speaker, he is known to us in the security reports. Subsequently, I had the Commissioner of Police, because Mr. Paul left numbers, et cetera, where he could have been contacted. The Commissioner of Police got in contact with Mr. Paul, and as a result, arrangements were made to have two senior investigators fly to Caracas to interview Mr. Paul. Those arrangements were to have been made on December 14, 2005. There were some flight problems; there was the necessity because we were using our air assets to send the two investigators to Caracas, and we had some problems and as a result we had to rely on commercial airline.

As a result, the two investigating officers went to Caracas on December 21, 2005 and met Mr. Paul at the Marriott, Caracas; where extensive discussions took place with Mr. Paul. The intent of the meeting was official, however, it turned out that the information provided by Mr. Paul to the investigating officers, I was advised, did not advance the investigation.

4.15 p.m.

Mr. Paul did not provide detailed information. I understand he gave limited information and enquired about his protection if he is to support the police in the investigation. He then promised to send three detailed notarized statements, one from him and two from Venezuelan nationals, he claimed, that could have supported the allegations that he had made.

Mr. Speaker, I am advised by the Commissioner of Police that on January 17, 2006, his office received three envelopes purportedly sent from Vernon Paul. The envelopes contained two unsigned statements. It is instructive, Mr. Speaker and Members of this House, that I am advised that when discussions took place with Mr. Paul on December 21, 2005, he produced a statement dated April 2005 bearing his signature. While he admitted the signature was in fact his, he denied the contents of the statement, claiming that his signature was electronically placed on the document.

On the basis of all this, the Commissioner of Police held a press conference today at 2.00 p.m. where he provided a whole lot more details about the investigations that I am not able to provide here because, as you know, investigative matters are matters discharged by the police. This is the information as we have it. There is other information that we have that we cannot at this point in time disclose but this is the

Vernon Paul's Allegations
[SEN. THE HON. M. JOSEPH]

Monday, January 23, 2006

situation as exists. Let me stick to the facts and I would stick to the facts, but bearing in mind that the Government has a responsibility for the protection of the State and, as a result, is fully cognizant of activities and actions that are designed to compromise the security and safety of this State and this Government will do nothing that would allow persons who are bent on compromising the security and safety of this country, to allow it to happen.

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

Mr. Singh: I feel more frightened now. [*Crosstalk*]

Mr. Speaker: Order.

OCCUPATIONAL SAFETY AND HEALTH (AMDT.) BILL

Dr. R. Moonilal: Mr. Speaker, I do not know who could be reassured. [*Crosstalk*] The Minister takes great care in protecting the State and we are aware of that. We are all aware of their protection.

I was speaking earlier on section 43(4) where they have removed the requirement for large industrial enterprises to have an ambulance and a first aid room of a prescribed size. While one can understand that you cannot just have every enterprise with 250 people or more with an ambulance, surely under the regulations of the Health and Safety Authority, they could have made regulations to the extent where the targeted sectors, whether it is the Port, Point Lisas, the industrial estates in Point Fortin, Mayaro and so on, where those companies can confirm that they have speedy access to an ambulance service and speedy access to a close health facility. That is the issue. It is not whether a business has an ambulance or not, that is not the issue.

The issue is that, if you have a place of work and the place of work is by its nature outside of close proximity to a health facility, either a general hospital or another facility, employers should satisfy the Health and Safety Authority that in the event of an accident, a worker within 15 minutes or so, can reach a health facility either by an ambulance or a helicopter. That is really the effect. So removing ambulance and not putting ambulance, really, it says nothing, and talking about emergency health facilities we do not know what would constitute that, with their 40 amendments to take care of typographical errors, I think there is a typographical error in the amendment. You may want to look at amendment 22(c) because it makes no sense. If you read the amendment into the parent Act and you put a full stop by prescribed, I do not know how much sense that would make. That is another problem.

Mr. Speaker, this Government after two years presents us with a list of amendments—and I want to make the point, the Labour Movement should take no comfort whatsoever in what is happening today, because implementing this OSHA may well take this Government until the end of their term of office and it would not be implemented. After 18 deaths of industry and 387 murders, I do not think this Government can convince anyone. Surely, not the eloquent Minister of National Security can convince us that citizens in this country, whether you are a politician or not, are safe. When they are faced with health and safety crises, whether at industry or in the society, they have these sorts of rehearsed lines, you pull it from a magazine somewhere that “we are here to defend the integrity of the State and to protect the State and nobody would endanger the State”.

Mr. Speaker, their strategy in dealing with criminals is to bully them and do nothing. They are about hard talk. Any time they have to deal with criminal elements and a threat to citizens, they come here and bully the criminals.

Hon. Member: Hard talk and soft action.

Dr. R. Moonilal: Hard talk and soft action, that is what they are about and they dismiss very serious matters. The tone of the Minister of National Security suggests that he is not taking that matter seriously. He is not. The tone suggests that and the warning that nobody would threaten the State. Who is threatening the State? How? Where? Criminal elements are threatening the State, that is why citizens are leaving. In this country today, businessmen have to sleep under their beds. They get great joy and comfort when they go on an airplane and leave this country. People are traumatized when they are in an airport coming back here. Businessmen would tell you that. They tell all of you that. We have to accept this feeble response of “nobody would threaten the State” and so on.

Section 43(4), I noted this matter of emergency health facilities and so on. Another area that is of great concern to me has to do with improvement notice. Let me explain this very quickly. Under the parent Act, the inspector can issue a notice, either a prohibition notice or an improvement notice to an employer. When you get this notice, you are to act within a particular time and take certain corrective action. For example, if the office place or your place of work does not have proper ventilation, you could get an improvement notice which means, not that people must stop working, but you have a time in which you must solve this problem, correct it.

Now, that was fine under the parent legislation; I saw no problem with that. What they have done—and I am referring, Mr. Speaker, for your benefit to

OSHA (Amdt.) Bill
[DR. MOONILAL]

Monday, January 23, 2006

section 74—is that they have brought an amendment which undermines the effect of the improvement notice to the extent where, if an inspector issues an improvement notice for the employer to clean up his act and improve health and safety at the workplace, the employer can go and make a complaint to the Industrial Court. This is the effect. And once you register this complaint, it has the effect of suspending the operation of the notice. That is almost like an injunction.

