HOUSE OF REPRESENTATIVES

Friday, April 03, 2009

The House met at 1.30 p.m.

PRAYERS

[MADAM DEPUTY SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Madam Deputy Speaker: Hon. Members, I have received communication from the following Members requesting leave of absence from today's sitting of the House: hon. Rennie Dumas, Member of Parliament for Tobago East; Mr. Jack Warner, Member of Parliament for Chaguanas West; and Mr. Vasant Bharath, Member of Parliament for St. Augustine. The leave which the Members seek is granted.

STATUS OF CHILDREN (AMDT.) BILL

Special Select Committee

(Resignation from)

Madam Deputy Speaker: Hon. Members, I am to inform you that Mr. Jack Warner, Member of Parliament for Chaguanas West and Mr. Ramesh Lawrence Maharaj SC, Member of Parliament for Tabaquite have resigned from the Special Select Committee appointed to consider and report on the Status of Children (Amdt.) Bill, 2009. Accordingly, this House needs to fill the vacancies on this committee as soon as possible.

PETITION

Trinidad and Tobago Football Federation

Mr. Ramesh Lawrence Maharaj SC (*Tabaquite*): Madam Deputy Speaker, I wish to present a petition on behalf of the Members of the Trinidad and Tobago Football Federation of 43 Dundonald Street, Port of Spain.

The petitioners are desirous of constituting the Trinidad and Tobago Football Federation into a corporate body by a private Bill, so that its aims and objects could be more effectively achieved.

I shall now ask that the Clerk be permitted to read the petition.

Petition read.

Question put and agreed to, That the petition be granted.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Port of Spain Corporation for the year ended September 30, 2000. [*The Minister of Finance* (*Hon. Karen Nunez-Tesheira*)]

   To be referred to the Public Accounts Committee.

2. The annual audited financial statements of the Youth Training and Employment Partnership Programme (YTEPP) Limited for the year ended September 30, 2006. [*Hon. K. Nunez-Tesheira*]

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

ORAL ANSWERS TO QUESTIONS

The Minister of Works and Transport (Hon. Colm Imbert): Madam Deputy Speaker, there are 11 questions on the Order Paper, but one of them I answered already, so I do not think I would answer it again, with your leave. We are in the position to answer questions Nos. 6 and 28 today, and I will ask for a deferral of two weeks of the other questions.

The following questions stood on the Order Paper:

Brian Lara Sporting Complex
(Tarouba)

3. With respect to the Brian Lara Sporting complex in Tarouba, could the hon. Minister of Sport and Youth Affairs state:

(a) the projected cost of the entire project;

(b) the amount of money that has already been spent on the project;

(c) the expected date of completion of the entire project; and

(d) the projected annual cost of maintenance of the Complex after completion of construction? [*Dr. H. Rafeeq*]

Johns Hopkins University/Hospital
(Terms and Conditions of Arrangement)

8. Could the hon. Minister of Health state:

(a) whether there is any formal arrangement between the Government of Trinidad and Tobago/Ministry of Health and the Johns Hopkins University/Hospital for the provision of services to the people of Trinidad and Tobago; and

(b) if the answer to (a) is in the affirmative, could the Minister state the terms and conditions of the arrangement? [*Dr. H. Rafeeq*]

Tucker Valley Farm
(Details of)

11. Could the hon. Minister of Agriculture, Land and Marine Resources state:

(a) the total amount of money spent so far on the Tucker Valley Farm and provide an itemized listing;

(b) the total projected annual costs of preparing, cultivating and reaping the crops at the Tucker Valley Farm; providing an itemized listing; and

(c) the projected annual income from the sale of produce from the Tucker Valley Farm? [*Dr. H. Rafeeq*]

Private Hospital Board
(Details of)

24. Could the hon. Minister of Health state:

(a) whether there exists a Private Hospital Board;

(b) if in the affirmative, when was the board appointed, who are the members of the board, what are their qualifications, experience and tenure on the board; and

(c) if the answer to (a) is negative, what are the reasons for non-appointments and provide the empirical data to substantiate supervision of the private hospitals? [*Dr. T. Gopeesingh*]

Registered Private Hospitals
(Details of)

25. Could the hon. Minister of Health state:

(a) how many private hospitals are registered under each of the (6) classes of private hospitals according to the Laws of Trinidad and Tobago, Chap. 29:03, section 8;

(b) the date the licence was issued for each; and

(c) what was the last date an inspector or inspection team inspected the hospital as required according to sections 18 and 19 of Chap. 29:03 of the Laws of Trinidad and Tobago? [*Dr. T. Gopeesingh*]

Compensation for Farmers

33. Could the hon. Minister of Agriculture, Land and Marine Resources state:

(a) whether the Ministry revised the schedule of compensation for farmers' crops lost during flooding and other emergencies; and

(b) if the answer to (a) is in the negative, when will the schedule of payments be revised? [*Mr. H. Partap*]

Regional Health Authorities
(Existing Vacancies)

45. Could the hon. Minister of Health state:

(a) the number of vacancies existing in each Regional Health Authority for doctors, nurses and pharmacists?

(b) the disciplines in which the vacancies for doctors exist? [*Dr. H. Rafeeq*]

Chaguanas District Health Facility
(Construction of)

46. With respect to the Chaguanas District Health Facility, could the hon. Minister of Health inform this House:

(a) whether a contract for the construction of this health facility has been awarded?

(b) if the answer is in the affirmative, to whom has the contract been awarded and what is the cost of the construction?

(c) if the answer is in the negative when will the contract be awarded?

(d) when will construction of this Health Facility commence and what is the expected date of completion? [*Dr. H. Rafeeq*]

Questions, by leave, deferred.

Madam Deputy Speaker: Hon. Members, I have been advised that question No. 44 was already answered.

Dr. Rafeeq: Thank you, Madam Deputy Speaker, and I really wish to confirm that question No. 44 has indeed been answered. I do not know how it appeared on the Order Paper, but it has been answered.

Oncology Centre – Mount Hope
(Details of Expenditure)

6. Dr. Hamza Rafeeq (*Caroni Central*) asked the hon. Minister of Health:

With respect to the Oncology Centre at Mount Hope, could the Minister state:

(a) the total amount of money already spent as at December 31, 2008, inclusive of any studies, consultant fees, accommodations, secretarial services, advertisements, staff salaries and construction; itemizing each expense;

(b) the projected cost of the entire project; and

(c) the expected date of completion of construction of the Oncology Centre?

The Minister of Health (Sen. The Hon. Jerry Narace): Thank you, Madam Deputy Speaker. The answer is as follows:

(a) The total cost incurred for the National Oncology Project from July 2006 to December 31, 2008 is TT $152.1 million, which is divided into the following costs:

- National Oncology Centre Construction, TT$54.9 million;
- CCI Programme Component, TT $86.3 million;
- Consultant's Fees and Project Office, TT $10.9 million

The total cost to date reflects all of the fees as required in the contract agreements with the construction managers including the 5 per cent cost of work per contract as well as the local staff cost, the mobilization fees paid to EllisDon Corporation per contract and the insurance, liability and workmen's compensation per contract. Also, the consultant's fees and project office are included in the computation of the total cost.

The details of the total cost incurred for the National Oncology Project are as follows: The National Oncology project cost profile from July 2006 to December 31, 2008:

Items	Total Amount in TT $$
Construction Manager fees	TT $6.2 million
Staff Cost	TT $8.1 million
Mobilization	TT $4.8 million

Insurance	TT $1.3 million
Sub-Contractors	TT $20.8 million
Cost of Works (technical studies and tender advertisements)	TT $2.4 million
Reimbursable Items	TT $5.8 million
CCI Programme Component	TT $86.3 million
Office of the Oncology Advisor	TT $5.3 million
Staff Cost & Project Office	TT $11.1 million
Total Cost Incurred	TT $152.1 million

(b) The Ministry of Health is proposing the use of a modify/design/build approach for the completion of the Oncology Centre and as soon as cost estimates are determined and appropriately updated, I shall report to this honourable House.

(c) The expected date of completion of the construction of the new National Oncology Centre is 2010 and this facility is expected to treat an additional 400 patients using the following services:

i. radiation therapy using Linear Accelerator Technology;

ii. full chemotherapy;

iii. CT simulation;

iv. treatment planning; and

v. HDR brachytherapy.

The Ministry recognizes that since the National Radiotherapy Centre would remain the main hub to bring urgent relief in the treatment of cancer until the construction of the National Oncology Centre, there has been a continuous improvement in its infrastructure and institutional capacity. The Ministry of Health has recently upgraded the National Radiotherapy Centre by implementing the following five-point plan:

- the procurement and installation of a source change for the cobalt machine, which should more than double the number of persons accessing treatment per day;

- the procurement and installation of a CT simulator should reduce the CT scan time from 10—20 minutes to 3—5 minutes;
- the procurement and installation of additional fume cupboards which increases the capacity to mix chemotherapy and thus reducing the wait time for treatment;
- the procurement and installation of a block cutting machine which focuses only on the cancerous area to be treated rather than an entire area. This measure reduces the level of radiation exposure and the treatment time per person; and
- the increase in the number of radiation therapists from two to six persons, which should increase the productivity, and output of the Centre.

The Ministry of Health is also working closely with the various Regional Health Authorities to introduce satellite centres to provide basic oncology services such as administration of chemotherapy, general medical care, counselling and other support. To date, the Eastern Regional Health Authority (ERHA) has commissioned its satellite centre, while the other authorities are at different stages of implementation. This measure should reduce the number of patients accessing treatment at the National Radiotherapy Centre by determining their treatment needs at source, as well as allowing for more geographical flexibility across the country.

More importantly, the Ministry is currently partnering with the private sector to provide oncology services using the most modern technology. For instance, the Ministry contracted the Brian Lara Cancer Treatment Centre in September 2007 to treat approximately 191 patients with the Linear Accelerator (Linac) Equipment at an initial rate of US $10,000 per patient. To date, approximately 146 persons have completed the treatment cycle at the pre-determined rate of US $10,000 per patient. Furthermore, the Ministry has successfully re-negotiated with the agents at the Brian Lara Cancer Treatment Centre to increase the number of patients from 191 patients to approximately 237 patients at a reduced rate of US $8,000 per patient from US $10,000 per patient.

In addition, the Ministry of Health obtained Cabinet's approval to enter into a contract with another service provider, the Southern Medical Cancer Centre (SMCC), to provide radiotherapy treatment for an additional 100 patients using the Linear Accelerator (Linac) equipment.

Consequently, Madam Deputy Speaker, this Government has taken all necessary measures to improve the existing capacity and to bring urgent relief to our citizens requiring treatment for cancer until the construction of the National Oncology Centre.

I thank you.

1.45 p.m.

Dr. Gopeesingh: Would the hon. Minister indicate the nature of the staff and where are they housed to cost $11-plus million? You indicated that it is costing $11-plus million for staff, what is the nature of the staff and where are they housed if it is possible because the centre is not constructed as yet?

Sen. The Hon. J. Narace: Madam Deputy Speaker, I do not have the details of that question but I could certainly make it available to the Member.

Mr. Sharma: Hon. Minister, would it be correct to say, based on the information available at the head office of your ministry, that we have not gotten value for money based on the $152 million?

Sen. The Hon. J. Narace: Madam Deputy Speaker, I have indicated what the circumstances are, what we plan to do about it and what the measures are that we have put in place. I think that is what I am prepared to discuss at this time.

Dr. Gopeesingh: Hon. Minister, would you be kind enough to indicate what is the cost per patient for the radiotherapy treatment in the South area?

Sen. The Hon. J. Narace: The figures are the same; the same US $8,000.

Health Care to Arima Residents

28. Dr. Tim Gopeesingh (*Caroni East*) asked the hon. Minister of Health:

Could the Minister state the reasons for:

(a) the continuing transfer of patients from Arima District Health Facility to other major hospitals; and

(b) the inability to provide the required and acceptable level of health care to the residents of Arima and the environs?

The Minister of Health (Sen. The Hon. Jerry Narace): Thank you very much, Madam Deputy Speaker. Hon. Members, primary clinical care is concerned with the provision of services to individuals and families in non-hospital settings and it is often the point of first contact with the health services that encompasses preventive, diagnostic and curative care.

Under the Health Sector Reform Programme of 1994, the National Health Services Plan outlined the development of primary health care facilities through a network of district health facilities, health centres, enhanced health centres and outreach centres, which would serve larger catchment populations and allow for the creation of a dedicated full-time health team. Depending on the location, health centres currently serve a catchment population of approximately 20,000 to 30,000 for a fixed set of services, while district health facilities provide a wider range of services to a wider catchment population of up to 135,000. This network of primary health care institutions would ensure balanced access and clinical effectiveness in the provision of services for all levels of care.

Mr. Speaker, as a standardized practice, persons in need of higher level care such as cardiac, general surgery, orthopaedics, internal medicine, diagnostic treatment and trauma are normally stabilized at the district health facility and then transferred to the nearest major hospital only when inpatient care is required. The number of persons transferred from the Arima District Health Facility to a major hospital is approximately 10—12 patients per day.

Madam Deputy Speaker, the catchment population of Arima and its environs is approximately 240,000 and it is served by a network of 12 health centres, a district health facility and the Eric Williams Medical Sciences Complex in Mount Hope. Since the average population per health centre is approximately 20,000, all of the clinical needs are served by these 12 health centres. These health centres include:

- the Arima Health Centre;
- the Tacarigua Health Centre;
- the Tacarigua Extended Care Centre;
- the Blanchisseuse Health Centre;
- the Arouca Health Centre;
- the Tunapuna/Macoya Health Centre;
- the Maloney Health Centre
- the La Horquetta Health Centre;
- the Talparo Health Centre;
- the San Raphael Health Centre;
- the St. Joseph Health Centre; and
- the Maracas /St. Joseph Health Centre

In addition, the Arima District Health Facility is opened 24 hours a day, seven days per week and the following services are provided:

- a 24-hour accident and emergency service;
- Specialist clinics;
- Pharmacy services;
- Radiology services;
- Laboratory services;
- Medical outpatient clinic services;
- Paediatric clinic services;
- Psychiatry clinic services;
- Dermatology clinic services;
- Antenatal clinic services;
- Maternal and child health services;
- Family planning services;
- Chronic disease clinics;
- Immunization services;
- Voluntary counselling and testing clinic services;
- Dental services; and
- School health services.

During the period 2004—2008, there has been a substantial improvement in the number of persons accessing the range of services provided at the Arima District Health Facility, which are as follows:

- Accident and Emergency Department, from 43,494—55,192 (an increase of 27 per cent);
- Life Style Clinics, from 5,000—6,622 (an increase of 32 per cent);
- Chronic Diseases Clinics, from 4,635—5,701 (an increase of 23 per cent);
- Electrocardiograms (ECG), from 1,833—1,989 (an increase of 9 per cent); and
- Radiology Services, from 7,079—14,871 (an increase of 110 per cent)

Madam Deputy Speaker, the Government recognizes that there are several residential, commercial and industrial estates being developed in this region which will place additional demand on the existing infrastructural resources. We are also aware that even the population of Arima and environs will become increasingly subject to existing capacity constraints at the Eric Williams Medical Sciences Complex. In this regard, the ministry is proposing to upgrade the Arima District Health Facility to offer point of care diagnostic testing facilities over a 24-hour period, including extending the hours for walk-in clinics.

Moreover, the ministry is proposing the construction of a 150 acute bed hospital facility offering the following services in the key clinical areas:

- General medicine;
- General surgery with at least two operating theatres;
- Intensive care;
- Obstetrics and gynaecology;
- Maternity care;
- Paedatrics;
- Acute psychiatry;
- Orthopaedics/burns;
- Pathology services;
- Physiotherapy services;
- Radiology;
- Laboratory and blood bank; and
- A 24-hour Accident and Emergency Unit with a minor operations theatre and acute treatment bays.

Hon. Members, with these upgrades, the citizens of Arima and environs can be guaranteed an acceptable and reliable quality of health care for a comprehensive range of services. More importantly, location of this facility would provide easy access and reduce cost in transportation for patients who are near to that geographical location.

Dr. Gopeesingh: Hon. Minister, would you be kind enough to indicate where that proposed hospital that you speak about is going to be constructed, what is the

estimated start-up date, what is the estimated completion date and the cost if you have any idea? Because you speak of a hospital, it is pie in the sky, we want to know where that hospital is, how much it is going to cost and when it is going to start?

Mr. Ramnath: Before the summit or after?