Imagine you get a notice for improving your place of work, the employer goes to the Industrial Court and says, “I do not agree with that”, and the effect of the Act is suspended. So the place of work remains in a horrific state; whatever violation is in existence that continues, pending the determination by the Industrial Court. Now clearly, this undermines the fundamental pillar of the Health and Safety Act. It is to create obligations and responsibilities that are strict to the employer so that he would provide the best health and safety conditions for workers. You just gave employers an escape hatch. If you get an improvement notice complaint at the Industrial Court the effect of that is nullified. This is the amendment that they took two years to concoct.

Mr. Speaker, they have made it harder for workers to benefit from the OSHA. They have made it easier I guess for some employers, not all, to conduct work in poor health and safety conditions.

Another major area is section 9. They are amending section 9 of the Act, and we would like to know the logic of this amendment, to indicate that matters pertaining to the environment will be the responsibility of the Health and Safety Authority and not the Environmental Management Authority (EMA). Is this a duplication of work? Where is the line between the EMA and the Occupational Health and Safety Authority? An authority that has not been established after two years, presumably because you cannot establish it. So it confuses that distinction between environmental matters which should really be the purview of the EMA, not another institution, the Health and Safety Authority. That is section 9 of the list of amendments.

I am sure in due course the Minister would explain the worth and the benefit of all the amendments, but there are other amendments which I would come to later that undermine completely the effect of the OSHA and it may well be that if this list of amendments is passed the OSHA might be a waste of time.

Mr. Speaker: Hon. Members, the sitting of the House is suspended for tea and will be resumed at 5.00 p.m. On the resumption, I would take the motion for the extension because the Member’s 45 minutes are in fact up.

4.31 p.m.: *Sitting suspended.*

5.03 p.m.: *Sitting resumed.*

Mr. G. Singh: Mr. Speaker, having survived the tea break, I beg to move that the speaking time of the hon. Member for Oropouche be extended by a further 30 minutes.

Question put and agreed to.

Dr. R. Moonilal: Mr. Speaker, before the tea break I was looking at the amendments almost amendment by amendment and building the case that what the list of amendments seeks to do is to water down the effect of the Occupational Safety and Health Act in several ways. Let me just crystallize what I mean by that. The OSHA gave employees, workers, and trade unions certain rights and created public rights for workers to assert them in the context of their trade union and collectively.

The parent Act also sought to take a lot of the violations that could have been addressed at common law and placed them under a statutory umbrella to create statutory health and safety offences. So in a way, we were codifying—and the Minister himself admitted that several months ago—the common law as it affects employer liability and employee responsibility and so on.

I am afraid that with this list of amendments, what happens is that you return a certain amount of vagueness and generality back to the employer/ employee relationship. In that you are returning from a situation where employers have strict responsibilities to a situation where it is under general duties of employers, and that movement from strict responsibility to general duty, I am afraid can serve to water down and make vague and unacceptable the effect of the Occupational Safety and Health legislation.

Mr. Speaker, while that had been done in fundamental areas, for example, I do not think the Member for Nariva drew attention earlier to the whittling down, or the withering away of the role of the Chief Inspector. There is, for example, a proposed amendment to take away certain functions from the Chief Inspector.

The Chief Inspector is responsible, of course, to the authority, and in the parent legislation had specific duties and a certain amount of discretion himself in matters pertaining to the parent Act. I am referring now to section 70. However, in the list of amendments, the Government intends to remove some of the duties of the Chief Inspector which would have allowed him to attend to health and

OSHA (Amdt.) Bill
[DR. MOONILAL]

Monday, January 23, 2006

safety violations with a greater measure of legal authority. So on the one hand we are going back to the umbrella general duties framework and, on the other hand, we are removing certain powers of the Chief Inspector.

Mr. Speaker, under section 59(2), another amendment—and I am sure if there are more problems with our discussion we can deal with it at a later stage—which deals with special provisions with respect to factories, building operations, and works of engineering construction, under this section, they have reduced the period for the consideration of every application made to the Chief Inspector.

What this means is that in a nutshell, if at the place of work an employer wants to construct a new factory, do some reconstruction, alteration or modification, under the parent Act it would take six weeks for consideration of that application to the Chief Inspector. They have now removed that six weeks to five weeks to fast track that process; and I just want to read this section so it would be clear.

“A period of not more than six weeks shall be allowed for the consideration of every application made under this section and where the Chief Inspector’s decision is not issued to the applicant during that period, the Chief Inspector shall submit his reasons for the delay, in writing, to the applicant.”

The effect of this is simple. You are doing some reconstruction at your factory, you apply for permission from the Chief Inspector to expand your factory, or build a new warehouse and so on. In the existing Act when you do that, the Chief Inspector will have six weeks to address your matter, or give consideration, and if he cannot deal with your application in six weeks he shall submit his reasons for the delay in writing.

Under the amendment, where the Chief Inspector shall submit his reason for the delay in writing has been deleted and substituted with the words:

“such application shall be deemed approved for the purposes of the section.”

So it means in the amendment that the Chief Inspector would now have 30 days. So in 30 days, if the Chief Inspector cannot communicate with an employer then it is deemed to have been approved.

While for an employer, that might sound extremely good because there is an issue of efficiency and that sort of thing, one has to be careful that if it is for several reasons—this, of course, is a public sector activity. The Chief Inspector,

for some reason—bureaucracy, manpower resources, financial resources, or whatever—you cannot approve a factory in 30 days.

Mr. Valley: [*Inaudible*]

Dr. R. Moonilal: You can automatically do that?

Mr. Valley: You can write—

Dr. R. Moonilal: Who can write?

Mr. Valley: Mr. Speaker, obviously if the Chief Inspector cannot respond for whatever reason within 30 days, or if he cannot approve it within 30 days, he is free to write and say what the issue is, and if there is no response whatsoever within a 30-day period, then obviously it is approved.

Dr. R. Moonilal: Fine, I understand where you are going, in that if there is no response for no reason, it is approved. The fact is that in Trinidad and Tobago we have a particular culture here. People write top officials in this country including Ministers of Government and do not get a response in six months. So in six months one could be waiting for a response from a public authority in Trinidad and Tobago, and you put an amendment that in 30 days they will respond and if they do not respond then it is approved. I ask, is this amendment workable? Is it useful in the first place?

Mr. Speaker, it is not workable, that is the long and short of it. You would have approvals to be given consideration for an extension. The other point about this Act is that you are now creating a huge institution and authority with a list of employees and people at different levels—some technical, some administrative, some specialized and so on—and you are expecting all of this to work in harmony, to work one with the other, the authority with the agencies and so on.

I just submit that 30 days for an approval from any employer is much too short and, in effect, what you are saying to employers is that there would be no approval for any extension or reconstruction of your factory. Again, I am sure that this will satisfy the employers but I am not sure it will work in the interest of employees and trade unions.

There is another amendment that every inspector shall execute his duties under this Act expeditiously and with due care. I would assume that the inspector would have done that if you did not put it in the law. [*Interruption*]

Mr. Bereaux: That is why you put it in law, so you can have a breach of law.

Dr. R. Moonilal: It is so you can have a breach?

Mr. Bereaux: Yes.

Dr. R. Moonilal: Fine. Mr. Speaker, again targeting that group of people “the inspectors”, it says every inspector will visit industrial establishment whereas before, in the parent Act, if an inspector is asked for his certificate of appointment he would produce it. Now, apparently he needs to keep it on him, because:

“Every inspector shall, upon visiting an industrial establishment, produce the prescribed certificate of appointment”.

Or a badge, as I imagine would be done.

Mr. Speaker, this leads me to another point here. How could the Minister indicate—given the good research and work he has been doing at the Ministry of Labour, Small and Micro Enterprise Development—how many establishments we are looking at when we talk about industrial establishments? It is a lot. Has the Minister worked out with his technical people how many inspectors are needed to enforce the Occupational Safety and Health Act?

I suggest, based upon previous experiences, and listening to Ministers of Labour over the years that we would need about 70 to 80 inspectors of which at this moment I think we have nine. So you are dealing with placing 70 or more inspectors, getting them in order, recruiting persons, organizing contract and so on and going to 70 from nine. Since the PNM came into office in 2001 how many inspectors have been appointed given that the shortage of inspectors is not a problem today? It is not coming about only because of the OSHA, there was a shortage historically. The Minister may also want to suggest to us what would be his proposal and the time frame for increasing the number of inspectors in the shortest possible time to properly implement the OSHA.

Mr. Speaker, they have made minor changes as they relate to health and safety conditions of hazard at the workplace and one interesting change concerns drinking water. Whereas before you had to keep your drinking water 20 feet away from washroom facilities and so on, that has been removed. So I imagine, depending on the industrial site, you can have drinking water in close proximity to places of hygiene.

5.15 p.m.

Mr. Speaker, I want to make another point with respect to environmental matters and health and safety. The emphasis in the world today is not actually at this time having only one Occupational Safety and Health Act. Incidentally, this

was the type of legislation we developed in the mid '70s. Today we have to go for specific legislation targeting specific industries, for example, the port. Port safety is emerging as a huge global concern in health and safety. In the United Kingdom and Scotland, the governments there have been looking specifically at legislation dealing with ports to reduce the risk because the general legislation may not quite help. So you have to look at port legislation.

There is also legislation on health and safety at industrial estates. Given the development thinking of this Government, and the intensive investment taking place in the petroleum sector—by that I mean gas and oil in the economy—and given what is happening there, it may well be that the Government would have to look at health and safety legislation to target heavy industry industrial sites. What you would do if you bring legislation is that it may be useful for one sector, but you cannot have persons selling roti and doubles outside there and have two or three persons employed with them, subject to same conditions and obligations in the Occupational Safety and Health Act, when really the stringent measures you have in place here are really for places of work like manufacturing, heavy industry and construction, particularly, as the Member for Nariva raised, contract workers and port workers.

If you look at the number of deaths last year, I think there were 18, unless I am mistaken, more than 50 per cent of the persons who died was in the employ of contract workers. These workers require specific treatment.

While I am on that matter, let me also take this opportunity to remind the Minister that last year we got several promises and commitments—we would have reports in the event of an industrial fatality and reports would be forthcoming that would be public. To this day, we have had no public reports on the deaths of any of those accidents—Shivan Harrilal, Sanjeev Rampersad, Leon Jackman, and Anthony Manning. There were no reports made in the public on the causes of these deaths, and that has been another problem in the health and safety environment.

Reporting and participating in the enquiry and so forth have always been a secretive matter. If someone dies, only the management, at a particular level, would know what the causes are. The unions themselves may not be involved or may not be knowledgeable as to the findings of enquiries and reports and so forth. Not even the union! In a developed country, that may be a matter for public consumption and the public would have an interest as to the cause of death of a worker at an industrial establishment. This culture of secrecy is not in sync with

OSHA (Amdt.) Bill
[DR. MOONILAL]

Monday, January 23, 2006

Vision 2020. You need to be much more open and transparent when dealing with health and safety matters.

Mr. Speaker, this is amazing. Do you know if you go on the Internet and type in Tony Blair what comes up? It is not just a web page of a leading politician, but what comes up is Prime Minister, Tony Blair's declaration to the Integrity Authority in the United Kingdom. In this country we consider these things to be so secretive and so forth. We really need to get to the stage where public information is public information.

If you have the Registrar at the Integrity Commission, when we file part of our documents—part B or whatever it is—that is for public consumption, and then you can put it on the Internet and save people from walking into the Integrity Commission's office. What is wrong with that? That is the high level of transparency that is required. Given the fact that many persons in public life have not filed properly or otherwise, it does not surprise us that there are high officials in the Government who have failed to file the requisite forms—Mr. Speaker, many.

Mr. Speaker, in terms of other basic amendments like correct “occupational” and “occasional” and so on, the point I want to make is that one of the major problems facing workers in Trinidad and Tobago is what we sometimes do not see, because we do not experience it. Many workers in this country have complained about poor working conditions and, strange enough, this is what we may consider to be a basic condition like the air conditioner not working, ventilation bad at a place of work; unsafe conditions at work like no security. This is very interesting. The amendment is not dealing with this matter, but maybe the next UNC government would have to deal with security for specific employees and politicians in and out of Parliament.

Teachers today are attacked. A couple days ago you read in the newspaper where it was alleged that a teacher was indecently assaulted at the place of work by a student in the classroom. Health workers are faced with the anger of ordinary citizens in the emergency departments and so on, and you have teachers and health workers. There is almost every group of people.