Sen. The Hon. J. Narace: Madam Deputy Speaker, that is a separate question and if it is posed I would be more than happy to answer it.

Mr. S. Panday: Hon. Minister, you said that health centres are to widen the catchment area for those seeking primary health care. Could you kindly indicate why the Tableland Health Centre which services the constituencies of Princes Town North and Princes Town South has been closed down?

Madam Deputy Speaker: I mean, even on your side they are saying that is a separate question. Okay!

INTEGRITY IN PUBLIC LIFE (AMDT.) BILL

Order for second reading read.

The Minister of Science, Technology and Tertiary Education (Hon. Christine Kangaloo): Madam Deputy Speaker, I beg to move,

That a Bill to amend the Integrity in Public Life Act, Chap. 22:01, be now read a second time.

By this Bill, the Government of Trinidad and Tobago seeks to refine and to strengthen certain provisions of the Integrity in Public Life Act.

In January 2008, in a statement made in the House of Representatives, the hon. Attorney General indicated that the Integrity in Public Life Act of 2000 was not entirely serving the objectives for which it was originally intended. The hon. Attorney General further indicated that the Government of Trinidad and Tobago would be revisiting its policy on the issue of corruption of which integrity in public life is a part. It was indicated that Government's new policy would seek to change the legal and policy framework as it relates to integrity in public life.

The Bill before this honourable House is a step in the direction of that new policy framework. The Bill seeks to streamline the operations of the Integrity Commission and at the same time to ensure even-handedness and fair play on the part of those who invoke the mechanisms for public accountability under the Act as well as those charged with the responsibility to administer the Act. The review and the strengthening of the Integrity in Public Life Act is neither a new nor a novel exercise.

Permit me briefly to trace some of the history of the review and revisions to legislation in this area. As far back as 1977, the government of the day had agreed to the selection of a team to visit Canada, the United States of America, the United Kingdom and such other countries as the Government might approve, to review the working of the integrity commissions in those countries and to make such recommendations as they thought fit for the setting up of an Integrity Commission in the Republic of Trinidad and Tobago.

The team submitted its report containing its recommendations. The rationale being to safeguard the country from the ills associated with a lack of integrity and more positively to emphasize the necessity for the promotion of uprightness, soundness and honesty in government and non-government affairs. To assist the Integrity Commission in its efforts to regulate conflicts of interest, it recommended that appropriate laws or basic provisions be enacted prescribing the functions, duties and terms and conditions of service of members of the Integrity Commission, and setting out guidelines in order to do the following:

(a) to remove improper influence from governmental or operations and actions for the proper pursuit of democratic government and safeguarding of the public trust;

(b) to prevent the public office from being used for the promotion of gain other than remuneration provided by law;

(c) to provide for disclosures of economic interest and family connections;

(d) to establish appropriate ethical standards with respect to the conduct of elected officials and senior employees in situations where such conflicts exist; and

(e) to help create public confidence in the integrity of government.

It also recommended that the Integrity Commission be given powers to regulate its own procedure and it further recommended that steps be taken to ensure the Integrity Commission shall not be subject to the direction or control of any other person or authority in the exercise of its functions.

Among other recommendations was the drawing up of an appropriate Code of Ethics for the guidance of Members of Parliament, Ministers of Government, government officials, senior members of the public service and senior employees in all government agencies; the enactment of legislation to deal with bribery and corruption, misuse of official information and conflicts of interest was also recommended.

2.00 p.m.

Consequently, the Integrity in Public Life legislation of 1987 was therefore introduced. This was an Act to provide for the establishment of an Integrity Commission for the purpose of receiving declarations as to the financial affairs of persons in public life and for matters incidental thereto. Against this background in August of 1994, the Senate resolved that it was timely that a review of the 1987 Integrity legislation be undertaken with a view to strengthening the present legislation, and empowering the Integrity Commission to exercise greater control and oversight with respect to the activities of persons performing governmental functions.

A working team was constituted with its terms of reference to review the existing legislation and to prepare a Green Paper for presentation for public comment and consultation. The result was that three draft Bills, the Integrity in Public Life Bill and two Constitution (Amdt.) Bills were forwarded to a special select committee, amendments to which led to the current 2000 legislation. Such is the historical background and context in which this Bill finds itself before the honourable House. Once again, the time for a review and revision of the legislation is upon us.

Madam Deputy Speaker, I have said that the Bill seeks to streamline the operations of the Integrity Commission, and at the same time to ensure even-handedness and fair play on the part of all concerned. The main amendment proposed by the Bill is in Part V of the Integrity in Public Life Act, which at present deals with the manner in which complaints against persons in public life and persons exercising public functions come before the Integrity Commission.

Clause 12 of the Bill proposes the repeal of the existing Part V of the Act and its replacement by a new Part V, which among other things, will provide for complaints against persons in public life to be made to the Integrity Commission in the form of a sworn statutory declaration.

The statutory declaration will contain the particulars of the breach alleged and will be made available to the person against whom the breach is alleged. The intention is that by this mechanism, persons wishing to make complaints against persons in public life will be assisted by having to formulate their complaints in the form of a sworn statutory declaration.

Madam Deputy Speaker, it is the Government's view, that this will lead to clarity and completeness in the formulation of their complaints, and will assist in the avoidance of objections or challenges that complaints are insufficiently

specified or lacking in particulars, such that they cannot be acted upon or cannot be acted upon without great difficulty. Equally, the proposed mechanism will advance a fundamental tenet of fair play in that persons against whom complaints are made, will know from the text of the declarations exactly what breaches are alleged against them and the particulars in which they are alleged to have misconduct themselves.

This mechanism can only serve to build public confidence in the reliability and sufficiency of complaints made under the Act. It is hoped that persons who have hitherto been less than confident in the system by which complaints are advanced and investigated, will find in this mechanism a greater degree of comfort in the operation of the Act insofar as fair play is concerned, and will be more inclined to serve in public life than anecdotal evidence as suggested has been the case since the coming into effect of the 2000 Act.

So, Madam Deputy Speaker, I will now move into the specific clauses in the proposed amendment.

Clause 1 of course is the short title of the Bill.

The result of clause 2 is that references in the Bill to Act, will be of course, references to the Integrity in Public Life Act, Chap. 22:01.

Clause 3 makes some editorial changes to section 5(1)(e) of the Act.

With respect to clause 4, the Act as it currently exists, authorizes the President acting in his discretion, to remove a member of the commission where that member is unable to discharge the functions of his office, whether arising from infirmity of mind or body, or for misbehaviour. Clause 4 of this Bill amends that by empowering the President instead, to terminate the appointment of a member of the commission and where that member:

"(a) is found to be of unsound mind and is incapable of carrying out his duties;

(b) becomes bankrupt or compounds with his creditors;

(c) is convicted of any offence which brings his office into disrepute;

(d) is guilty of misconduct in relation to his duties;

(e) misbehaves in office;

(f) is absent from three or more consecutive meetings without approval under subsection (1)(b);

(g) fails to carry out any of the duties or functions conferred on him under this Act; or

(h) is incapable, for whatever reason, of performing his duties and functions under this Act."

Clause 5 makes minor changes to section (9)(6) of the Act.

Clause 6 amends section 11 of the Act to achieve two things:

(a) After the Act comes into force, a person will not be required to include in his declaration, income, assets or liabilities which do not exceed in value, $10,000.

A person, prior to this amendment, is required to submit in his declaration all his income, assets and liabilities.

(b) The commission is now empowered to extend the time to the furnishing of a declaration for a further period not exceeding 12 months. Prior to this amendment the period is six months.

This will allow persons enough time to prepare their declarations and to provide all of the relevant information.

Under section 12(2) of the Act, the commission is empowered to require additional particulars from the person making the declaration. By virtue of clause 7, the additional particulars that the commission will be empowered to request will be restricted to those with respect to assets, income or liabilities which are valued at $10,000 or more.

Under the current section 13(1) of the Act, the commission is required to examine every declaration that is filed and ensure that it complies with the requirements of the Act, and may request from the person making the declaration any information or explanation relevant to a declaration made by him, which would assist in its examination.

Clause 8 would amend this subsection to preclude the commission from requesting from the person making the declaration, information or explanations, where the sum involved is less than $10,000.

Under section 13(3), where an examination under subsection (1), the commission is satisfied that a declaration has been fully made, it shall forward to the person in public life a certificate of compliance.

By virtue of clause 8 of this Bill, a new subsection (5) will be inserted to enable the person making the declaration to receive a certificate of compliance,

where the commission has not requested any further information or explanation for a period of 18 months, after the day on which the declaration was filed.

Under section 18 of the Act, where from an enquiry under section 15, a tribunal finds that a person making a declaration had in fact made full disclosure in his declaration, it shall, if so requested in writing by the person making the declaration, publish a statement to that effect in the *Gazette*.

Clause 9 of the Bill amends that section 18 to widen the circulation of the required statement, by prescribing that it must be published also in at least one daily newspaper in circulation in Trinidad and Tobago.

Clause 10 of the Bill repeals section 21(5) of current Act and substitutes a new provision that prohibits the institution of criminal proceedings allegedly committed in breach of the Act, other than under section 20(5) against a person in public life after five years from the date on which said person ceases to be a person in public life. This provision was contained in the 1987 Act and was removed from the current Integrity in Public Life legislation.

Clause 11 repeals section 27 of the Act. Under section 27, a person in public life or one who exercises public function, shall not accept a fee, gift or personal benefit, except compensation authorized by law which is connected directly or indirectly with the performance of his or her duties of office. Subsection (2) of that particular section states that that would not apply to a gift or personal benefit, received as an incident of the protocol or social obligations that normally accompanied the responsibilities of office. Subsection (3) had provided that where a gift or personal benefit refer to subsection (2) exceeded $2,000 in value, or where the total value received directly or indirectly from one source in any 12-month period exceeded $2,000, a person in public life shall file with his declaration, a statement indicating the nature of the fee, gift or benefit, its sources and the circumstances under which it was given or accepted.

Clause 11 of this Bill will now substitute for this a new section that will, inter alia, increase from $2,000 to $5,000, the upper limit of the value of such a gift or personal benefit. Madam Deputy Speaker, we must remember that the amount of $2,000 was fixed in the year 2000. Making adjustments with the passage of time, the Government feels that the sum of $5,000 is a reasonable sum.

As I had indicated previously, clause 12 repeals Part V and substitutes a new Part V, dealing with the provisions relating to the commission's power of investigation.

The proposed section 32 which empowers a person to make a complaint against a person in public life or any person exercising a public function, must now do so by swearing a statutory declaration in the form specified in Schedule 2. Subsection (2) now specifies the particulars that must be completed, including in such a complaint. The proposed subsection (3) allows the complainant to submit a complaint to the commission by registered post to the registrar, or to such other person as the commission may designate.

Madam Deputy Speaker, as indicated previously, we are seeking to streamline the procedure involved in making a complaint. The current legislation is deficient in many respects, since it merely states that the complaint must be in writing. This somewhat lax procedure for laying complaints, may amount to a licence to members of the public, to engage in frivolous and malicious complaints to the commission, leading to a wasting of the commission's time and resources.

The proposed section 33 now authorizes the commission to consider and examine any alleged breach of the Act or any offence under the Prevention of Corruption Act. In acting on its own initiative, the commission can now only consider and examine an alleged breach, as aforesaid, where it is necessary after examination of a declaration furnished pursuant to section 11. The commission may also act upon receipt of a complaint of a member of the public made in accordance with section 32.

Subsection (2) of this section is new and imposes on the Integrity Commission, the obligation to notify a person against whom allegations of breach of the Act or breach of the Prevention of Corruption Act have been made of the fact of such allegations. Also, a person against whom a complaint has been made is to be informed that he is the subject of such a complaint. The person is now required to be furnished with details of the complaint or the allegations, together with copies with any supporting documents.

Madam Deputy Speaker, integrity commissions and bodies of various countries were looked at, including countries such as Canada and different States in the United States of America. The actual complaint form is modelled on that of the Mississippi Ethics Commission and the Complaint Procedure is a modified version of what obtains in the legislation in St. Lucia.

The proposed section 34 provides for the circumstances under which a complaint may be rejected by the commission. The following are the circumstances under which a complaint may be rejected by the commission namely, that the complaint:

"(a) is frivolous or vexatious;

(b) was not made in good faith;

(c) is devoid of sufficient grounds for an investigation;

(d) is not supported by evidence of probative value; or

(e) does not pertain to a matter the Commission is empowered to deal with under this Act."

Subsection (2) stipulates that where the commission has rejected a complaint, the commission shall inform the complainant in writing of its decision within 14 days of the date on which the decision was made, and provide the complainant with the reasons for its decision.

2.15 p.m.

Under the current Act, Madam Deputy Speaker, the Integrity Commission does not have this authority. Section 34 of the Act provides for special powers of investigation. This is provided in the proposed section 34A. Proposed subsection (1) stipulates the action to be taken by the commission where it is satisfied that the complaint merits investigation.

One of the required courses of action is to authorize an investigating officer to conduct an enquiry into any alleged breach of any offence. The proposed section 34A(a) requires that this be done within 14 days. The other subsections in the Bill are very similar to what are in the current Act.

However, under subsection (3) of the existing section 34, failure by or refusal of a person to provide information or documentation as required would attract certain penal consequences. Subsection (3) of the proposed section 34A however treats such refusal or failure differently. In such circumstances, the Commission may apply to the High Court for an order requiring the person to comply with the request; failure to comply with the order of the court attracts the penalties stipulated therein.

The provision which penalizes the making of a false complaint, or the giving of false statements, or misleading information has been included and consolidated into the proposed section 34A.

Subsection (6) of the proposed 34A is new. It allows the Commission to terminate an investigation if it is satisfied that there are insufficient grounds for continuing the investigation or the complaint is frivolous, vexatious, or not made in good faith.

The proposed section 34B is also a new provision which provides a defence to a person who made a complaint, gave a statement, or provided information which is liable to sanction under the legislation, the defence being that the complaint made, statements given, or information provided were all made in good faith.

The proposed section 34C makes provision for complaints which have not been investigated prior to the coming into force of the Integrity in Public Life (Amdt.) Act, 2009. Such complaints are to be resubmitted by the complainants within six months of the coming into force of the Act in accordance with the procedure set out in section 32 and are to be subject to the provisions of Part V. Complaints that are not resubmitted in accordance with this provision shall be rejected by the Commission.

Clause 13 repeals section 35(1) of the Act. That subsection provided that any Member of the Commission and any person in the service of the Commission who discloses or attempts to disclose to any person other than a person to whom he is authorized under the Act any information or evidence received by the Commission under this Part is guilty of an offence and is liable on summary conviction to a fine of $250,000 and imprisonment for five years.

Clause 13 substitutes a new subsection which includes permission for disclosure under some other sections, under subsections 32(2) and 33(2) which deal with the Commission notifying the complainant that it has rejected its complaint and 34A(7) which deals with the written report to the Director of Public Prosecutions.

Section 39 of the current Act exempted the Members of the Commission from any liability for any matter or thing done under this Act.

Clause 14 of this Bill amends section 39 of the Act so that Members of the Commission will be so exempt only for anything done in good faith under the Act.

Clause 15 inserts a new section 42A that is to protect employees of the State, public or private bodies from unjust repercussions owing to their action performed in good faith under the Act.

Clause 16 inserts a new section 45 which is a transitional provision to allow for anything that had been commenced by or under the authority of the Commission under the Integrity in Public Life Act, 2000 to be carried out or completed by or under the authority of the Commission.

Clause 17 inserts a new Schedule 2 which is the statutory declaration which is required to be sworn by a complainant under the proposed section 32(1).

Madam Deputy Speaker, the Government of Trinidad and Tobago subscribes to the principles of integrity, honesty and transparency in public life. This is endorsed by its operational plan for Vision 2020, 2007 to 2010 which outlines as one of the pillars of the vision as being that of promoting effective government.

Madam Deputy Speaker, I have alluded to the fact that because of the rigours of our current integrity legislation, persons are hesitant to serve on state boards and in the public's interest. This is not a situation that is peculiar to Trinidad and Tobago. In fact, in the *Newsweek* of March 30, 2009 it is reported that the new administration in the United States of America is having difficulty in filling top posts because of what is termed the "Over the top ethics rules". What we are seeing is that these rules are disqualifying or driving away the brightest. As stated at page 30 of that edition, it is the old law of unintended consequences.

Madam Deputy Speaker, this Government is committed to leading, not only by its own example of proper conduct, but by timely legislative interventions designed to ensure that legislation in the area of integrity in public life remains relevant and balanced. The proposed amendments to the Act do just that.

I beg to move.

Question proposed.

Mrs. Kamla Persad-Bissessar (*Siparia*): Madam Deputy Speaker, it has been said that corruption is a disease, it threatens the hopes of the poor for a better future for themselves and their children, it drains finances that may otherwise go to programmes that bring education within reach of poor children, or that offers health care to an ailing farmer or a young mother. And I quote from the *World Bank Institutes Development Studies* book on the Role of Parliament in curbing corruption at page 11.

So Madam Deputy Speaker, when the hon. Member in piloting the Bill talked about Government's bid to refine the Integrity in Public Life Act, and talked about revisiting its policy in its fight against corruption and so forth, mentioned that integrity is part of that, the whole bundle is known as corruption, integrity being one of the cornerstones of upholding integrity and transparency in public life.

Madam Deputy Speaker, we are witnessing in this country corruption at all levels; corruption that is sweeping from the lowest to the highest in all the corridors of power. So much so that when we look at all the indices that are available from Transparency International and the World Bank we see that when the UNC was in office, the rank that we held in terms of perceptions of corruption, or the fight against corruption, we were very highly ranked in terms of other countries of the world, and I will give you the numbers in a moment. [*Crosstalk*]

I am saying that the indices are not produced by me or anyone on this side, but are put forward by Transparency International ranking 180 countries. When the UNC was in its last year in office, we ranked at 31 and the lower the number is in your ranking, the better off you are with respect to the perception of corruption.

When the PNM came into office, the latest score we have is that we have fallen to rank 72 and that is the Transparency International Corruption Perception Index. When one looks at the indices put out by the World Bank which puts out a periodic index which measures governance indicators, and one of the indicators has to do with control of corruption indicator, it is grouped in terms of percentile and the higher the percentile, the higher the values, in this case, you indicate better governance ratings.

In 2000, which is the last figure we have when the UNC was in office, we were in the 62.1 percentile, under the PNM, we had gone down in 2007 to 55 percentiles. So these indices really give some kind of statistical evidence to support what we are seeing and experiencing in the reality of the country.

When we look at these indices and what is happening and try to unbundle corruption, in developmental economics now we are talking about the cost of corruption to the economy and to the people. When you try to unbundle that corruption, you are talking about distinguishing between low-level administrative corruption and this is where you see self-serving asset-stripping officials of the state and then you see something that is happening in this country which has now been labelled in the jargon, the buzz word "state capture". "State capture" by corrupt networks, and "state capture" by elites and groups networking.

That is what we are seeing from the Uff Commission of Enquiry when we see the billions of dollars that have been squandered and spent without anything you can really point to. We are talking about a networking of elites and groups and "state capture" so that corruption has become institutionalized.

We have been shanghaied for curtains costing $3 million at the Prime Minister's house, that is part of "state capture"; we have been shanghaied for bed sheets at $3,000 and $4,000. The Chinese have taken us over, we have been shanghaied.

We have seen UDeCott and the 15 special purpose companies, again, “state capture”, they have captured the resources and the governance personnel of the State and they are in effect, the persons who are running the country, not the elected representatives, or Members of Parliament, not the Cabinet, but that inner Cabinet, if you want to call it, has captured the State and its resources.

In our own region here—we are going to be hosting the Fifth Summit of the Americas—when we look at the regional index out of the 32 countries in this region of the Americas we will be hosting 34, so out of 32 of these, again Trinidad and Tobago is very low in the rank. We are No. 17 of the 32 and there are countries like Barbados better off than us; St. Lucia, Uruguay, St. Vincent and

the Grenadines, Dominica, Costa Rica, Cuba, El Salvador, Colombia, Suriname, Mexico, Peru, Brazil, Grenada are all better ranked than Trinidad and Tobago. Again coming out of the corruption perception index.

Why is that? I remember in this budget I asked what is so different here. And we hit the nail on the head when we said they do not have oil or gas, but they also do not have the PNM. That is the difference in those countries. So we see these very high levels of corruption and today we are talking about using the Integrity in Public Life Act and bringing amendments to it trying to control in some way corruption in the state, "state capture" at all levels from the highest to the lowest in Trinidad and Tobago.

We are here today, Madam Deputy Speaker, talking about amending this Act and it is so ludicrous that at this point as we speak, there are no commissioners, there is no Integrity Commission. For two months, there has been no Integrity Commission so we are spinning top in mud: We are talking about refining the Act, streamlining and strengthening it. Nice words, but the reality is that and there is no one sitting as an Integrity Commissioner to do the serious constitutional functions.

2.30 p.m.

We do not have these people sitting there. The question is why. I called since March 10 for the appointment of these commissioners; others have written. Devant Maharaj has sent me a letter that he sent to the President calling on the President to appoint the commissioners and someone on behalf of the President wrote back to him sometime in March saying, “Yes, the President is very aware of the imperatives of appointing the commission”, and to date still no commission.

Madam Deputy Speaker, you may well know that the procedure for appointing these commissioners under section 4 of the existing law is that the President consults with the Leader of the Opposition and the Prime Minister and appoints the commissioners. I am advised by the Leader of the Opposition that he has already responded to correspondence that was sent by His Excellency. So what is the problem? Why can we not have an integrity commission?

We are fracturing our Constitution in this way. Section 138 mandates there shall be an integrity commission, for the commissioners to be appointed as prescribed; the Integrity in Public Life Act prescribes the appointment. The Leader of the Opposition has complied with the consultation process by responding to the correspondence. What is the problem?

I really would like to call on the President to appoint these commissioners with dispatch because, you see, the existing law is—and until we amend it, as the

hon. Member for Pointe-a-Pierre has asked us to do—at the moment if you are to make a complaint, the law says very clearly that the complaint has to be made to the commission. Section 32(1) says that a member of the public who wishes to make a complaint that a person in public life is in contravention of the Act in relation to the register of interest as a conflict of interest, is committing or has committed an offence under the Prevention of Corruption Act, may do so in writing to the commission.

The understanding of the word "commission" obviously is the chairman of the commission and members. For two months we have been deprived of a statutory right to make complaints because of the delay in appointing the commissioners. I think there is a duty to tell the country why. Why are we operating in breach of the Constitution by not having these commissioners appointed?—and, again, to call on the President to appoint them.

This may not be the place, but I did write to His Excellency. I have a copy of the letter here and I am awaiting a reply from him. But, you know, I am seriously considering a discussion with my colleagues, that if we do not get a response to this very shortly—I think our ordinary letters will no longer be appropriate—we may have to issue a pre-action protocol letter to go for judicial review with respect to the delay by the President in appointing the commissioners. [*Desk thumping*]

You know, my friend who likes to lecture us in law is saying we cannot do it. Well, we will show him it can be done. Because you see, while the Constitution may give the office of the President that way out by saying no court can enquire into his actions, that is with respect to the Constitution. These functions are under the Integrity in Public Life Act, section 4. They are not directions; they are not direct duties prescribed within the Constitution.

I am glad the hon. Leader of the Opposition is saying he has an old law book, perhaps, because in the modern law in public administration now, ouster clauses are deeply frowned upon by the courts and are struck down. So if these commissioners are not appointed in a short space of time with dispatch, we are prepared to challenge it and deal with it, because this is far too important to have it standing by the wayside. We talk about coming here to amend an Act when you have no commissioners to do anything, whether the existing law or the one that you hope to pass here today.

We come now to what the hon. Minister spoke about. You know, with due respect, I am sure the hon. Minister was given a brief; she read that brief quite well. I know my colleague from the law courts—I am sure the Member for Couva North remembers in

our practice in San Fernando—so I am very happy today—yes, and she also remembers—she is acting as Attorney General. I am happy for her. But the brief really left a lot unsaid. So when the Minister went into the history of the legislation, never once did I hear her mention the UNC administration. Never once did I hear that the UNC administration put into the statute books those amendments to the Integrity in Public Life Act, both the 2000 law, which is the law today that you want to strengthen and so on. I did not hear about that, so I want to talk a little about the history of that legislation, because it is important. For the record, it is very important that we know where we came from so we will know where we are going.

It is instructive that the record will show that this Government now and in its previous incarnations, has never promoted the Integrity in Public Life Act. Never! Never promoted! [*Desk thumping*] Let us take it in periods of time. You go to 1956 to 1976. This is a period when the Government in its previous incarnation was in office; undisturbed from 1956 down the road, and there was absolutely nothing on the statute books in this country that dealt with integrity in public life. Nothing! There was nothing; not in the Constitution or in any ordinary statute. Nothing on our books; nothing about anti-corruption laws; nothing about prevention of corruption in public life!

During those 20 years when the PNM ruled, not a single step was taken to deal with integrity in public life. You remember we mentioned something about some people going on a joy ride, wherever it was. They went to Canada, the United Kingdom, and so on, somewhere in 1977. I think they just had a joy ride.

I see the Prime Minister is jet-setting all over the world. Is he missing in action, hon. Deputy Speaker? Because I did not hear him get leave not to be here; not that he has to get your leave, but I am sure we are all interested. He is a Member of the House and I heard others applying for leave and I did not hear anything. Where is the hon. Prime Minister? It would be good to see him. Even though he would not be thrown out, it is the protocol to seek the leave and the courtesy and the country needs to know. Is he off on another trip? We do not know. Last week we were told maybe he was getting a check up; very good for him, but where is he this week? I do not know.

So I am saying that during that 20-year period, they took not a step. There were massive corruption reports. Between 1956 to 1976, all those—and my colleague, Dr. Gopeesingh, has a dossier of the corrupt acts of the PNM; all the O'Halloran scandals; all those things with the Caroni Racing Complex; Tesoro; Prevatt. I mean, it is just numerous instances of corruption and Dr. Gopeesingh will probably share with us volume one.

Then you go to 1976—1986. In 1976, this was when our Republican Constitution was introduced and passed in the Parliament and this, for the first time, established in section 138, the Integrity Commission.

> "There shall be an Integrity Commission…referred to as 'the Commission') for Trinidad and Tobago consisting of such number of members, qualified and appointed in such manner and holding office upon such tenure as may be prescribed.
>
> (2) The Commission shall be charged with the duty of—
>
> (a) receiving, from time to time, declarations…"

Only from a selected number of persons: Members of Parliament, Ministers, Parliamentary Secretaries, Permanent Secretaries and Chief Technical Officers and they will supervise all matters connected with receiving these declarations.

This is 1976 in the Constitution, and do you know from 1976 until 1987, not a single thing was done to give life to that provision in the Constitution? Nothing was done! No law was passed to prescribe for the commission, to set up the commission, to give it powers; to give it its duties; put the regulations in place. Nothing was done. So you had this strange situation where, in the Constitution you are saying there should be an integrity commission, but from 1976 to 1986, for those 10 years—a further 10 years—nothing to have it work.

So we come down now to 1986 when the NAR came into office. So it took 11 years, after the defeat of the PNM with the landslide victory of the NAR in 1986, for this part of our Constitution to be honoured. It was in 1987 for the first time in the history of this country they enacted the Prevention of Corruption Act, 1987. The first time on the statute books there was law, but not from the PNM—never from the PNM—it was the NAR comprising members from on this side and other persons in government at that time in 1987.

It was the NAR also in 1987 which enacted the Integrity in Public Life Act, No. 8 of 1987. So here we now have law on the statute books to deal with corruption, integrity, transparency and so on. The Hyatali Commission appointed in 1997, reported shortcomings of those two laws, but during this period nothing was done to upgrade, to refine or otherwise, from 1991 to 1995 and, again, we see all the corruption that was taking place. I do believe it might have been in that period when the government used to say: "All ah we tief". That was the whole mentality during that regime when nothing was in place.

So we are saying it was only during the period of the NAR in 1987 that some step was taken to put anti-corruption laws on our books. Then we came to 1991 to

1995. Again, nothing was done. 1995—2001, it took the removal from office of the PNM again, a UNC government, to strengthen the legislation.

I would like to say—and the records will bear it out—that I had the honour of serving as the first Attorney General of the UNC administration—[*Desk thumping*]—albeit it might have been a short stint in that office. But I had the great honour and pleasure of requesting from the Law Commission the Green Paper on integrity legislation. Together with that, we also asked at that time—when I was there in that short period—that the Law Commission provide us with the Green Paper for equal opportunity legislation. They were both brain children of the Panday administration.

So we took those and the history would show from the period 1995 to 2001, that the team that had been appointed submitted the paper; it was laid in the House here in February 1996; we laid it here and in the Senate; thereafter it was published for comment. In May 1996 three draft bills were drafted, again by the UNC; they were submitted to a joint select committee. That committee was then chaired by the Member for St. Joseph, the hon. Mervyn Assam, as he then was. In November 1997, the report of the joint select committee was laid in Parliament with the draft bills; January 1998, Cabinet agreed that the draft bills be amended to reflect recommendations of the joint select committee; September 1998 the report of the joint select committee was debated; June 1999, the Integrity in Public Life Bill and two Constitution (Amdt.) Bills, all reflecting the recommendations of the joint select committee, were debated in the Senate.

The Senate resolved that the Bills be forwarded to a special select committee; December 1999, that special select committee laid its report and listed a number of concerns; in May 2000, the Cabinet noted a status report on the legislation, agreed to reforms in the integrity legislation and in August 2000 the report of the special committee, together with draft amendments seeking to address the concerns of the special select committee were laid here; October 2000, Act 83 of 2000, as well as the amendment bills, 1981 and 1989 and Act 88 of 2000 with amendments, were all passed in this House; proclaimed November 06, 2000.

That is the existing law that we are now seeking to amend. But we must also remember that when that law was passed, we had to force this Government, kicking and screaming, to put in place the integrity forms to allow the Act to be implemented, because the Government refused. We had laid those forms in Parliament just before the election and this Government did nothing until 2003. It was only in 2003, after court action was filed, that Government came to Parliament with the forms: High Court Action 1457 of 2003, filed in the High

Court, San Fernando, August 13, 2003. It was in the matter of the Judicial Review Act, 60 of 2000 and in the matter of an application by Chandresh Sharma, MP, for leave to apply for judicial review. This application was deemed fit for urgent hearing.

2.45 p.m.

Thereafter, Justice Mendonca granted leave for judicial review. The matter was set down for hearing for the first week in the new law term in September. When the matter came up for hearing the government sought an adjournment and gave the court the undertaking that they would lay the regulations in Parliament.

Prior to this court case there was total confusion and evasiveness about these forms. People did not have to file because there was no form and they used the story that there was no form and they could not file. People escaped from filing for a period of time. The government came with all kinds of stories. The then PNM government was saying that it was going to do away with the Integrity Commission and set up a permanent anti-corruption commission. I will come back to that. That is a very serious matter. It was begun by the UNC and never carried through in spite of the promises by the PNM. At that point in time they were saying there was no form and they would not bother. It was then Attorney General, Glenda Morean. They were going to change it; they hired a consultant and brought people from all over the world. The rest is history and nothing ever happened.

Today, we are amending this Act. There are several clauses that give us cause to stop and be very concerned. The Minister spoke to us about the entire repeal and replacement of Part V of the Act. Part V of the existing law deals with the complaints process. I will come back to that. There is another clause which seems so miniscule and not important; it was brushed over and gone quickly, but is a very important amendment that is being proposed. That is clause 6(b). The Minister explained it. They want to amend section 11(2) so that instead of the commission being able to grant extensions of six months from the date for furnishing a declaration, you want to extend it to 12 months.

The explanation given by the hon. Minister was to give people more time to prepare their declarations and file them. What is the rationale for that? Where is the empirical evidence that that would deal with the problem? What is the mischief that is intended? What problem do you want to solve? What is the rationale for this change? Where is the wrong that you intend to right? The evidence will show that persons failed to furnish declarations year after year after year. The problem is not that they want an extra six months. The problem is an issue of non-compliance with the section. If you want to strengthen this Act as

you are saying, you would come here to put provisions to get greater compliance. You say, "Let us give them some more time."

If you look at non-compliance you would see that every report put out by the Integrity Commission from 2000, 2001, 2002, 2003, 2004, 2005, 2006 and 2007 which is the last report, the commission talks about the number of persons who have failed to file. They have not complied; they have breached the law. The 2000 annual report says:

> "In reviewing its activities in preparation for this report, the Commission reflected with regret on the deteriorating standards of compliance with the requirements for the submission of declarations, at the end of March 2000, 22 per cent of the declarations which were required to be filed by or before December 31, 1999 were still outstanding, notwithstanding the several mechanisms prescribed and otherwise invoked to encourage compliance. Included among the mechanisms, the publication of names in the Gazette as required by section 22 and reporting to the DPP the offence of failure to file as required by section 28 of the said Act."