Mr. Speaker, I addressed the Postmen Workers Union recently. The postmen told us that there are some places in Trinidad and Tobago where they would not go to deliver mail. They would not go. So, if you live in a particular hot spot area they cannot go there. They are endangering their life by working in the postal service. These are the hazards that workers are faced with on a daily basis. It really does not take a lot of money—when you hear of \$100 million in one project

and \$1 billion on the Tarouba stadium and so forth. It does not take much money to fix the air-conditioned units in the Ministry of Education and in the Ministry of Health; it would not take much to provide basic amenities at the workplace. It would not take much.

In closing, I want to remind this House when the Occupational Health and Safety Bill came to this House in December 2003, the Government described the Occupational Safety and Health Bill as a Christmas gift to workers of Trinidad and Tobago. That was in December 2003. It was a Christmas gift to the workers of Trinidad and Tobago. Mr. Speaker, Christmas came and Christmas gone. Mr. Speaker, 2004, 2005 and 2006 is coming upon us, and unlike Members on the other side, I am not optimistic at all that the Government would implement the Occupational Safety and Health Act. I wish they would, but given the incompetence and the track record of this Government, I assure you that we would return in due course with another 40 amendments.

I thank you. [*Desk thumping*]

The Minister of Labour, Small and Micro Enterprise Development (Sen. The Hon. Danny Montano): Thank you, Mr. Speaker. Allow me to respond to some of the concerns of the speakers on the other side. Let me start with the last speaker so that we would go backward, as it were. The first thing I would say is that I am sorry the Member really did not pay attention to what I said when I presented the Bill. He seemed to be more concerned with the computer he has on his desk. So much of what he was asking about in his contribution was addressed directly in my contribution but, nevertheless, I would try to deal with some of the issues that he raised.

I was very careful to articulate the process that brought us to this point. I was really trying to explain why it took the length of time to get us to this point and how the time was spent. Essentially, the time was spent, in the first instance, by the Advisory Council that had a number of things to do and I explained that. In fact, the work of my predecessor was excellent in that regard. Again, I articulated that the Advisory Council indicated that they would, in fact, need about 70 odd inspectors. At another point he asked how many companies would be affected directly by the risk assessment, and I said it was in fact about 27,000. I said all that when I was making the presentation.

In fact, I also said that after the Advisory Council had done its report, there was a recommendation that I found in the office when I got there. The previous Minister had drafted a note for Cabinet which recommended that the Bill be sent

OSHA (Amdt.) Bill
[SEN. THE HON. D. MONTANO]

Monday, January 23, 2006

to the Attorney General's office for review. So, clearly, that was one of the things that had to be done. So I simply tried to complete the steps that were necessary.

Mr. Speaker, on this side of the honourable House, we act as a team; we do not act as individuals. The baton was passed to me; I continue to run with it. That is all I did. [*Desk thumping*] I tried not to waste any time with it. I tried to work as quickly as I could. [*Desk thumping*] What is before you is the natural result of a team working as a team; unlike clearly what happens on the other side. Clearly, this is a concept that is foreign to Members on the other side. [*Desk thumping*] This is foreign to them.

Mr. Manning: Do you like it?

Sen. The Hon. D. Montano: He went on to say that in November I said that compensation was a major issue and that was one of the reasons we were working with the Act and so forth. Again, when I presented the Bill, I dealt very clearly with what the situation was with the issue of workmen's compensation. I was very clear.

In order to help the hon. Member, because he was not listening at the time, allow me to say again, that being in charge now with the responsibility of the Ministry of Labour, Small and Micro Enterprise Development, I felt very strongly and still do, that the issue of workmen's compensation is an integral part of the whole business of occupational safety and health. It follows that if there is an accident there must be compensation. Therefore, there is a natural adjunct to the whole thing. I felt that the compensation element should be part of the Occupational Safety and Health Act. I also explained that when I met with stakeholders. I had a small group—it was not so small; it was a large group—in November to review what I was doing with the Act and they felt very strongly that workmen's compensation should be dealt with as a separate Act.

5.30 p.m.

I explained at that point that I was well advanced with the work on the Occupational Safety and Health Act, but that the compensation side was taking longer. When I separated the two items, I took their advice and said that I would come with a separate Bill to deal with the issue of compensation. I was then effectively accelerated on the side of occupational safety and health and was able to bring the Bill to the Cabinet in December. He did not seem to listen to that when I was speaking.

In terms of the annual risk assessment and who is an employer, it was raised by the Member for Caroni East, who was a little bit disingenuous when he was

talking about this water tank business. He was somehow trying to make it relevant to the Occupational Safety and Health Act. A person employing a housekeeper is not an employer under the Occupational Safety and Health Act. An employer under this Act is someone who is in a trade or in a business. It has nothing to do with someone who has a housekeeper, a cook, a driver or someone of that sort. It has to be in a trade.

There is an obligation for the employer to retain the annual risk assessment and the Bill requires him or her to submit his or her written risk assessment to the Chief Inspector. We discussed that during the tea break and you are right. It is going to, not place an onus on the Chief Inspector, but, just in terms of the filing requirement, it could be an onerous issue.

We had talked about that initially and the issue was very simple. We had felt that there may be some employers who may have an accident and then try to cover their tracks by making up the risk assessment afterwards and claiming that they did the risk assessment and it did not show up as being anything dangerous, therefore they did not do anything about it. In order to stop that sort of thing—because they can always backdate it—we felt that if after he has done it he has to file it with the Chief Inspector, it would be evident that he did anything at all. That was what we were trying to get at.

I take your point. When we come to the committee stage, we can talk about that. If you feel that we should take it out, I have no real objection.

On the question of clause 7—the duty of an employee not to be intoxicated and the consequent amendments to clause 37 with respect to the medical examination for employees and so on, let me say this to hon. Members. The occupational safety and health spokesman for NATUC was adamantly in support of the measures that workers should be subject to the type of health surveillance that we have envisaged in this Bill. We clarified that issue.

They were strongly in support of this, recognizing the danger to employees who were intoxicated or under the influence of narcotics or medication. They could be a danger, not only to themselves, but also to other workers. We had strong support for that.

Section 15 was really misunderstood by the Member for Oropouche. He seemed to understand it; yet he seemed not to understand it. It was a bit confusing, and he read the relevant section from the Guyana legislation, which really came from the Caricom model legislation. What I heard was almost the same wording as the Caricom model legislation that says:

OSHA (Amdt.) Bill
[SEN. THE HON. D. MONTANO]

Monday, January 23, 2006

“A worker may refuse to work where he or she has reasonable justification to believe that any device or machine that he is to use presents imminent danger to himself or another worker.”

Our Act did not say that. What our Act said was that any worker could down tools if there was a serious and imminent danger to himself, but that any worker, if some other worker is threatened, could stop work. That really did not make any sense because that opens the door for workers, as a group, to take industrial action under the guise of claiming that there is an occupational safety and health hazard.

The other subsections, 15(b), (c) and (d), deal with the issue where Worker A is doing something that threatens Worker B, so Worker A can stop work. That makes sense. That is what the Caricom legislation tried to do. So what we have done in section 15 just makes good sense. It is common sense and we have not in any way diminished the rights of workers.

He spoke also about the question of the ambulance in section 43. The question of the ambulance and having an industrial estate or a factory with 250 workers or more requiring an ambulance did not take into account that there might be other things that might be needed in addition to an ambulance. It was hard and fast that, regardless of your need, you had to have an ambulance if you had 250 workers. That does not really make any sense.

We have said that, regardless of the size of the factory or the industrial estate, if there is, as a result of the risk assessment, a need to have emergency health facilities, it could include an ambulance. The risk assessment, while it is done by the employer, is done in conjunction with the employees. It is not done without their involvement. That is in the original legislation. What we ended up with just makes good sense.

In respect of the improvement and prohibition notices, not so much the derogation of power of the inspector, we looked at neighbouring legislation and we looked at what exists in Barbados and we copied their legislation. *[Interruption]* They have not proclaimed it as yet, but they have legislation. We have copied exactly what exists in Barbados. It seems to make sense.

We had a situation where an inspector could go to an industrial establishment, see something wrong and just close down the entire place. We felt that that was perhaps a bit onerous. Knowing what things are like in this country, we felt that was a door for all kinds of improper behaviour. We felt that, at the very least, he must have signed off by the Chief Inspector. If the company feels that it is still

unwarranted, they can go to another place and have it arbitrated quickly and efficiently; and that is to the Industrial Court.

The application to the Industrial Court for an improvement notice works as a stop order in terms of a prohibition notice. This is where the concern was. The prohibition notice is to shut down the business. It does not work as a stop order until the Industrial Court says it is a stop order. That is to stop the employer, not the effect of the notice. The notice would have effect and would cease to have effect only if the Industrial Court says it is not to have effect. So it is a very balanced and sensible position.

In section 9, the hon. Member for Oropouche was talking about removing the EMA and wondered why we were putting this authority in the hands of the Authority, assuming that he was talking about the Occupational Safety and Health Authority. We did not do that. We simply changed the term, "Environmental Management Authority" to "the Authority responsible for managing the environment" because it might not always be the EMA, it might be some other body and we would have to come back and change this legislation. So it was a relatively simple thing.

He talked about returning from a position of strict liability to general duties. That is not so. He really did not give any specific instances of what he was talking about. We have been very clear in what we are doing here. The Act, as it was, was unclear as to what was a criminal offence and what was an occupational safety and health offence. We have clarified it.

I indicated that we have left alone some 20 criminal offences under the Act and the other duties we have clearly created them as occupational safety and health duties. We have clarified what that is and have said clearly that those duties would be dealt with by the Industrial Court. So we have made it crystal clear, whereas previously it was unclear. So we have improved the operations of the Act by this Bill.

In section 59, he mentioned the business of the building applications. Mr. Speaker, with the greatest of respect, for the amount of construction that is taking place in the country today, the last thing that the country needs is another stop-shop where developers would need another form of approval. That is one of the areas that are retarding progress in the country and we looked at that and we said that we just do not need it. If the Chief Inspector has any concerns within the 30 days, he could write and say you have no permission. Minister Valley dealt with

OSHA (Amdt.) Bill
[SEN. THE HON. D. MONTANO]

Monday, January 23, 2006

that. He can do that, otherwise if he has no objection, the approval is deemed to be automatic trying to speed up the process of business.

He had asked about how many inspectors we would need and how many industrial establishments and I have dealt with that. In fact, having dealt with that, I think I have dealt with all the issues that have been raised this afternoon. For the most part, the Member for Oropouche pretty well dealt with all of the issues the Member for Nariva dealt with. Therefore there is no reason to waste anybody's time any longer.

With those few words, 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.

5.45 p.m.

Clauses 1 to 7 ordered to stand part of the Bill.

Clause 8.

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

Dr. Moonilal: With respect to the obligation of the employer to submit an annual assessment, is it possible to word it so that the authority can look at specific industrial sectors for this or determine the targeted sectors for which employers will send an annual risk assessment, but all employers will keep on file? This is to avoid the 27,000 and work it back to 2,000.

Mr. Montano: I was listening and I think that you are on the right track. My thinking is that perhaps, if we remove it and deal with it by regulation, in very much the way that you are suggesting, we could probably achieve a better solution than what we have here. Mr. Chairman, section 13A(4) would be deleted.

Question put and agreed to.

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

Clauses 9 to 14 ordered to stand part of the Bill.

Clauses 15 to 21.

Question proposed, That clauses 15 to 21 stand part of the Bill.

Mr. Sharma: Before you proceed, can the Minister revisit clause 12?

Mr. Chairman: We will come back to that at the end. What clauses do you want us to come back to; are they clauses 11 and 12?

Mr. Sharma: Yes.

Dr. Moonilal: There is an amendment worded “in a manner prescribed as under this Act.”

Mr. Chairman: What clause is that?

Dr. Moonilal: It is clause 18. When it reads into the parent Act, is it clear?

Mr. Chairman: What is intended is that it really means by the regulations that will follow.

Dr. Moonilal: Okay.

Mr. Chairman, I want to raise another matter concerning clause 18. Is the Government very satisfied with this matter as employers, in consultation with members of their committee, do their own risk assessment and then provide policy for their own risk, as it relates to fire?

Mr. Montano: Yes.

Mr. Chairman: Anything else between clauses 15 to 21?

Dr. Moonilal: No.

Question put and agreed to.

Clauses 15 to 21 ordered to stand part of the Bill.

Clause 22.

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

Dr. Moonilal: With respect to clause 22(c), it is not reading properly with a full stop after the word “prescribed”.

Mr. Chairman: Clause 22(c)?