In the annual report of 2001, they pointed out that 1,120 persons in public life would have been required to file. When you look at that report nowhere near 1,100 persons filed; 39 persons had still not bothered to file any declarations for 1995 to 1999. The commissioner took no action against these persons. The commission estimated that there would be 1,120 persons subject to the new Act. The commission condoned or permitted the continuing violation of the law. It nevertheless said the importance of its role by saying:

> "Corruption threatens to become a cancer of society. If we choose to stand by and let it take its course, the Integrity Commission charged with the watchdog role of being the public's eyes and ears is dedicated to its tasks to safeguard the integrity of persons in public life."

In the 2002 annual report the number of persons who had not complied—without providing any breakdown of details, the commission admitted that there are 75 declarations outstanding or under query. No recourse was had for legal action against these individuals under the Act.

The 2003 report talked about as at March 16, 2004, there were 54 outstanding or uncertified declarations. The commission noted that despite various actions by the commission as required by the Act, such as publication in the *Gazette* and daily newspaper, there was still non-compliance. Despite taking no legal action the commission nevertheless condemned the attitude of unethical persons.

In the 2004 annual report the commission stated that out of 43 declarations, 19 persons remained outstanding under the Act of 1987 and 1,103 persons in public life were required to file under the Act of 2000. The only persons who were exempted at that time were directors of TSTT and judges. There were only 728 declarations filed in that year.

In the 2005 annual report declarations from 10 declarants remained outstanding under the Act of 1987. It did not tell us how many for the 2000 Act.

In the report of 2006, declarations received for 2003, 821; 2004, 761 and 2005, 726. In 2003, 37 names were published with respect to those persons. We were told that more than 1,100 persons should have filed.

The 2007 annual report lists for 2007 a total of 82 persons whose names were published as not having filed. What is more important is when we come to the *Gazette*. I want to talk about non-compliance. We cannot talk about strengthening and implementing when you are giving people more time to file and we are seeing the breaches and non-compliance by persons in public file. Thus far, the then Integrity Commission did absolutely nothing to these persons who were violating the law and continue to violate the law. When you go through the *Gazette* for each year there are names like recurring decimals. They continue not to file and each year they publish their names. Yes, with impunity. I will come back to how we can get compliance by amending that same section. It is not to give them more time but to put penalties and sanctions.

I come to 2009. This was gazetted on February 06 2009. This is the most recent *Gazette* of persons who have not filed. It is Vol. 48 No. 19 starting on page 142. We made enquiries through the staff of the Opposition Office as to whether any of these persons who had been gazetted on February 06, 2009, had complied. As of yesterday, the staff was advised that none of these persons complied even after the names had been gazetted. The interesting ones are the parliamentarians, a host of them. We have persons who did not file for December 31, 2004. As at February 2009, there were 10 persons who had not filed their declarations for 2004. If you are saying that you want to give them six months extra to get their houses in order, it would not work. If in 2004, 2005, 2006, 2007, 2008 and we are in 2009, five years later, they still have not complied.

Nothing has been done except to put their names in the *Gazette.* We have names as Joyce Kirton from Naparima Bowl; Prof. David McGraw, Trinidad Bureau of Standards; Dr. Ranjit Singh, College of Science and Technology; Mr. Derrick Murray; Prof. Eugene Crichlow; Mr. Junior Joseph; Bishop Carlyle

Chankersingh; Mr. Kayle Rudden; Mr. Felix Celestine and Mr. Joseph Gramble. These are for 2004. Persons as at February 2006 who had not filed for the year ending December 31, 2005 numbered 53. Included in those is my colleague, Donna Cox, the hon. Member for Laventille East/Morvant. I raised this in the House last year. That hon. Member did not file for the year ending December 31, 2005 when she served as a member of Tidco.

It is difficult to go through all the names. There are persons on boards and those who are councillors sitting in corporations. For 2006, 65 persons as at February 2009, had not filed their declarations for the year ending December 31, 2006.

I am seeing recurring decimals. I do not want to spend much time on it. There are serial offenders. They did not do it in 2005 and 2006. We come to persons who have not filed for the year ending December 31, 2007. As at February, 78 persons. I have given you the *Gazette* number. These are some interesting ones as Mr. Fitzgerald Hinds, Member of the House of Representatives; Mr. Ganga Singh, Member of the House of Representatives; Mr. Eric Williams, Member of the House of Representatives; Mr. Hedwige Bereaux, Member of the House of Representatives; Mr. Lawrence Achong, Member of the House of Representatives. These were for the year ending December 31, 2006, when they were Members of the House. The law is very clear. You are required to file one year after. You must file for the years whilst you were a person in public life and you are required to file for one year thereafter. It does not mean that you stop filing after the year passes. It means that you are liable to have filed for the years you were in public office and one year after you stopped being.

Here we see people like Malika Blair and Mrs. Eudine Job-Davis, Member of the House of Representatives. Those are some of the names for 2007. There is a total of 78. What is this all about? These persons did not comply and are serial offenders. You are saying now to give them one more year. If you have persons who did not file for 2003 up to now, one more year would not make a difference. It would not help them or do anything to bring them forward to get them to file. I suggest that if we want to strengthen this legislation—after we passed it, now we are seeing how it worked. If you say give them more time, I say no. Let us put some sanctions, something in place.

When you want to amend that section, say that if you do not file in the first instance, we publish your name. Any time thereafter they can go to the court for an ex parte order to compel you to file. Have you done that? When you look at the reports even though you see 78, 56 and 50 persons, they have gone to the court for about eight or nine persons. I do not have the exact figure but it is very small.

Something is wrong. That is not working. Do not give more time. If you do not file when you are supposed to, we have six months to extend that time and if you do not do it, something happens.

3.00 p.m.

Let us put a sanction because at the moment people are escaping. I see the hon. Minister of Finance, the Member for D'Abadie/O'Meara, looking at me. It was the most unusual thing when I raised in this House last year the fact that the hon. Member, up to 2008, had not filed for 2003, 2004 and so on. The Minister came to this House and said that when she was on the Tidco board they had not done the prescribed forms and that they did not require you at that time to file because they did not have a form. When she became the Minister of Finance, she said, she got a letter from the Integrity Commission informing her that, for the years she was on the Tidco board, she had to file and that is what she did. That was why all the filing happened that year.

The Minister was admitting that she had never filed. The only time there were no forms was for 2002. In 2003, the forms were available. She had 2004, 2005, 2006 and 2007 to file and she did not. She only filed when she got a letter from the Integrity Commission. They sent her a letter because she was breaching the law; they did not publish her name; you better come and fill it up now.

In April 2008, she filled it in years later. Is that what we are dealing with? We have people escaping. We have people in breach of this law and nothing is happening. And so the only historic action by this Integrity Commission has been to charge two former UNC Ministers. The only people singled out are the two former UNC Ministers—the former Prime Minister and the Minister of Energy and Energy Industries—yet, there are hundreds of people, year after year, in breach of the law and nothing is done.

I say, let us put a sanction now. In the committee stage, we will give you some wording so that we can avoid that. I do not agree to extend the time for filing.

Clause 6(b) says to amend the section to say that the commission has a discretion to extend your time by one year. At the moment, it says by six months. I say do not give us more time. We already have enough time. You would have had your initial period to file up to May 31. It extends to December 31 so you have until May and thereafter you have an extension of six months. I have heard absolutely nothing to convince me that you need to give people a year. People have four and five years and they still have not filed. Time is not the problem.

Now we come to the issue of complaints, which is a very serious matter. We talk about compliance; we talk about complaints. The Minister has said that this Bill is seeking to wipe out and repeal the whole complaints procedure and to put in a new one. Where is the evidence? What is the reason? What is the rationale? Why do we want to do that? What is the mischief intended? What is the wrong you want to right? Where is the evidence that something is wrong with the existing complaints process? I have not heard that in the opening. I heard a watered down version of the rationale given by the hon. Attorney General who had the misfortune in her maiden address to this House to come here to tell us that the Government was considering taking out judges and state boards and changing the whole complaints procedure.

The substantive Attorney General then gave some reasons, facetious to say the least, that cannot hold up. That the Attorney General had said:

> "It is now quite apparent that the lax procedure for laying complaints may amount to a licence to the public to engage in frivolous and malicious complaints to the Integrity Commission, leading to the investigation of such complaints amounting to a waste of the Commission's time and resources and causing injury to falsely accused persons."

She went on further to say further, on page 7 of her statement, that:

> "The Government recognizes that protection must also be afforded to civic minded (citizens), well qualified…willing to make themselves available to public service from being unnecessarily, and unjustifiably harassed by a microscopic inquisition, based on a spurious or vindictive complaint and that there must exist…safeguards against persons in public life falling victim to unjustified and irreparable damage to their reputation."

So she said that the Government was going to scrutinize the procedure for making complaints. This is the justification that was given. At least this acting Attorney General went to court. I do not know about the other one. Hear what this hon. Member said:

> "At present…any person who wishes to make an allegation about persons in public life need only to do so in writing. By contrast in other jurisdictions with similar legislation…"

It goes on to say:

> "This cuts across a fundamental principle of natural justice that he who alleges must prove."

We have a lecture here on natural justice and my friend was saying that is not the common law; that is natural justice. I wonder where the natural justice rule came from; if it is from the common law. Let me correct that. We know the two tenets of natural justice and definitely he who alleges must prove. Is that a principle of natural justice?

When you go to make a complaint at the police station, do you have to prove it? When I say that there was a murder committed, will they say, "Prove it and sign a statutory declaration"? For a murder, you can go to a police station. You do not have to sign a statutory declaration. You do not have to do any of that to make a complaint about murder, robbery, malicious wounding, rape; none of those things. But here, when you allege there is misconduct in public life, statutory declaration. Put yourself out there and on top of that he who alleges must prove.

Madam Deputy Speaker: The hon. Member's speaking time has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Dr. H. Rafeeq*]

Question put and agreed to.

Mrs. K. Persad-Bissessar: What is the rationale? Firstly, you are saying to prove the complaints. The annual reports of the Integrity Commission do not disclose any problems with the complaints procedure. Nowhere in any report is there a complaint made by the Integrity Commission that they have a problem with the complaints procedure, contrary to the view being expressed. The empirical evidence bears out the opposite.

On page 16 of the 2000 report, there is nothing about a problem with the complaints procedure. They deal with the activities for the year. At page 16, it deals with public complaints and safeguards and says that the provision for complaints by the public is important and that there is no danger of the commission being overwhelmed with spurious complaints, but that the legislation has taken cognizance of this and has provided safeguards against frivolous, vexatious and groundless complaints. It tells that the safeguard is that a member of public who wishes to make a complaint may do so in writing under section 32, but that if he knowingly and mischievously makes a false report or misleads the commission by giving false information or making false statements or accusations, he is guilty of an offence and the penalty on conviction is a fine of $500,000.

This is the existing law. Why do they want to change it? The checks and balances are there. I am dealing first with the statistics to show that they are

overwhelmed. They say they have no problem with it; that there are checks and balances.

You go to the 2001 report and there is nothing in the report about complaints. In 2002, there is no complaint. In 2003, this is the first time mention is made that they had received complaints from the public and that they were investigating it; but there is no number given. In 2004, at page 10, they cite the provision. They also say that there may be frivolous ones, but the same section about mischievously and knowingly gives the check and balance.

When we come to the 2006 report, this is the first time we are being told that nine complaints were received. Where are the overwhelming floodgates of complaints? When we come to the 2007 report, the latest report, we are told they have received eight complaints from the public. So the empirical evidence does not bear out the thesis that you are going to get an overwhelming number of complaints from the public. It cannot be that the Integrity Commission is overburdened with complaints.

We come to the second issue when we want to justify such an amendment. You will see that this runs contrary to the recommendation of the Inter-American Convention Against Corruption. You will recall that when the UNC was in government in 1998, we ratified the Inter-American Convention Against Corruption in April 1988. In doing so, we agreed to be bound by the treaty dealing with the prevention of corruption. One of the issues had to do with giving protection to people who will be able to give evidence or make allegations about misconduct in public life.

What are you now attempting to do and why do you need to do that? We come to Part V and see what happens here now. The Minister read part of it, but let us remember what it is. These provisions are oppressive, onerous and intended to hinder or place obstacles in the way of the ordinary man-in-the-street from making complaints. Why? [*Interruption*]

They are not anonymous now; they are done in writing. Let us not get distracted with these things. At the moment you make your complaint in writing. When you do it in writing, you can put your name or not. I will come back to the Inter-American Commission. This Government went to this commission and agreed to put in place protection for persons called whistle-blowers and their families. So in Part V, clause 12, they are now saying that complaints are in writing to the commission as a statutory declaration, which will amend section 42. Then a complaint to the commission may be submitted in person or by personal registrar and so on.

On page 4, you amend section 33, again I ask why.

"33. (1) The Commission—

(a) may, where it is necessary, on its own initiative, upon examination of a declaration furnished pursuant to section 11;

consider and examine any alleged breach…"

Why did you find it necessary to restrict the commission to only look at its own initiative upon examination of a declaration filed pursuant to section 11? So the commission was saddled with your explanation when you were piloting, but you now want to amend section 33 to limit the commission to only use its initiative when it has looked at somebody's section 11declaration. Why? Why can it not remain how it was?

"The Commission may, where it is necessary, on its own initiative, consider and examine any alleged breach of the Act under the Prevention of Corruption Act."

Why do you want to restrict it to that declaration? Sometimes it is not about that declaration at all. Sometimes it is not even in that declaration; as we saw what happened here with the Minister of Finance last week. Nothing is in the form B; nothing is in the declaration, but it may come to light from other sources. Why confine the commission to only the section 11 declaration?

3.15 p.m.

It does not make sense. You want to up and tell us you are tightening the law and strengthening it, but that does not do that. You are weakening it. You are restricting the commission. A whole host of things happen.

Prof. Julian Kenny, a former Member of the Senate and member of the select committee considered these Bills, contributed to them and sent me package of documents. One of very first complaints to the Integrity Commission, which he has now shared, because they never bothered with him, is that there was a breach when the Prime Minister appointed his wife as a Minister of Government, using the influence to further the ends of his family. They have never dealt with it. It was never dealt with as a complaint. Is that what they are talking about; spurious complaint and impugning integrity?

How would an examination of a declaration allow you to pick up a breach like that? How would an examination of a section 11 declaration allow the commission to investigate whether the Minister of Finance had shares in CL Financial when she was bailing out the company? We do not and cannot support

this restriction that you are now placing on the commission to only deal, on its own initiative for investigation, with examinations of a declaration filed pursuant to section 11.

"The Commission—

(b) shall, upon complaint of any member of the public made in accordance with section 32,"

That is where we are now talking about the statutory declaration. They would examine it. Further down:

"The Commission shall—

(b) notify a person"—this is the natural justice aspect—"against whom a complaint has been made…"

That is the whole fiasco; that really disgusting and obscene activity that took place when the Integrity Commission was investigating a Member of this House, the Member for Diego Martin West. The Integrity Commission sent the files and did all the investigation without ever informing; breaching the law.

In the Integrity in Public Life Act, as it exists, there is a provision that they should have contacted the person against whom the complaint was made. They acted totally out of the law and out of all the principles of natural justice. What you are doing here is spelling out the natural justice provision. That is the natural justice in it. There is no natural justice in the other things that you are talking about. This is where the difference now comes.

Section 34(1) states:

"The Commission may, on receipt of a complaint…reject…the complaint—

(a) is frivolous or vexatious;

(b) was not made in good faith;

(2) Where the Commission has rejected a complaint it shall—

(a) inform the complainant…of the decision…"

Then you are now saying:

"(5) A person who—

(a) makes or causes to be made"—this is a very oppressive provision which I cannot support—"a false complaint to the Commission; or

(b) misleads the Commission or an investigating officer by giving false information…

commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for five years."

The difference is here. The penalty, of course, is higher. In the existing law, which I have already read, the person knowingly, mischievously gives this false information. When you do it like this, you are placing a tremendous burden and this is a deterrent to persons. That is your intention. You really do not want to uncover corruption and deal with it. We cannot support this amendment in any way in the way that it is framed. You already have a check and balance to ensure that people do not bring frivolous and vexatious matters, which is in the existing section 32. I maintain that we should keep the existing section 32.