Dr. Moonilal: Sorry, it is section 43(4). Read the amendment into the parent Act. It states that you should insert a full stop after the word “prescribed”. Read the amended provision.

Mr. Montano: Mr. Chairman, the word “prescribed” appears twice and it is in the fourth-to-last line. In other words, it is where it appears the second time.

Dr. Moonilal: You took it out?

Mr. Montano: No. It is a full stop after the second “prescribed”. In other words, “...unless the Chief Inspector...” That is what is removed.

Dr. Moonilal: So there is no deleting of that second part of paragraph four?

Mr. Montano: Yes, starting with the word “unless”. It is the second “prescribed”.

Dr. Moonilal: You put the full stop by the second “prescribed”?

Mr. Montano: Yes, that is what I said.

Dr. Moonilal: The amendment did not say that. Find out which “prescribed” it is.

Mr. Montano: It is the third “prescribed”. I beg your pardon.

Dr. Moonilal: I had a note that you are deleting from the word “unless”?

Mr. Valley: By inserting a full stop after the word “prescribed” which appears on the third occasion.

Mr. Chairman: I will take clause 22 separately. Clause 22 is amended by inserting a full stop after the word “prescribed” thirdly appearing in section 43(4) and deleting all the words thereafter.

Dr. Moonilal: Could someone read what the final version is? [*Crosstalk*]

Mr. Valley: He does not want anything. He has changed his mind.

Question put and agreed to.

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

Clauses 23 to 35 ordered to stand part of the Bill.

Clause 11 recommitted.

Question again proposed. That clause 11 stand part of the Bill.

Mr. Chairman: We are to revisit two clauses. Can we start with clause 11 first?

Dr. Moonilal: I just wanted an explanation of the term you are adding. What page of the amendment is it?

Mr. Chairman: Clause 11 is on page 4.

Dr. Moonilal: What is the effect of that? You are amending section 18 and adding the words: “and make a decision”.

Mr. Montano: It really tries to complete the obligation that was intended in the first instance here. The original Act places an obligation on the inspector to investigate, but it does not place the obligation on him to make a decision and resolve the issue within the time frame and that is what we are trying to clarify here.

Dr. Moonilal: But you are saying that the inspector is under an obligation that within 24 hours from the time of the refusal to work, to investigate the refusal in the presence of the employee, his representative, or employee and other persons and make a decision.

Mr. Montano: Yes. You either shut it down or it is a waste of time. Do something. Resolve the issue.

Dr. Moonilal: Make a decision as to—

Mr. Montano: The reason for the stoppage.

Dr. Moonilal: It appears, as it is worded, that the inspector has to resolve a matter in 24 hours. For example, a worker stops work at a place because they are using chemicals and he thinks that they are hazardous to his health. The inspector comes and from the time of refusal, 9.00 o'clock in the morning and the inspector reaches at 10 o'clock, he has 24 hours to make a decision as to whether this is a legitimate refusal to work and to be investigated, or whether this person should go back to work. It does not sound clear.

Mr. Sharma: Mr. Chairman, I want to suggest the requirement of the inspector to make a report available within 24 hours be 72 hours instead.

Mr. Chairman: That is not clause 12.

Mr. Sharma: The 24 hours seem impractical.

Mr. Chairman: It is clause 11(b).

Mr. Sharma: He may not be able to achieve it in 24 hours, maybe 48 hours.

6.00 p.m.

Mr. Sharma: Mr. Speaker, Clause 11(b).

Mr. Montano: It is important that he makes a report of one kind or another, even if it is that he has not had enough time to complete.

Mr. Sharma: What happens on a weekend when the inspector is not there—public holidays when the inspector is not there?

Mr. Montano: There are too many factories and businesses of this nature that are operating seven days a week and the factory inspector is going to have to be there.

Mr. Sharma: But you cannot put the one that does not.

Mr. Montano: You have to make a response.

Mr. Sharma: What you are really doing is putting all the inspectors on call, 24 hours a day, seven days a week.

Mr. Montano: Yes, we are putting them on call. That is the intention.

Question put and agreed to.

Clause 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.

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

The House voted: Ayes 22

AYES

Valley, Hon. K.

Imbert, Hon. C.

Narine, Hon. J.

Boynes, Hon. R.

Beckles, Hon. P.

Rowley, Hon. Dr. K.

Roberts, Hon. A.

Bereaux, H.

James, Hon. E.

Hart, Hon. E.

OSHA (Amdt.) Bill

Monday, January 23, 2006

Callender, Hon. S.

Seukeran, Hon. D.

Hinds, Hon. F.

Williams, Hon. E.

Dookeran, W.

Ramsaran, M.

Sharma, C.

Nanan Dr. A.

Baksh, N.

Moonilal, Dr. R.

Rafeeq, Dr. H.

Rahael, Hon. J.

Question agreed to.

Bill accordingly read the third time and passed.

ADJOURNMNT

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, I beg to move that this House be now adjourned to Friday, February 03, 2006 at 1.30 p.m.

I wish to inform Members, on that day we will start with Bill No. 2 on today's Order Paper and given time after that Bill we will debate the Student Revolving Loan (Amdt.) Bill which was introduced on Friday, as well as Bill No. 4 on today's Order Paper, an Act to amend the National Lotteries Act, Chap. 21:04.

Mr. Speaker: Hon. Members, before I put the Motion for the adjournment there is a matter to be raised on the adjournment by the Member for Chaguanas.

Rice Mill, Carlsen Field (Handling of Events)

Mr. Manohar Ramsaran (Chaguanas): Mr. Speaker, thank you for allowing me to raise this matter regarding the incompetent handling of events which led to the recent closure of the Rice Mills at Carlsen Field. Mr. Speaker, I will go back to the Prime Minister's budget statement when he said, and I quote:

Rice Mill, Carlsen Field
[MR. RAMSARAN]

Monday, January 23, 2006

“Mr. Speaker, a major objective of our agricultural strategy is food security. We have commenced programmes to increase the level of sufficiency in five strategic foods, Rice; Root crops and tubers; Small ruminants; Aquaculture and Dairy.”

He went on to say that Government will provide the infrastructure to facilitate increased production and productivity by family farms.

Mr. Speaker, when I was preparing this presentation I received some support from many persons who are concerned with agriculture, especially rice production. I want to put on record the inefficient way in which the Minister conducted his affairs that led to the closure of the Rice Mill at Carlsen Field. I have letters from the National Flour Mills (NFM) especially and I also spoke with the farmers. It was also in the public media where the farmers commented on what was taking place. The first letter from which I will read is from the National Flour Mills dated July 07, 2004 in which they wrote the Minister of Agriculture, Land and Marine Resources, Hon. Jarrette Narine. I quote:

“Over the years, the combination of inadequate supply and poor/inconsistent quality of paddy has resulted in declining sales and persistent losses for NFM.

This situation has been raised with the (Company's line Ministry... Honourable Minister of Finance, Christine Sahadeo) and our major shareholder, National Enterprises Limited (NEL), which has in turn raised it with yourself (see attached letter dated May 19, 2004). Both these letters describes in fuller detail the background and the impact on NFM's operations of our processing of local paddy in support of the local rice growing industry.

In view of the above, we hereby request that the Ministry of Agriculture, in its budget submission for 2004/2005 fiscal year, include the amount of \$3.5 Million as reimbursement to NFM for funding the local rice industry for 2004. We also seek reimbursement of 50% of the losses incurred since 1977, that is a sum of \$7.0 Million, resulting in a total budget allocation of \$10.5 Million.”

Mr. Speaker, I am reading this to show that there was correspondence between NFM and the Minister of Agriculture, Land and Marine Resources to deal with imminent closure of the rice mills. Of course, what transpired later would show that the Minister was, as usual, very non-caring; having closed Caroni (1975) Limited it was now the rice growing industry in the country.

Rice Mill, Carlsen Field

Monday, January 23, 2006

Mr. Speaker, I continue to quote from another letter of December 03, 2004 to the hon. Christine Sahadeo.

“Since the letter dated April 20, 2004, there has been no ease up on the strain that the rice mill places on the company both financially and operationally. We can no longer continue to sustain the losses and hence the board of National Flour Mills Limited has decided to shut down the operations effective December 31, 2004.”

Mr. Speaker, the saga continues. There is another letter to the Minister of Agriculture, Land and Marine Resources, Hon. Jarrette Narine, dated May 04, 2005 which said:

“At the end of the present crop the mills will be closed.”

Mr. Speaker, when you look at what has been taking place in and outside the ministry I will put on record what happened when these meetings took place. I am privy to some information by the rice farmers and persons connected with the rice farming industry. I will now read into the record some of the policies and initiatives to increase rice production.

“Government Policy

One of the policy objective for the Agricultural Sector as enunciated in the ‘Social and Economic Framework (SEPF) 2005-2007’ of the GORTT is to:

- Improve the Nation’s food security and sovereignty

The specifics of this policy is spelled out for rice and includes:

- Producing 30% of the Nation’s rice demand
- Having a milling efficiency of 55/70 (55% Head Yield & 70% Milling Yield)
- Having an efficient seed production system to supply the needs of paddy producers
- The major initiative to increase rice production was the distribution of lands for large-scale rice production.”

In other words, Mr. Speaker, the Government was setting up the rice farmers. I continue to quote.

“Cabinet agreed to distribute 4000 acres of lands...”

Rice Mill, Carlsen Field
[MR. RAMSARAN]

Monday, January 23, 2006

By Cabinet Minute No. 1148 April 29, 2004:

“to the CRATT (Caribbean Rice Association, Trinidad and Tobago) and NFL (Nariva Farms Limited). So far about 2500 acres of lands have been distributed and includes 2000 acres of the Caroni (1975) Limited irrigated rice project.

More than 30 rice farmers cultivate rice in the project.”

In another Cabinet Minute No. 3476, December 16, 2004 agreed to extend leases to seven years instead of the original one year.

Mr. Speaker, I am showing you how this Government just set up the rice farmers. What did the farmers do? What are some of their initiatives? I continue to quote:

“Farmers of both Organizations, in December 2004, began to prepare lands to plant rice in the Caroni rice project. Equipment had to be purchased and old ones refurbished. As a result, great expenditure was undertaken by farmers and labour hired to meet the objectives of Government.

The immediate result as of November 2005 was an increase in rice production from 2065 MT (2004) to 3337 MT (November, 2005).”

Mr. Speaker, this was trying to produce 10,000 as required by NFM. Some of the further expenditures that were met by the farmers included, and I quote:

- “• 12 new 4-wheel tractors bought
- 23 tractors refurbished
- 8 harvesters/rice combines refurbished
- 13 water pumps bought and/or refurbished
- 12 new rotavators bought
- 16 new rotavators refurbished”

And the list continues. I continue:

“Apart from the huge monetary investment, employment was generated. Tractor and rice combine operators, skilled labour for machine and equipment repairs, general labour and transport personnel were employed. More than 200 farm families gained income from (the rice industry).”

Rice Mill, Carlsen Field

Monday, January 23, 2006

I would now put on record what was happening at the rice mill. The management of NFM and in particular the rice mill indicated that the mill required 10,000 metric tons to keep the mill operational and by the end of the year 2005 production reached 4,000 metric tons and they were within target in three years with the promise of Government for land to reach the 10,000 target. I will quote from a document prepared by the farmers for me:

“It is essential that the Mill be operational to keep farmers in production. Should the Mill stop purchasing farmers paddy, even for a brief period, could lead to huge losses...of goodwill by farmers towards government statement if their wanting to have food security and a rice industry. Further, farmers have indicated that they would take legal action should the latter occur.”

What happened in a nutshell, Mr. Speaker, is that the Ministry of Agriculture, Land and Marine Resources, despite being warned by National Flour Mills that we are going to close if certain conditions are not met—as far as I am concerned, I am unaware, I have not read any press release, nor was a statement made in Parliament about the imminent closure of the mill, which led to quite a few uncomfortable days by the farmers. There was rice on the ground; rice was brought to the mill; there was rice cultivation at various stages and things were not happening; people downed tools.

I will go quickly to some newspaper reports where it was reported that entire families found themselves in distress; entire families complained to us through the media about what was taking place. The rice farming industry is about family projects and people invested huge sums of money and they were left totally in the dark. I see this as blame straight at the feet of the Minister of Agriculture, Land and Marine Resources.

When I look at the *Guardian*, just to sum up because I know when we talk about agriculture and having persons out of jobs and so on, the Government really does not care, as signalled by the Member for Diego Martin Central.