Listen to this.

"(5) A person who—

(a) makes or causes to be made a false complaint to the Commission; or

(b) misleads the Commission or an investigating officer by giving false information or making false statements…

commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for five years."

Why are you changing the existing law? What is your rationale? How many people have done what you said? You have had only nine complaints last year. How many people would want you to bring such a draconian piece of material when the existing provision says that any person who knowingly, mischievously makes or causes to be made false reports or misleads the Commission or by making false statements is guilty of an offence liable on conviction? Knowingly is the difference. It means you are out for mischief; you deliberately went out there to tarnish somebody and put them into public odium and disrepute. I am asking that we do not amend that section as is being asked.

There is another section about complaints.

"All complaints submitted to the Commission prior to the coming into force of the…Act 2009,"—which would be this Bill if we pass it—"in respect of which an investigation has not commenced, shall be resubmitted…"

It means all those statements now have to be resubmitted in compliance with this new statutory declaration and all the other things. If you do not do it within

six months, it shall be rejected. It will lapse.

"(3) Complaints referred to…that are not resubmitted within six months of the day of the coming into force…shall be rejected…"

Wipe them out. [*Interruption*] Because they have not been dealing with the complaints. So many complaints have been filed and others have been lodged and they have not been dealt with. What do you want to do now? You want to wipe them out and delete those. We cannot agree to that. Tell us how many have actually been made and how many appended. For 2009, only nine were received from the public.

We come to the section dealing with protection of employees. They are now given a sort of lip service to promises they made to the Inter-American Convention against Corruption. The new 42(A), which is clause 15 is now saying:

"An employee of the State, a public authority or any other body shall not be dismissed, suspended, demoted, disciplined, harassed, denied a benefit or otherwise negatively affected because—

(a) he, acting in good faith and on the basis of a reasonable belief has—

(i) notified the Commission that his employer or any other person has contravened…"

You are getting some kind of protection to employees for dealing with corruption issues that arise, but will they fall under section 32 that you have just told us to look at? Will they fall there or they have to do it by statutory declaration and thereafter they will face these penalties if they make a false declaration or if they mislead the commission in any way? How will these two sections marry your new section 42(A) and your new clause that you have put in? I do not see how they are going to work.

In the little time I have left, I want to deal with two other issues. I have 15 minutes, so I would divide it, because they are both equally important. This has to do with the whole concept of legislation and legislating for anti-corruption or to prevent corruption.

You will recall, because you were in the House at that time as well, that in 2001, when we were in Government, we placed on the Order Paper and laid in the House for debate the Prevention of Corruption (Amdt.) Bill, 2000. In that Bill, we had dealt with issues that concern whistle-blowing, amongst other things. The principal features of that Bill were the establishment of an Anti-Corruption

Commission; a permanent Anti-Corruption Commission that would be empowered to receive these same statements, but they would have further power to investigate allegations of corruption under the Act. Hong Kong, Singapore and Botswana have gone from being very corrupt to relatively clean, because they have introduced that kind of permanent anti-corruption commission. We had put the Bill forward to establish that.

Secondly, I am going to tell you if you would just wait—[*Interruption*] about the introduction of the offence of illicit enrichment. This is very important because it is relating back to section 42A and the whole complaints procedure, providing protection for whistle-blowers. This is a crucial measure in any modern anti-corruption law. It protects informers. Again Hong Kong, Botswana, Malaysia and Singapore all have provisions to encourage persons to come forward and give information, but they protect the identity and location of these persons. This is very important, especially in these very corrupt times we are living in now. We have seen a Prime Minister who has gone for people and told them: "I will do for you", and he did "do" for them and went back to try to really get rid of them; persons working in service commissions—interfering with those. Only because of some independence in the courts we were able—[*Interruption*]

Mr. B. Panday: Lie on Ministers.

Mrs. K. Persad-Bissessar: Having Ministers to lie, as you say, on other Ministers.

Mr. B. Panday: Tell untruths.

Mrs. K. Persad-Bissessar: Speaking untruths, so that one gets fired and the other one takes his place on the Bench. This whistle-blowing protection is very important.

"4. Allowing for freezing, seizure and confiscation of corruptly gained assets…;

5. …the offence of concealing a bribe...

6. Extending the Act to include private bodies performing public functions;

7. The introduction of the offence of 'Bribing Foreign Officials';

8. Increasing the penalties…"

It was their Amendment Bill in 2000 and it lapsed when the Parliament was prorogued. We laid it again and it lapsed when the Parliament prorogued.

Let me just give you what has been this Government's follow-up with respect to that. In 2001, it was the report to the Inter-American Commission against Corruption. When we were in government we sent in the report and said that we wanted to implement the obligation in the convention, to cover the obligation that was already provided for in legislation that we had drafted, the Prevention of Corruption (Amdt.) Bill. The principal features were that the Bill was introduced in Parliament in 2000. It lapsed when Parliament dissolved before the 2000 General Election. It was reintroduced in Parliament again and lapsed in 2001 and the General Election was called. We had indicated then in our 2001 report, that we would reintroduce it as soon as practicable.

Listen to what that Government did when they came into office—the 2002 Inter-American Commission Report by the new Government:

> "Since the last meeting of the Committee of Experts, a General Election has been held in Trinidad…
>
> The new Government is fully committed to the eradication of corruption in public life. In pursuit of this objective the new Attorney General instructed that a review take place of the anti-corruption legislation which had been prepared by the previous administration.
>
> Currently the Ministry of the Attorney General is preparing a new Anti-Corruption Bill to be presented to Parliament by the end of 2003."

The year 2003 came and went and we have not seen it yet. Hear with that Bill will do.

> "…will consolidate all anti-corruption laws and will subject to Cabinet approval, transform the Integrity Commission,…into a new Independent Commission against Corruption.
>
> The draft legislation being prepared will better give effect to obligations of…Trinidad and Tobago, under the…Convention…
>
> The Government of Trinidad and Tobago, with the assistance of the United Nations Development Programme, has retained the services of the former head of the Hong Kong Independent Commission against Corruption as a consultant...
>
> The new anti-corruption legislation should be drafted by the third quarter of 2003 and will be introduced into Parliament as soon as possible thereafter."

Mr. B. Panday: Where is the report?

Mrs. K. Persad-Bissessar: We cannot say. We come to the next report. In this one they said:

> "This internationally recognized expert in the field...was asked to prepare a project for submission to the Government. The project report contains advice on the mechanisms to be implemented in order…to prevent, detect and punish…
>
> The Government of Trinidad and Tobago is currently reviewing the Report…"

They got a report, so where is the report and where is the Bill? The Bill that they went to the commission to talk about was the Bill that was drafted by the UNC. That is the Bill they went with in 2002. They were boasting about the Bill drafted by the UNC. They said: "Okay, we will carry it through." In typical PNM style, they have to hire people from all over the world to come and fly and pay them all kinds of moneys and take the report and put it on a shelf and do nothing.

We come now to the 2004/2005 report. Here they mentioned in the report on page 14:

> "It may be mentioned that a Paper published by the Law Commission entitled 'Strengthening Trinidad and Tobago's Anti-Corruption Legislation'"

Now it is the Law Commission. First it was the Hong Kong man and the foreign experts. Now the Law Commission has recommended that the Prevention of Corruption Act be amended to include provisions to protect whistle-blowers.

The Government has drafted a Prevention of Corruption (Amdt.) Bill, the same Bill, which it intends to provide protection for whistle-blowers. There we go. We come back to the Government and its promises that it will deal with whistle-blowing and give protection to whistle-blowing, but it comes here today and is not helping with whistle-blowing and whistle-blowers; what the Inter-American Commission recommends. Now this Government is totally going against it.

They had recommended that the identity of these whistle-blowers be protected. How is that happening in this new legislation? How is that happening with the new provisions that the Government is now asking us to support? How can that give adequate protection to persons who are in fear of their lives and in fear of their jobs? I ask the Government to tell us, can we deal with that, given the amendments that you are proposing?

3.30 p.m.

Finally, when we deal with anti-corruption and whistle-blowers, we need to look at pages 14 and 21 of the report and page 14 from the follow-up report of the

Inter-American Commission. It talks about systems for protecting public servants and private citizens who in good faith report acts of corruption. Trinidad and Tobago says that we have nothing, but we are going to put something in place to give that protection and, perhaps, this is what they are now attempting to do in the new section 42A.

When we go to page 22 of the follow-up report by the Inter-American Commission, it says:

> "The Republic of Trinidad and Tobago does not have in place measures intended to establish, maintain and strengthen systems for protecting public servants…
>
> In light of the comments made in the above-noted section, the Committee suggests that the Republic of Trinidad and Tobago consider the following recommendation:
>
> - Adopt a comprehensive legal and regulatory framework that provides protection for public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with its Constitution and the basic principles of its domestic legal system.
>
> In meeting this recommendation, the Republic of Trinidad and Tobago could take into account the following measures:
>
> (b) …to protect not only the physical integrity of whistleblowers and their families, but also to provide protection in the workplace…
>
> (c) Mechanisms for reporting, such as anonymous reporting or protection of identity reporting, that guarantee the personal security and the confidentiality of the identity of public servants and private citizens who in good faith report…"

How do these provisions comply with the recommendations? How do these provisions comply with the convention that we have signed? They do not. They are contrary to the recommendations and contrary to the convention of which we are a signatory.

We come now to page 26 which talks about a draft Bill that is being prepared to modify the Integrity Act that ensures that conflicts of interests that may arise in all branches of government are covered, as well as providing protection to whistle-blowers who report acts of corruption.

Again, your complaint procedure is totally oppressive and draconian in all the circumstances, especially in a small country like ours. It should not be entertained and it should not be supported. We should maintain, as far as possible, the present system with the check and balance that is included there.

I come to the final point which is the Judiciary. Again, you would recall that an interpretation summons went to the High Court to determine whether judges and magistrates should be included. The hon. Attorney General came to us and said that the law has now decided that these judges and magistrates are unconstitutionally there and they should not be there. The Attorney General told us that legislation will come to remove these judges.

I want to remind my colleague, the Member for Diego Martin North/East, that the judges were put there—I want to remind the Member, because he must remember his words. I want the Member to remember what he said. We have it here. [*Interruption*] You were very clear. I hope you will quote yourself. He said:

> "So that we believe that the Government is simply not going far enough with this legislation…;"

Mr. B. Panday: Who is talking?

Mrs. K. Persad-Bissessar: This is the Member for Diego Martin North/East, hon. Colm Imbert—

Mr. Ramnath: He is a mad man.

Mrs. K. Persad-Bissessar: It continues:

> "We are demanding that this Government amend this legislation to include the persons that we have requested, as I said, Senators, judges, magistrates. We are demanding that all chairmen of state enterprises—

Mr. Assam: Judges too?

> **Mr. C. Imbert:** Why not? What is the problem? What is so sacrosanct about that? In my opinion it will create greater respect for that system. Why should anybody be sacrosanct? Why should we have any sacred cows in this society?

Mr. Assam: You are echoing me.

> **Mr. C. Imbert:** I am serious. You see, this is why I find what they have brought before us offensive, because you are skirting the issues…"

Dr. Moonilal: You said that!

Mrs. K. Persad-Bissessar: He continues:

> "We wish the inclusion of Senators, judges, magistrates and all members of state boards and statutory authorities as persons in public life; retroactivity to 1991…"

That is the hon. Member for Diego Martin North/East. If you go back to the Inter-American Commission, you would see that the high standard of transparency and accountability is to have judges included in the integrity legislation.

When the court ruled—[*Interruption*]—it is in the Inter-American Report. I have the pages for you and they are 24—26. Madam Deputy Speaker, what we should have done was to come back to his House and not remove the judges. When you read the judgment carefully, nothing was wrong in principle with having judges on the law. What was wrong was that the procedural requirements of the Constitution were not met. That is to say, we amended the Constitution with the requisite majority and the requisite preamble, but we did not bring the Integrity in Public Life Act with the requisite majority, the preamble and the statement. What the judge said was that you breached sections 106, 108 and 109 and so on.

There is the separation of powers in Chapter 7 which deals with the Judiciary, and if you have to make any interference with those sections there is a procedure under section 54 to deal with that and that is it must state that this is an Act and that its breach is not inconsistent with those provisions but, nevertheless, to have effect you must have the requisite majority.

I do believe that in a modern society, in the highest standards and principles for integrity, for transparency and accountability—together with the Member for Diego Martin North/East, I agree that judges should be included, and let us put that amendment here and pass it properly.

My final point is that the Bill that you have brought before us is not appropriate. There are clauses like the new clause 34A(1)(b) and (c) which are clear provisions that are in breach of the privacy of rights laid down in the Bill of Rights in our Constitution and, therefore, this requires a special majority, but not only does it require it procedurally, it must state in its face that this is an Act that is inconsistent with sections 4 and 5, but is to have effect nonetheless. So, you would need a special three-fifths majority as it stands. If you are to bring in the judges as we are suggesting, you would need an even greater majority which is three-fourths, because you are touching the separation of powers which are provisions relating to the Judiciary.

Madam Deputy Speaker, with these words, I want to thank you very much for your time, and I look forward to being convinced by the Government that those provisions are necessary to strengthen the law. [*Desk thumping*]

The Minister of Works and Transport (Hon. Colm Imbert): Madam Deputy Speaker, thank you. I want to thank the Member for Siparia for some of the things she said, not all of them. I was very intrigued at the end of the Member's contribution to hear—[*Interruption*]—Madam Deputy Speaker, through you, I understand that the leader on that side was shocked to hear that I would say those things, but he was here when I said them. Maybe he does not remember. When you quoted the *Hansard* when I said that there should be no sacred cows, he was quite shocked to hear that I said that. I am very interested to hear the view of the Member for Siparia. I can only assume that the Member speaks on behalf of the Opposition when the Member said that she agrees that judges should be included and that we should make the necessary changes with the requisite majority. This is a very interesting turn of events which I shall reflect upon, but we are not about that today, and there is a case that has been decided with respect to judges, and I believe the decision was that we could not alter the terms and conditions of judges to their disadvantage. I believe that was the pivotal part of that decision.

Mrs. Persad-Bissessar: You are totally correct in saying one of the things in the judgment. What the judge is saying is that you can do it if you use the appropriate constitutional procedure.

Hon. C. Imbert: Madam Deputy Speaker, I am not challenging what the Member said, but I am just saying that my understanding of that judgment when you cut through the various arguments in the judgment the point the judge was making, is that you should not alter the terms and conditions of judges to their detriment. That is a fundamental section in our Constitution. What the Opposition is now saying is that can be achieved by passing an amendment with the necessary majority, two-thirds or three quarters or whatever. I am intrigued with the position of the Opposition on this matter. It is the first time I have heard the Opposition say this and that is why I am asking again if this is the official view of the Opposition. I assume silence is consent.

As I said, we are not dealing with that matter today. This Bill does not address that and there is a decision. I understand it has been appealed, but only certain parts, not that point. There are bodies such as the Law Commission and so on which have indicated that they do not feel that because they have no decision-making power per se—they do not control public funds and so on—that they should not be subjected to the Integrity in Public Life Act.

My understanding, which is also the hon. Member's, is that the particular point was not appealed. The law of Trinidad and Tobago as it now stands is that you cannot alter the terms and conditions of a judge without making the necessary constitutional change. So, it is really a moot point until and unless we get to this place that the hon. Member for Siparia has said that we should go to. But let us deal with the Bill itself.

We on this side do not agree with the statements made by the Member for Siparia, because her statements are theoretical construct. If you have a situation where a mischief maker can make an anonymous complaint, that is the fact right now. It is just like your conflict of interest agreement that held no merit last week, where it is not whether one exercises the right to do something, but it is whether one has the ability to do something that brings into play the conflict of interest. The point with this is that the law as it now stands allows a mischief maker or a deceitful person to make, an anonymous complaint, and when that anonymous complaint is made section 33 of the law kicks in. Section 33 of the Integrity in Public Life Act reads as follows:

"The Commission—

(a) may on its own initiative; or

(b) shall upon the complaint of any member of the public,

consider and enquire into any alleged breaches of the Act or any allegations of corrupt or dishonest conduct."

So, you have to take the ability for a mischievous complaint to be made anonymously, because this is what this law currently allows. It allows anonymous complaints to be made. You have to take that right or that ability that is there and tie it into section 33, in particular section 33(b), because the commission has no discretion.