Mr. Speaker, I am quoting from the *Guardian* dated—

“...the Government’s handling how they also handled the Aspergillosis outbreak in our chicken is another case of ineptitude, bureaucratic bungling and negligence.”

In the case of the rice industry there was closure and nobody knew what was going on; persons were called at the ministry and nobody was there to say anything. I am quoting the *Guardian* again:

Rice Mill, Carlsen Field
[MR. RAMSARAN]

Monday, January 23, 2006

“I think the Minister should take full responsibility for the fiasco in the Ministry of Agriculture, Land and Marine Resources.”

Thank you, Mr. Speaker.

6.15 p.m.

The Minister of Agriculture, Land and Marine Resources (Hon. Jarrette Narine): Thank you very much, Mr. Speaker. It is my pleasure to reply to this matter on the adjournment which reads: Government handling of the closure of Rice Mill at Carlsen Field which affected the entire rice farming community.

You are quite aware that many years ago the National Flour Mills (NFM) took over the milling operations at Carlsen Field, a mill which was bought by the PNM Government since 1980 and was put into operation to assist farmers. As a matter of fact, yes, the Member is quite right that we were in contact with NFM by correspondence both by NFM and ourselves, because I have letters here that we wrote to NFM also, which I may not have time to read today. But I can tell you that NFM indicated early last year that they were about to close the rice mills because they were having difficulties in the increasing competition from imports and has incurred consistent losses which have impacted adversely on NFM's overall profitability, and that was because of the decision and this is what we got from them. NFM, therefore, took the decision to cease operations at Carlsen Field Mill with effect from December 31, 2005.

Mr. Speaker, during the last six months of last year the Ministry was in contact with NFM; they had proposals not only to sell the mill at Carlsen Field, but asked the Ministry the option, either to take the mill back or to allow NFM to manage the mill on behalf of the Ministry of Agriculture, Land and Marine Resources and we were pursuing these two areas. You would recall a couple of weeks ago that the Seamen and Waterfront Workers Trade Union (SWWTU), because their workers were involved; they also were negotiating with the NFM to buy the mills so that they can do the operations. What had happened there was that the SWWTU had to do an assessment, since the mill was 25 years old, to ascertain whether it was viable to go for another 10, 15 or 20 years and what was the cost of maintenance and all of that.

Yes, NFM was in touch with us and we had meeting after meeting with them; with three permanent secretaries last year. Mr. Murray who had taken up an option in Jamaica for another job was replaced by Mr. Gibson, and recently we

Rice Mill, Carlsen Field

Monday, January 23, 2006

had another permanent secretary. All three had discussions with NFM. I can say to you, that both CRATT and NFL also had meetings with NFM; they too were well aware six months before the closure at the end of December that NFM was going to close the operations at Carlsen Field.

During that period we were still negotiating when the mills were at a close, but we continued to negotiate with them and you would realize that as of last Friday, January 20, 2006 Carlsen Field was reopened and rice is being bought as we speak. So that last Friday, January 20, 2006, both NFM and the Ministry of Agriculture, Land and Marine Resources gave a statement to the press; so, the question about mishandling is not the question here today. The question is that the PNM and this Government has always been supportive of all farmers in Trinidad and had it not been for the PNM you would not have had no rice to mill in Trinidad. I will go on to tell you why I say so.

During 1992 to 1994 Government directed efforts at developing a rice industry for Trinidad and Tobago. Production levels of approximately 20,000 metric tons were achieved during that period. Thanks to the Member of Parliament for Diego Martin West, Dr. Rowley, who was then the Minister of Agriculture, Land and Marine Resources. The production declined from 20,000 metric tons in 1992—and you said quite rightly—to 2,355 metric tons in 2001. Therefore, the milling operation was not profitable because the UNC brought the rice farmers to their knees, and that is after we had that problem with Nariva and the environmental concerns, but they had promised that the workers who had rice farming would be given lands. They were in Government for six years and they got not one single acre of land.

Hon. Member: They got bicycles.

Hon. J. Narine: Today I am saying to you that the number of rice farmers also declined from over 6,000 to less than 300 farmers, [*Interruption*] under their watch and less than 1,000 hectares. So that, obviously, the mill would have been down for 11 months of the year and that is why they were losing money.

When this administration assumed office in 2002 a working plan was installed to formulate an action plan 2002—2008 for the revitalization of the sugar industry. Food security and food sovereignty for the rice industry [*Interruption*] were primary objectives of our development agenda.

Mr. Speaker, to achieve a reasonable level of food security, a production level quite rightly said 30 per cent of local consumption which represents at this time

Rice Mill, Carlsen Field
[HON. J. NARINE]

Monday, January 23, 2006

20,000 metric tons was targeted for achievement in six years. The Ministry developed and implemented a number of strategies for achieving this set objective, and those were: making additional lands available to farmers; improved irrigation for rice lands, improved credit facilities at the Agricultural Development Bank; improved research and technology; Caroni Rice Research Unit which is still in operation providing additional training. The Government observed a good response on these initiatives in that rice production went up, according to the Member, to 3,467 metric tons up to the end of 2004. Because of the 4,000 acres of rice lands that were given from Caroni (1975) Limited in 2005 and also we have increased to about 300 registered farmers, it indicates that we are going to double production for last year but those statistics are not available. *[Interruption]* This is 2004, what you are speaking about, *[Interruption]* the figures are here; it is the same figures that you have indicated, but you are saying 2005, it is 2004 that we are saying about 3,500 metric tons, that would have doubled and we are well on our way to reach the 20,000 metric tons based on the availability of lands last year from Caroni (1975) Limited.

Apart from that, Mr. Speaker, the farmers were really given the support that they needed, and let me say, that because of negotiations that were going on, the rice mill were just closed down for about 20 days. The 20 days that the rice mills were closed we appealed to the Members of the Board, because they are 51 per cent and Government is only 49 per cent, we could not give instructions to them. We had to negotiate with them in order to reopen the mills. The mills are reopened; we are increasing production and had it been for the UNC we would have had no rice to mill; so, that is the situation.

We are going to continue to increase production in rice. I know the problem here, is that they had victimized some of the rice farmers in Trinidad because they belong to a different political persuasion, but those people and the people involved in rice now have the largest party group for the PNM in Trinidad. They have 225 persons.

I thank you very much, Mr. Speaker.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 6.26 p.m.