If the Member had proper interaction with the commission and any discussion of any kind with the members of the former commission, or even engaged with correspondence with them, this point would have come out. The commission has made it clear that we must interpret section 33(b) to mean that whenever a complaint is made—whether it is a frivolous complaint or an absurd complaint or whether there is any evidence associated with that complaint or not—they shall "consider and enquire into any alleged breaches of the Act…"

3.45 p.m.

There is the mischief that we are seeking to correct with this piece of legislation, because it cannot be right that some anonymous person, who wishes to

terrorize a Member of Parliament, has the power under the existing law to make an anonymous complaint, and that immediately initiates an investigation with all the attendant issues associated with that; that cannot be right, and it should have said "may"; it said "shall". I can speak without speculating, as the hon. Member for Siparia has.

The Commission has interpreted this section to be mandatory, and it does not matter what the complaint is. The complaint on the face of it could be the most foolish and mischievous complaint; they must initiate an investigation. So, what we are seeking to do today, is to initiate some natural justice principles, and before the Member goes, you criticized the substantive Attorney General for saying that the maxim, “he who accuses must prove” is not a principle of natural justice; well I beg to differ.

That is a famous maxim from Aristotle, as you may or may not know. That is a famous principle established by Aristotle thousands of years ago, "that he who alleges must prove". I will share with the hon. Member an article from a scholarly journal where that is described as the third law of natural justice.

Mrs. Persad-Bissessar: I am guided.

Hon. C. Imbert: You are guided? Okay, as long as you understand, and I mean, that is a well-established principle of natural justice. Let us move on now. [*Interruption*] Obviously it is in a context, I am not going to argue that point; oh, come on. I just wanted to correct the record; that principle has been around for thousands and thousands of years. It is in that context that we have given the Commission now a framework within which to operate.

This law was certainly an improvement on the integrity legislation. If you look at the 1987 Act, it was really neither here nor there; it is really more of a statement of intent rather than an instrument where you could determine whether somebody was in breach and whether you could take action. There is no doubt that the Integrity in Public Life Act, which was piloted by the hon. Member for Tabaquite— [*Interruption*] That is a point that needs to be developed here.

You know the Member for Siparia is claiming this legislation, but this was the—[*Interruption*] No, no, the man behind this Act was the hon. Member for Tabaquite, and there is history to this, similarly with the Prevention of Corruption legislation, and that is why I asked, Madam Deputy Speaker, through you, the Member for Siparia, what happened to that Prevention of Corruption Bill, and very, very quietly, the hon. Member for Siparia confirmed that the Prevention of Corruption Bill was laid in 2000 and lapsed for no reason; no reason given, but

the reason was that the Member for Tabaquite was not getting the support that he required from the government of which he was a part at that point in time. [*Desk thumping*] That is the reason.

They did not want to pass that Bill; they did not want to go ahead with it, because at that point in time, there was a serious fracturing taking place in the UNC government, eventually leading to the departure of the Member for Tabaquite, but I have great empathy and sympathy for the Member for Tabaquite, and therefore, I would not dwell too much on that, but simply to say that the Integrity in Public Life Act was developed and piloted by the Member for Tabaquite, not by "dem" over there. Let us just set the record straight.

Like all legislation, it is not perfect and there are things in it that really, on reflection, were impractical and one of them was section 33(3). [*Interruption*] Yes, and that is why legislation is not static; legislation evolves; it evolves to suit the demands of the times, and it evolves as one understands more about its application. When the Integrity in Public Life Act was passed, it was the first time you had legislation of this nature in Trinidad and Tobago.

Now we have had seven or eight or nine years of its application, one can see there are errors, ambiguities, loopholes and many things in this legislation that need to be revisited and revised without taking away from the spirit and intent of the legislation. So, the purpose of these amendments is not to defeat the spirit and intent of the Integrity in Public Life Act, but merely to try to make it work in a more equitable manner. The complaint procedure is not unique, there are other jurisdictions, and in many other jurisdictions, when persons are making complaints against persons in public life they have to make a statutory declaration; they have to identify themselves.

You have to balance all of these things; there is always a balancing act. You have the whole concept of whistle-blowers, which has been introduced here and in many circumstances the idea of protecting persons' identity has great relevance, but on the other hand, you have to weigh the scales and look at the persons who are affected by this legislation; those persons who would become accused persons, and that is why, having seen the way this legislation has worked over the last eight to nine years we, are firmly of the view that we need to balance the scale and introduce these natural justice provisions, so, at least when a person in public life is accused of something they would know who their accuser is.

Again, another principle, the right to face one's accuser—Member for Couva North; another principle, the right to face your accuser. What we are trying to

introduce here is to give the accused person some rights: who is your accuser; what are the allegations that have been made against you. So, only then the other natural justice principles will kick in, that you have a right to be heard and that sort of thing. How can you have an opportunity to be heard when you do not even know what the allegations are and who is accusing you of committing a breach of the Integrity in Public Life Act?

This is the way this legislation has operated in the last eight years. There have been instances where allegations have been made against persons in public life and the person then gets a letter from the Integrity Commission saying that someone, a member of the public, has made a complaint against you; you are now under investigation, and you are to report to so and so for an interview.

When you ask the Integrity Commission: "What is the nature of the complaint? May I have a copy of it, please? May I see what I am being accused of? May I know the name of my accuser, so at least I would be able to properly defend myself?", then another section of the Act kicks in; another one that you have to look at very, very carefully and we are actually amending this section 35, which says:

> "The records of the Commission and any information revealed by a witness or by the production of documents, shall not be disclosed other than to such extent as may be necessary for the purpose of –
>
> (c) proceedings in any Court relating to a charge under this Act..."

So, what will happen is, a mischief maker makes an anonymous complaint, and say I saw the Member for Caroni East—speaking hypothetically, Madam Deputy Speaker—misappropriating funds—hypothetically, do not raise your blood pressure—taking money out of some public place the other day, and that person has written the Integrity Commission, and next thing the Member for Caroni East gets a letter saying that a member of the public has made a complaint against you and you are now to report to Inspector so and so for an interview; then like any normal human being, the Member for Caroni East would say: Well, what am I accused of? What is the crime that I am alleged to have committed? Who is accusing me of this crime?

Then you would get a letter that quotes section 35—and I am not speculating here; this in not theory; I am talking from knowledge—telling you the records of the Commission and any information revealed by a witness or by the production of documents shall not be disclosed. So, they say, we are not giving it to you.

That is the current state of the Integrity in Public Life Act; an anonymous mischief maker can tarnish the reputation of a person in public life; can cause him to be subjected to the most invasive and intrusive investigation, based on a completely false and frivolous complaint, and when the accused person seeks to prepare himself to defend the charge he is told that under section 35, the Commission cannot disclose who the complainant is and cannot give him a copy of the complaint.

It is in that context, because everything has to be put in a context, and it cannot be right. It just cannot be right that someone makes an accusation against you; you try to find out what are the particulars of this accusation; who is this person, and they say no, no, section 35 prohibits us from giving you any information; we cannot tell you. Those are facts. This has happened on more than one occasion.

What we are seeking to do here today is—not what the Member for Siparia sought to persuade persons in this House and elsewhere; it is not that—to balance the scale and allow the accused person the basic natural justice rights. If I go straight to the requirements that would now be concluded in a complaint, the complaint shall state the particulars of the alleged breach, so the person making the complaint would state clearly, that I believe that Mr. X or Miss Y has breached section 29 of the Integrity in Public Life Act, and has put themselves into a conflict of interest situation, because I have evidence that they did X, Y, Z, so it would have the particulars of the alleged breach, alleged act of corruption supported by documentary evidence, and the particulars as far as they have known of the person against whom the complaint is made and such other particulars as may be prescribed.

Now, with these new provisions the person would have to bring some form of evidence, and that is why we are now giving the Commission this pressure, because if you go to the amendment to section 34, it gives the Commission now, for the first time, the discretion to reject a frivolous complaint. I will read it because we need to understand what we are about:

"The Commission may, on receipt of a complaint and after examining same, reject the complaint if the Commission is of the opinion that the complaint –

(a) is frivolous or vexatious;

(b) was not made in good faith;

(c) is devoid of sufficient grounds for an investigation;

(d) is not supported by evidence of probative value; or

(e) does not pertain to a matter the Commission is empowered to deal with under this Act."

[*Interruption*] No, no, I think if you are going to be accused of a crime you need to know who your accuser is. [*Interruption*]

4.00 p.m.

I believe that if you are going to defend yourself—you agree. [*Points to Mr. B. Panday*] You see, you must listen to your leader. [*Interruption*] That is all right, that is a matter of style. As long as the Members opposite agree with the general principles, it is a matter of style as to when the accused person gets the information. [*Interruption*]

So, we are putting in these provisions so that persons in public life will no longer be subjected to anonymous complaints and that they will be fully informed of the details of the charges that are being made against them and they will know who has accused them of committing a breach of the Integrity in Public Life. Because, right now any Member of the Opposition, for example, can make an anonymous complaint against the Members of the Government, they do not have to put their name—any person on the opposite side who thinks that they want to terrorize a Member of the Government can make an anonymous complaint with—

Mr. B. Panday: The Commission can reject it.

Hon. C. Imbert: The Commission cannot reject it.

Mr. B. Panday: No, the information.

Hon. C. Imbert: Oh yes, now, with these amendments the Commission will be given the ability to reject a complaint if it can form the view that it was not made in good faith, it is frivolous, vexatious—

Mr. B. Panday: Can they not do that now if a complaint is made, especially things about corruption and so on? A complainant would not have the facts, he would not have all of the details, but when the complaint is made it is investigated, found to be frivolous, thrown aside and found that there is evidence—I agree with you, at that time after he is charged and so on, his accuser must face him and that sort of thing, but it is the initial stage to initiate the process of investigation, I think is what the Member for Siparia was referring to.

Hon. C. Imbert: Madam Deputy Speaker, this is where we part company with the Opposition. Somebody should not be allowed to make a complaint unless they have some form of evidence. [*Desk thumping*] You cannot just make a complaint just so and that is wrong with this law, because right now the person does not have to produce a shred of evidence. Nothing! A completely

mischievous and frivolous complaint automatically initiates an investigation from the Commission and the persons in public life then have to subject themselves to a very intrusive situation. That cannot be right! That is why we are now saying that if you want to subject persons in public life to this level of investigation then it is only fair that the persons in public life know who their accuser is and what the particulars of the complaint is. [*Interruption*]

By the way, just let me say at the outset, we do not believe we are taking away any rights here. We do not believe that we are infringing sections 3, 4 or 5 of the Constitution, sorry, and therefore we are not of the view that this Bill requires a special majority. I heard the Member for Siparia speak about infringing constitutional rights in the Member's usual style. She did not say which rights, just made a blanket statement. But we have studied this legislation before the House and we are not of the view that we are infringing sections 4 or 5 of the Constitution and we are not taking rights away from anyone and therefore we do not believe that this legislation requires a three-fifths majority. Of course, we will be happy to be guided if the Members opposite can tell us where we are infringing the Constitution with this legislation.

Mrs. Persad-Bissessar: Would the Member give way?

Hon. C. Imbert: But you were not even here. I need injury time.

Mrs. Persad-Bissessar: I apologize for—I did not hear you, I like to hear you—

Hon. C. Imbert: Come on, come on Member. [*Laughter*]

Mrs. Persad-Bissessar: It is the amendment that you are proposing with section 32 where you are breaching the privacy rights, where you are saying that a person must furnish—any bank or institution—particulars and so on, details of people's property, those are privacy rights and in my respectful view where you would allow third parties like banking institutions and so on, or even a member, a person in public life, those are the areas I am looking at. Time did not permit me to read them out but I did call the clauses.

Hon. C. Imbert: Madam Deputy Speaker, I deeply regret to advise the House that the Member is once again demonstrating a lack of knowledge of the law. If one looks at section 34A(3), one sees:

> "Where a person fails or refuses to disclose any information or to produce any documents required under subsection (2), the Commission may apply to the High Court for an order to require the person to comply with the request."

Because we have put in—that is a due process provision.

Mrs. Persad-Bissessar: Before that.

Hon. C. Imbert: Madam Deputy Speaker, the Member for Siparia is now on a fishing expedition because in section 34 we have indicated that the Commission can request persons to provide information but we have also recognized that the person can refuse to disclose the information and we have put in a process where the Commission must now apply to the High Court in order to compel a person to provide banking information.

That is due process and that therefore takes care of sections 4 and 5 requirements of the Constitution and I would advise the Member for Siparia, we thought about that, we looked at that and that is why we put section 34A(3) in there to provide due process, so we are not infringing rights. So, next time you jump up, make sure you know what you are talking about. Let us move on, Madam Deputy Speaker.

Mrs. Persad-Bissessar: Is that a threat?

Hon. C. Imbert: No, no, it is just a request.

Mrs. Persad-Bissessar: A request?

Hon. C. Imbert: I am not threatening you. [*Laughter*]

Madam Deputy Speaker, I must say the tenor of the Member's contribution today was quite different from some other contributions made in this House. Some very important information was put into the Parliament by the Member for Siparia and I would like if the Member would agree to let me have sight of some of her notes, I myself might be able to update my records in terms of provisions of various treaties and various things that we have agreed to or not agreed to.

Coming now to the whole question of the allegation made by the Member for Siparia that we are putting in an onerous provision and subjecting somebody to a fine of $500,000 and imprisonment for a period of years. The Member for Siparia made a long song and dance about that. When one looks at the parent law, the actual law, one of the things that upsets me when Members opposite speak is that they do not speak the whole truth and nothing but the truth. If one goes into the current legislation, one sees that if a person knowingly makes a false complaint that person is subjected to a very large fine and significant custodial sentence. Almost the same. Identical! I wanted to elicit from the Member, that it is exactly the same! So the fine and the custodial sentence with respect to making a false complaint is exactly the same in the existing law as it is in the current law.

The Member for Siparia has obviously not read section 34B in this legislation; it is a defence for a person who made a complaint in circumstances referred to in section 32 or who misled the Commission or an investigating officer in circumstances referred to in section 34A(5)(b) to prove that the complaint was made in good faith. So, we are giving the person the ability to say, "Look, while it is true that perhaps some of the things that I said may not have been entirely accurate, I did it in good faith." What is the difference between that and having to prove that a person has knowingly made a false complaint? What is the substantive difference? None! So the person can say, "I made these allegations in good faith."

As the Member for Siparia knows as a practitioner of some note, it is very difficult to prove that somebody has knowingly made a false complaint. Very difficult! [*Interruption*] Very difficult to prove that somebody has knowingly made a false complaint and there are not many authorities with respect to proof, with respect to knowingly making a false complaint. So, what is the difference? What is the difference between what is in the current law, where there is a penalty for knowingly making a false complaint and what we are putting in that the person as a defence saying that I made the complaint in good faith and the penalties are identical.

Therefore, there is a lot of hot air, much fuss about nothing and much ado about nothing. The fine is the same, the jail term is the same and the substance of the provision is the same. The Member for Siparia was just engaging in theatre when the Member tried to convince this Parliament—

Mrs. Persad-Bissessar: So, why are you changing it, if all is saying the same thing.

Hon. C. Imbert: The Member was simply engaging in theatre. [*Interruption*] We are of the view that the drafting that we have made is clearer. [*Crosstalk*]

Madam Deputy Speaker, let me clarify, because the Members opposite do not like to hear, they do not like to listen; whereas, the substance, the spirit and intent of the drafting is the same, the actual words themselves in our amendment are much tighter and will lead to a much clearer and more definite results.

Mr. B. Panday: They are identical. [*Desk thumping*]

Hon. C. Imbert: The substance is the same. [*Desk thumping*] [*Crosstalk*]

I know Members opposite have difficulty when they are found to be talking nonsense, such as the Member for Siparia, making a big set of noise about this fine of $500,000 and the jail term of five years, and not admitting to this Parliament that is the same thing in the current law.

Mr. B. Panday: Why are you putting it then, why are you putting it back? [*Desk thumping*]

Hon. C. Imbert: We are changing it because the drafting is loose and ambiguous and we need to tighten it up. [*Desk thumping*] [*Interruption*] The Member for Siparia also made a big fuss about section 34C(1):

"All complaints submitted to the Commission prior to coming into force of…"this amendment Act…"shall be resubmitted by the complainants in accordance with…" the new procedures.

I am paraphrasing, and complaints referred to in subsection (1) that are not resubmitted in six months of the day of the coming into force of this Act and in accordance with this section shall be rejected by the Commission.

Madam Deputy Speaker, when they on that side speak, they speak out of both sides of their mouth. The Member for Siparia made a long song and dance about the fact that we are of the view that the Commission should get an additional six months in the examination of a declaration or an additional six months in terms of discussions and dialogue with someone who is filing a declaration in terms of extension of the deadline for the actual filing of the final declaration.

A song and a dance saying, that six months is more than enough for anybody to file a declaration. But we have put a provision inside of here that said that any complaints that have been made under the old Act must be resubmitted within six months. Same time frame! So if six months is long enough according to the Member for Siparia, for a person to file a declaration, then six months is certainly long enough for somebody to resubmit a complaint. [*Desk thumping*] They speak out of both sides of their mouth; they do not remember what they said.

Mrs. Persad-Bissessar: Why do you have to re-file?

Hon. C. Imbert: They do not know the law! The do not understand the law. It is embarrassing. [*Interruption*] Yes, terrible, terribly embarrassing.

Mr. Ramnath: [*Inaudible*]

Hon. C. Imbert: True!

Mr. B. Panday: Every time I raise my head it is embarrassing indeed.

Hon. C. Imbert: But the fact of the matter is, if a dispassionate examination is done of the provisions of this amendment Bill, one will see there is nothing onerous in here. All we are simply doing is balancing the scales. All we are doing is correcting some of the ambiguities in the current legislation. All we are doing is codifying principles of natural justice.

4.15 p.m.

In any event when these things go to court, what happens? We have an actual case in Trinidad and Tobago with the Member for Diego Martin West. You have an actual case, and what were the principles that were applied? Natural justice principles. [*Interruption*] No, in the court, in its decision, it applied the principle of natural justice, a right to be heard. It applied it. The court was not interested in the statute. The court applied the principle of natural justice. If matters go to court with the law as it is now and natural justice provisions are breached, the matter is going to be determined in favour of the person in public office if the commission continues doing what it is doing now and infringing basic principles of natural justice, in terms of not allowing persons to know the details of the complaint against them. Not giving them the details, that is what is happening now. When someone makes a complaint against you, you do not get detailed particulars. That is how—[*Interruption*]

Mrs. Persad-Bissessar: [*Inaudible*]

Hon. C. Imbert: No. Madam Deputy Speaker, the Member for Siparia was not listening or was outside. Section 35 has been interpreted by the commission to mean that you cannot disclose detailed particulars of the complaint. This is how section 35 has been interpreted, so you have a conflict of laws here. Under section 35, the commission is saying to the accused person, "I cannot give you detailed particulars because section 35 prohibits the commission from providing detailed particulars." Then you have natural justice provision, where the person has a right to be heard and they cannot defend themselves unless they know the full details of the complaint and any documentation that has been submitted to the commission. Right now, persons do not get that kind of documentation, Madam Deputy Speaker, through you.

It is really painful to listen to the pious and sanctimonious mouthings from the Member for Siparia about corruption. I would not go into any details, but it is painful. I wrote down something which I found was shocking that the Member for Siparia said, shocking, referring to the ongoing hearings of the commission of enquiry into the construction sector. The Member of Siparia attempted to prove a proposition that the State in Trinidad and Tobago at this time, is engaging in state capture and she presented a theory. I wrote down what the Member said you know, a theory, state capture, billions of dollars are being squandered without anything that you can point to.

The hon. Member said, that the Uff Commission of Enquiry has shown that billions of dollars are being squandered without anything you can point to and that was defined by the Member of Siparia as "state capture". But that was not the case under the UNC. Billions of dollars were stolen with a lot that you can point to.

There are a number of people before the courts right now and people in jail in North America where people pointed at them, and there was a lot you can point to. [*Desk thumping*] So if state capture is defined as billions of dollars that have been squandered without anything you can point to, what is billions of dollars being stolen with a lot you could point to? What do they call that, treasury capture?

Madam Deputy Speaker, I have to listen to this? I have to listen to this, this kind of pious pontificating? A lot of what was put into this Parliament today was wholly irrelevant, contradictory. The Member as I said on the one hand, completely contradicted herself with respect to the time frame, saying that giving the Integrity Commission more time is ridiculous because six months is enough, and then complaining that six months is not enough to resubmit a complaint.

Mrs. Persad-Bissessar: No. [*Inaudible*]

Hon. C. Imbert: The whole point has been missed by the Member opposite. If the hon. Member had had any meaningful discussions with members of the Integrity Commission over the last seven years, she would find that there is consensus that what we should be focusing on in Trinidad and Tobago is unjust enrichment. That is what we need to be looking at, unjust enrichment. Not whether you fill out your form correctly, not whether you put something in Form A and you forget to put it in Form B, because that is what this is all about.

You make two declarations. You file your declaration of assets, income and liabilities at Form A and you put everything there. All the property that you own, your salary, your investments, the money that you have in bank accounts, your income from shares and whatever else, you put that in Form A. And then in Form B, you are supposed to put certain limited aspects of what you have put in Form A. So in Form B, you indicate whether you have investments in particular companies and where you have received income from.

What invariably happens to people in public life, they either misinterpret the requirements of Form B or they are careless. They fill out Form A correctly, so the actual declaration that they have made to the Integrity Commission is correct in all material respects. So they made a proper declaration in terms of Form A. But when they go to fill out Form B—and Members opposite have been guilty of this. It is also hypocritical to call out the names of people on this side who may have made a mistake on Form B and not call out the names of the Members on your side who have made a mistake in terms of the registrable interest declaration. So it is common place for persons in public life because of the complexity of interpreting the forms, to make errors in Form B.

I am sure hon. Members opposite have received letters from the Integrity Commission with respect to what is in Form B as opposed to Form A and the only reason members and persons in public life get those letters, is because you have already declared it in the private form, in Form A. So the Integrity Commission looks at Form A and they say, "All right, I looked here and I see that you have shares in CL Financial"—hypothetically speaking—"it is declared in Form A." A person has declared in Form A that they have shares in CL Financial. But for some reason through carelessness or misinterpretation, they do not declare it also in Form B, which is the one the public can see that they have shares in CL Financial. What happens in those situations is that they will get a letter from the commission saying, "Please confirm in Form B as you have confirmed in Form A that you have shares in CL Financial." The person has not made a false declaration because the declaration is Form A, it is not Form B. The problem with the Integrity in Public Life Act and the problem with these forms, is that they go into such minute detail that it makes a nonsense out of the whole system of Integrity in Public Life. [*Desk thumping*]

Madam Deputy Speaker: Hon. Members, the speaking time of the hon. Member has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Hon. N. Parsanlal*]

Question put and agreed to.

Hon. C. Imbert: Thank you, Madam Deputy Speaker. And one of the absurd consequences of the current law—let us assume you took out an account for a minor child, $500. You opened a savings account for a small child, $500. So as a dependent child, you declare that $500 savings account, but you do not declare the interest because you do not think of it. What is the interest on $500? Fifteen dollars? That is what it is. Fifteen dollars, Madam Deputy Speaker. So what comes at you is a letter from the Integrity Commission saying you have failed to disclose the interest on your child's account.

You are talking about $15 and they will pursue a member in public life to the end until they declare that $15. That is why we have put a provision inside of here that limits the quantum of money that they can harass you about. Because if Members opposite are going to be honest, every one of them over there has been harassed in this way, that you did not declare the interest on your children's account, or you forget to put the interest on your current account. Current accounts in Trinidad and Tobago earn 1 per cent or less than 1 per cent interest. You have 1 per cent, so you have a current account. You declare your current account and you forget to declare the interest.

When you go and check the interest in January, it was $5; the interest in February was $2; the interest in March was zero because you were overdrawn; and when you go and check for the whole year now, you add up $113 in interest. But they make you go to the bank and check the—you see, you are nodding your head. It is nonsense! It is nonsense! There are practical difficulties with the way these declarations are organized. Practical difficulties! I will give you another example.

All of us receive tax free concessions on motor cars. As Members of Parliament, we receive tax free concessions on motor cars. So when you purchase the car, you get something called a "benefit in kind". So you get a waiver on the motor vehicle tax and the customs duty and so on. You have to declare that in the form as a benefit in kind and quite a few new Members would not do that. They would put on the form whatever the cost of the motor vehicle is, and then they will get a nice letter from the Integrity Commission about a benefit in kind and also in terms of devaluation.

I remember a particular Member of Parliament who is no longer with us, telling me about an experience with the Integrity Commission where he put on as the value of his vehicle what he paid for it. He paid a tax free price for it and he put what he paid for it on the form, and he was harassed by the Integrity Commission for one year to put a different value; not what he paid for it, but the market value. And this is the problem with the current Integrity in Public Life Act. What we should be focusing on in Trinidad and Tobago, is the concept of unjust enrichment. [*Desk thumping*]

What we have in fact set up in Trinidad and Tobago, is a statistical police force. I repeat that, we have set up a statistical police force which is pursuing persons in public life for $5, $2, $3 and five cents. That is what is happening here. That is why we have come here and we are making a specific—and I notice the Member for Siparia did not speak about that at all.

Mrs. Persad-Bissessar: I had no problem with it.

Hon. C. Imbert: Oh, you had no problem with it? So why you did not say you agree? When one looks at the parent Act, Madam Deputy Speaker, when one looks at the provision relating to gifts, I will show you the nonsense in the law now. You do not have to declare a gift that is less than $2,000, but you have to declare income of $2. Does that make sense? So that the commission has no problem if you get a $2,000 gift, but they have a problem if you get $2 and you do not declare it. That is the environment that has been created by all of these forms. What we are seeking to do now, is to try and move away from the mischief that

has been created by this Act, in terms of people having their names published in the *Gazette* because they did not declare $2 interest out of a current account.

If the Member of Siparia would be honest, quite a few of those persons whose names have been published and have been branded as criminals, the only issue with them is that they did not put that they get $2 out of their current account.

Mrs. Persad-Bissessar: It was not that at all.

Hon. C. Imbert: No, no, no. Madam Deputy Speaker, the Member for Siparia completely misunderstands. Completely misunderstands. There are many persons in public life who are in constant discussion, dialogue and correspondence with the Integrity Commission—[*Interruption*]

Mrs. Persad-Bissessar: They are not published.

Hon. C. Imbert:—and are seeking clarification from the Integrity Commission with respect to how they should make their declarations. I hear Member for Siparia say, "They are not published", and you are wrong. The Integrity Commission has published the names of persons with whom they are in discussion; they have published the names of persons who have been in correspondence with them, who have been in dialogue with them as to how to interpret the provisions of the Integrity in Public Life Act.

At the present time, what the Act does is brands everybody. Whether it is some argument over a trivial point, whether it is an interpretation about the value of a company, how you value a company and so on, they brand everybody as being guilty of not making a declaration.

Madam Deputy Speaker: Hon. Members, the sitting of the House is suspended for tea and we shall resume at 5.00 p.m., sharp.

4.30 p.m.: *Sitting suspended*

5.01 p.m.: *Sitting resumed.*

ADJOURNMENT

The Minister of Works and Transport (Hon. C. Imbert): Madam Deputy Speaker, I would continue with the lecture on the next occasion, and I therefore beg to move that this House do now adjourn to a date to be fixed.

Mr. S. Panday: "Tha's what you make me come back here for?"

Madam Deputy Speaker: Hon. Members, before I put the Motion there are five matters on the adjournment. Today we will do the matter raised by the hon. Member for Caroni East.

Supplies of Pharmaceuticals
(Government's Inability to provide)

Dr. Tim Gopeesingh (*Caroni East*): The Motion I have today for response by the hon. Minister of Health is the inability of the Government and the Ministry of Health to provide adequate supplies of pharmaceuticals both to the public institutions and the health centres throughout Trinidad and Tobago.

Madam Deputy Speaker, I just want to quote some articles which will reflect on what I am saying; one came from the Pharmacy Board's head which speaks about the re-evaluation of the CDAP drugs which came from the President who criticized the Government's Chronic Disease Assistance Programme saying that the standing committee which met with the Minister to evaluate CDAP and the drugs before the general election last year was yet to meet again despite several requests.

It says that they have been clamouring for a meeting with the Minister, but to no avail. They have to evaluate the items because complaints about the drugs have been too frequent, and they have to be wary of drugs that are too cheap because of rampant pharmaceutical counterfeiting.

I had raised this for the hon. Minister to make some statements on it because I have often said the 50 drugs that are on the CDAP need immediate re-assessment and if we can get the guarantee from the hon. Minister this afternoon that he is serious about it, I want to indicate that a number of these drugs like Metformin and the anti-hypertensive drugs which are the basic drugs for treating diabetes and hypertension respectively need to be re-evaluated.

I suggest to the hon. Minister that he should bring together the Central Drug Advisory Committee and the National Drug Advisory Committee immediately to meet as quickly as possible for a re-evaluation of these drugs on the CDAP because we have had many complaints throughout Trinidad and Tobago particularly from patients who are diabetic and hypertensive and their disease seems to be getting worse with the drugs they are receiving. That is the first point I want to make to the hon. Minister. The Central Drug Advisory Committee is one which has a lot of capability and capacity to do things, so bring them together and let the National Drug Advisory Committee give some evaluation on these 50 drugs.

The next issue is that you need to look particularly at the drugs for the eyes because many complaints are coming that there are three eye drops which can take care of 20 per cent of the related cases like glaucoma and 80 per cent of these cases are not controlled with the drugs that are on the formulary. So that is another area you need to look at.

Then there is the drug called Omeprazole which has been given randomly by the general practitioners for treating upset stomachs in patients and that is always in short supply throughout all the pharmacies, so you need to look at that.

I did a superficial analysis of some of the pharmacies throughout Trinidad and Tobago and a number of them, including what is considered to be one of the top ones, SuperPharm, do not have all the drugs, and when I say drugs I do not mean cocaine and so forth, I am speaking of pharmaceuticals. They do not have all the pharmaceuticals required so the people who go to these pharmacies have to window shop, go from one pharmacy to another before they can get all their supplies.

The Minister spoke of some type of card, one of the main problems is the C Forte problem in the distribution of these drugs through Nipdec to the pharmacies of Trinidad and Tobago; this leaves a lot to be desired. They do not monitor the supplies of drugs on a proper basis and, therefore, a number of these pharmacies will run out of the pharmaceuticals and when the patients go to them they will not get the pharmaceuticals.

Just to give you an example; SuperPharm of Westmoorings does not have; St. Helena in my constituency does not have all the pharmaceuticals; Alpha Drugs in Diego Martin; Marabella; Woodbrook; Sangre Grande; Chaguanas; Tunapuna and Penal many of these pharmacies do not have the drugs.

I have been asked also to indicate to the hon. Minister that he is supposed to have two members appointed to the Pharmacy Board and it has not been able to convene because these two members have not attended the Pharmacy Board Meetings and, therefore, they do not have the quorum to meet and the board has not met for a year and a half.

That brings me to the point that there were a set of problems at the Port of Spain General Hospital recently in terms of the pharmacy. At the moment, as I speak, I feel it has not been sorted out as yet, I believe the Eye Clinic is still closed and it has close to 100 patients per day and, whereas they used to get their drugs at the Eye Clinic Pharmacy, they now have to wait in the general pharmacy to get their drugs and, therefore, they leave the hospital without getting their pharmaceuticals. So you need to ensure that it reopens.

What is the situation at Port of Spain as far as pharmacists are concerned? There were supposed to be 23, one left and they were left with 22, eight resigned and they were left with 14 and from this 14, a substantial number were transferred to the St. James Medical Complex.

Through you, Madam Deputy Speaker, the Minister must understand that they are not trained for giving chemotherapy so they had a rationale and a reason not to go there because they know they would not have been able to do what the ministry was asking them to do. So the Port of Spain General Hospital was left with only about eight pharmacists to fill the prescriptions for hundreds of patients. Patients were kept waiting until 5.00 and 6.00 p.m. in the evening after attending clinic from 7.00 a.m. to 8.00 a.m. in the morning. So they had to wait up to 12 hours, sometimes going home to return. Some patients who were discharged from the wards were given prescriptions and they could not be filled because they had to wait long hours.

If a patient is discharged, the patient is not fully recovered, so therefore he/she cannot sit in a pharmacy waiting, so they went home without their medication and became more ill and as a result their disease progressed. That is as far as the hospital is concerned.

The Minister indicated that these were foreign pharmacists and you are filling the positions now with local pharmacists but we do not have enough locals despite the pharmacy school is producing about 35 graduates per year, because most of them when they are trained go into the private sector because the salary is larger, something like $14,000 or $15,000 per month, whereas in the hospital system they get $8,000 to $10,000 per month. So this is something you need to look at critically and urgently to sort that situation out.

We are losing all these pharmacists who have been trained at the University of the West Indies Pharmacy School and they are not coming to serve the nation. Many of them would have had scholarships. This would therefore pertain to the Minister of Science, Technology and Tertiary Education as well. He needs to look at the pharmacists who were trained at the Eric Williams Medical Sciences Complex who were on scholarships and are returning to the private pharmacies. They are forced to because of the salaries offered. You also need to look at that.

The last area I want to touch on is the issue of pharmacies in the health centres. This is something that is very close to the heart of the former Minister of Health and I. There are 105 health centres throughout Trinidad and Tobago and if we are able to supply the pharmaceuticals at least twice or three times per week we would be doing a fantastic service to the people. They would not have to go to pharmacies far away from them to get the CDAP drugs. So we are asking the Government to consider employing more pharmacists even if they have to get them from abroad.

Minister, I understand that there are 50 pharmacists from the Philippines being interviewed now, and you should make sure we pass the legislation properly because they have to train for 500 hours here before going out to the general public. So what we want to recommend is that pharmacists should be at the 105 health centres at least two to three times per week. We know—and the former Minister of Health would tell you—that some health centres are not visited once per week by a pharmacist and, therefore, these pharmacists need to be there at least three times per week.

In summary, in terms of when I made the statement that the Government has not been able to provide the pharmaceuticals properly to the population at large, you need to:

1. Let the Central Drug Advisory Committee and the National Drug Advisory Committee review the drugs that are on the formulary on the CDAP.
2. You need to look at C Forte with Nipdec in terms of distribution.
3. You need to look at sourcing the best type of pharmaceuticals internationally, not because they may be a little more expensive because you have $450 million on the budget for pharmaceuticals which is on the expenditure sheet that I read about a week ago.
4. You need to bring more pharmacists in the hospital to prevent the problems that are emanating there and continuing.
5. Make sure that you have trained pharmacists to give chemotherapeutic drugs so patients with cancer will be able to get their treatment and their drugs mixed by pharmacists who are well trained because normal pharmacists do not want to give that.
6. The next area is to make sure that the health centres are properly staffed with pharmacists at least twice or three times a week.

One other point is the question of the glucometers. Many patients have had problems with them and when they had the glucometers they did not have the strips because something is going wrong with that as well. Therefore you need to ensure that the strips are supplied.

5.15 p.m.

One of the major problems we have, too, is that the diabetics in Trinidad, the glucometers are only supplied to those who are insulin-dependent, but we know there are tens of thousands of diabetics in Trinidad and Tobago who need to have their blood sugars tested before they even reach the stage of having insulin.

So we want you, as a Government, to give some active consideration on the implementation of glucometers and the strips, not only for insulin-dependent diabetics but for non-insulin dependent diabetics who are taking drugs and who need to have their blood sugars monitored as well.

I thought I would give some advice to the Government from the Opposition and not to go in the usual way of total criticisms without giving some type of advice. So on that basis, I thank you.

The Minister of Health (Sen. The Hon. Jerry Narace): [*Desk thumping*] Mr. Deputy Speaker, clearly, the winds of change has—[*Laughter*] I really want to congratulate the Member for Caroni East on a well-presented Motion. In fact, I will not categorically reject the arguments that he proposed because there have been some good suggestions in it and we will take them all on board.

Let me just give a little background to the Member. According to Moody's Investor Services, the growth in the global pharmaceutical industry has declined from an average of 12 per cent in 2006 to 1.4 per cent in 2008 due to the global recession and the strict regulatory controls resulting in a slower rate of approvals for new drugs. As a result, the sales and the international price of most drugs have declined in most countries. For instance, the Paraguay's Chamber of Industry and Pharmaceuticals has reported a 39 per cent drop in domestic pharmaceutical sales between November 2008 and February 2009.

Furthermore, the sales in the United States over the last year have been the slowest; 1.3 per cent in 47 years. The Government of the Republic of Trinidad and Tobago, through Nipdec, actually took full advantage of these market conditions and ordered a full year's supply of drugs during the months of September and October in 2008. The majority of these items were received during the months of February and March this year. Nipdec has indicated that there is an over-supply of drugs in their warehouses which are, in fact, enough to supply both the CDAP and the public sector pharmacies throughout the country. Furthermore, Nipdec has stated that there has been an upgrade in our inventory system and TTPost has been contracted to distribute the drugs in order to improve the delivery time of drugs to our health institutions. Those are actions that we took so far.

In this regard, I wish to report to this honourable House that by the end of April there will be no shortage of drugs at our health institutions and citizens should be able to collect their drugs in the most timely and efficient manner. [*Desk thumping*] I must reiterate that the rapid decline of pharmaceutical products, however, over the last year, has led to the closure of many production

plants in India and Latin America which has in turn resulted in the current unavailability of drugs manufactured by them. As a result, some drugs were removed from the drug formulary list and are no longer provided under the CDAP at our public sector pharmacies. So because these companies closed and discontinued with those drugs, we could no longer get those drugs.

However, we have sourced and provided substitutes and alternatives for persons requiring the same treatment in our health institutions. So the CMO has been indicating that doctors should prescribe drugs using the updated formulary list in order to bring urgent relief to our citizens.

Dr. Gopeesingh: Where is that list?

Sen. The Hon. J. Narace: I will send you a copy. We have been looking at it and we want to get our formulary working in a way as it does in international institutions all over the world, as you would well know, Member for Caroni East.

More importantly, there are several institutional developments that have reduced the waiting time of our pharmacies at Port of Spain. There was a time—a few days—that we did have some problems. That is a fact. But at the General Hospital the pharmacy has since extended its opening hours from 4.00 p.m. to 9.00 p.m. and the hospital opened four pharmacy windows to facilitate greater access of drugs to patients. [*Desk thumping*]

From 3.30 p.m. to 9.00 p.m. there is virtually no waiting time at the pharmacies and during the peak hours around 3.00 p.m. there is, indeed, waiting time—we agree with that—which has now been reduced from approximately two hours to 45 minutes. I visited that place on four occasions, unannounced, until I was satisfied that we had it right and I can tell you, we now have it right. [*Desk thumping*]

The Member spoke about the eye clinic. The reopening of the eye clinic and Satellite Pharmacy at the hospital has significantly reduced the waiting time in the general pharmacy area. You are correct. It was closed and it has since been reopened. The average number of prescriptions filled at the pharmacy is 575 per day, 350 of which are for outpatients and 225 for inpatients.

In order to improve the capabilities and core competencies of our local pharmacists and in order to facilitate succession planning, pharmacists are rotated quarterly between the Port of Spain, San Fernando General Hospital and the NRC in St. James. This Government has recognized that during the period 1995 to 2001 there was a shortage of life-saving pharmaceuticals and patients were subjected to long waiting lines while visiting our health care institutions. I just want to put that

on the record. According to reports made, patients over 65 years of age would arrive at 4.00 a.m. and would wait in line until 8.00 a.m. to access drugs at our pharmacies. So I need to put that on the record. In this light, the Government of the Republic of Trinidad and Tobago implemented the CDAP. That is a programme implemented by this Government in 2003 through which citizens are given the option—

Dr. Gopeesingh: We had six drugs on it—

Sen. The Hon. J. Narace: Six? I mean—I am not blaming you. [*Crosstalk*]

Citizens were given the option to access free medication from registered private pharmacies throughout the country. The main objectives of the programme are to offer chronic diseased patients with convenient, fast and improved access to medication and to reduce—

Mr. Imbert: There were no free drugs available—

Sen. The Hon. J. Narace: I am advised that there were none under your administration.

In order to reduce the burden on dispensaries and patient waiting time at public health institutions we immediately provided approximately 240 additional dispensing facilities across the country. I take it that was when you were Minister of Health, Member for Diego Martin North/East.

Mr. Imbert: Of course.

Sen. The Hon. J. Narace: CDAP's initial scope in February 2003 was limited to patients over 65 years old with chronic diseases and the programme consisted of 20 introductory pharmaceutical items in the treatment areas of diabetes, hypertension, glaucoma and cardiac diseases.

In March 2004, the Ministry of Health expanded CDAP to include children 18 years and under and persons over 60. It also added four additional treatment areas: asthma, depression, arthritis and treatment for enlarged prostate. Consistent with our continuous improvement strategy, the programme was once again expanded in 2004 to include all citizens of Trinidad and Tobago. The pharmaceutical items increased from 20 to 37 and by the end of 2005 CDAP had served approximately 189,000 patients.

In January 2006, CDAP grew again. The treatment areas included acid reflux, Parkinson's and epilepsy, added to the original eight chronic diseases of the programme. This expansion brought the programme's coverage to 11 chronic diseases with over 51 pharmaceutical items now available to patients.

As of February 25, 2009, with all our new efficiencies and working at it, this programme is now benefiting 521,350 patients. [*Desk thumping*] It moved from 4,096 for cardiac diseases in 2003 to 50,082 in 2008; 9,700 for diabetes to 38,510 in 2008; hypertension, from 14,471 to 52,218 in 2008, a 261 per cent increase, and anti-asthmatic patients, from 4,300 to 30,000 in 2008; anti-depression patients, 3,000 to 16,000; arthritis, 10,000 to 26,000 and, of course, enlarged prostate patients, 1,500 to 7,600.

CDAP has further been expanded to include the provision of blood glucose meters and testing strips. I take your suggestion and it is something that the Ministry of Health is studying and we will certainly revert to you as soon as we get our appropriate approvals and so forth.

So CDAP's success is rather indisputable. One of the areas that now need improvement is the monitoring and evaluation of the programme in terms of its operation, its financial viability and its overall impact on the citizens of Trinidad and Tobago.

Mr. Imbert: And the efficacy of the drugs.

Sen. The Hon. J. Narace: And the efficacy of the drugs, I agree with you.

To that end, the Ministry has formulated an RFP and is currently in the process of engaging a consultant to review the entire CDAP. The comprehensive evaluation of the programme will, in the long run, enhance its performance and capabilities. The finance and accounting unit in the ministry has developed the capability to access documents and control financial reporting risks and so on, on the CDAP.

I have taken note of all the contributions made by the Member for Caroni East and in terms of the local pharmacists, we agree that we must give local pharmacists the first opportunity. Your point on the health centres is consistent with our programme to put primary care and to ensure that people can not only receive primary care but receive their pharmaceuticals throughout the country. It is something that we are working towards. We are not where we want to be, as I have always said. I am not happy with the current system but I am happy with the direction in which we are going. The drops for the eyes, we are, in fact, looking into all of that. The C Forte problem, I told you of some of the initiatives earlier on. So I have answered your issues.

Like all other progressive countries, our Government has placed the health of our people as a priority in national development. Our aim is to ensure universal

access to the best possible health care so that our citizens could live long, healthy and productive lives. We, as a government, have taken all the necessary steps over the last six years to improve the delivery of pharmaceutical drugs to our citizens. Moreover, the Ministry of Health is currently reviewing its mechanisms in the delivery of medication and will continue to upgrade our facilities to provide our citizens with the most suitable and reliable pharmaceuticals for all treatment areas.

I thank you, Madam Deputy Speaker. [*Desk thumping*]

Rent Restriction Act
(Government's Policy on)

Mr. Ramesh Lawrence Maharaj SC (*Tabaquite*): Much obliged, Madam Deputy Speaker—

[*Dr. Gopeesingh leaves Chamber*]

Mr. Abdul-Hamid: Tim, Tim, "doh do that"! [*Interruption*] [*Desk thumping*]

Mr. R. L. Maharaj SC: Madam Deputy Speaker, I am not accustomed to speaking from such a high level and I must confess that one advantage is that I have a better view of the Government Members and I am obstructed in my view from my colleagues even though they are sitting in front.

The purpose of my Motion on the Adjournment is to get an answer from the Government as to the policy in respect of land tenants and house tenants in relation to the Rent Restriction Act. As we all know, that legislation was designed to protect the tenants and it prohibited the landlords from charging excessively high rents.

The Rent Restriction Act, in section 1(2) states that it shall continue in force up to a certain date and for a further period of three years, from time to time, depending upon the resolution of the Parliament. What has happened was that I got information that the Rent Assessment Board was being closed down and because of that I decided to write to the Attorney General on March 10, 2009 pointing that out and I tried to get an idea of what Government's policy was in relation to the Rent Assessment Board.

5.30 p.m.

I was told by Mr. Anthony Jeffrey of the National Land Tenants Association that there are approximately 300,000 land tenants in Trinidad and Tobago—I do not know whether or not that is accurate—and approximately 200,000 tenants of

dwelling houses. In that context I thought that it would be very important for the Government to give an answer as to its policy.

One reason advanced for rent control has been that housing, like food and clothing is a fundamental necessity of life because it is regarded as a basic necessity. The function of the Rent Assessment Board is to hear and determine applications whether by landlords or tenants for a review of rent in respect of tenancies of dwelling houses coming under the Rent Restriction (Dwelling Houses) Act of 1981, as amended by the Rent Restriction Re-enactment Act of 1991 and in respect of land coming under the Land Tenants (Security of Tenure) Act, 1981, as amended by the Land Tenants (Security of Tenure) Act, 1983.

In that context we want to know if this policy would continue and if it is not going to continue, what policy, if any, does the Government have to protect tenants from being exploited by landlords who can charge exorbitant rents and force the persons to be evicted from the houses or their land as the case may be? In that setting it is important for us to understand that this is a very serious matter because it would mean that unless there is protection against landlords increasing the rentals to exorbitant amounts, the tenants would have no protection.

I do not know why my colleagues are not here. I understand that my colleagues had not supported the Government in a similar motion that came up some time ago. I do not know if they are not here because of that. I consider that it is my duty. In my constituency of Tabaquite, there are many persons who would be affected by not having any protection and in the country as a whole, thousands of persons, even if that figure is not accurate.

Thank you.

The Minister of Legal Affairs (Hon. Peter Taylor): Madam Deputy Speaker, thank you and forgive my exuberance for wanting to respond to the Member for Tabaquite. We have to understand this issue from its historical perspective. I will deal with the issue in four brief stages as the historical basis for rent restriction and then show the systematic whittling down of protected premises over the years from as early as 1954; the disadvantages of rent restriction which were well-articulated by Members on the other side—I will quote *Hansard*—the current situation; and of course what provisions are in place to address the last question raised by the Member.

Historically speaking, rent restriction legislation was introduced in the British Commonwealth, particularly in the immediate post World War II era. That had to do essentially with the shortage of buildings, houses, lettings. In Trinidad and

Tobago it had to do mainly with the American bases. You had a social matrix operating at the time where premises were at a premium and the government of the day found it prudent to enact rent restriction legislation. The few premises that were there would have attracted reasonable rents. As early as 1933, the first rent restriction ordinance was passed to safeguard the poorer sections of the community. As the years progressed, you had a recognition that as more buildings were erected and circumstances changed, the government of the day recognized that it could not have continued to have rent restriction. Why? It would have served as a disincentive for landlords to improve their properties and persons to build new premises. The Member is correct.

The section provides that the Act would continue to be enforced for 12 months at a time. At that time it was by resolution of the Legislative Council. By successive enactments the Act was extended in three-year periods. The Member will know that. For example, Act No. 7 of 1981 which validated all things done or purported to be done under the Act, notwithstanding that the Act ceased to have effect in February 1981.

As I said at the outset, the intention was to provide protection where it was needed. There was also a mechanism recognizing that this Act should not continue ad infinitum or indefinitely. Therefore, it must be re-enacted and given very short terms depending on the social circumstances that will exist from time to time. It is interesting that the Member enquired about the onerous nature of the landlord/tenant relationship which now places the tenant in a disadvantageous position.

I want to remind the Member of the contribution of Sen. Sadiq Baksh back in 2002. He argued the opposite point that you raised. He said that rent restriction was proving to be a burden on landlords. Why continue with this rent restriction because it is a disincentive for landlords to repair their houses, build and provide tenancies. [*Interruption and desk thumping*] The Member for Caroni East had some empathy.

Let me read into the record what Sen. Sadiq Baksh said at the time:

> "What about the number of landlords and investors in housing who have been punished for their attempts to alleviate the housing shortage in the country? What about that situation? What about the amount of lands being locked up under rent restriction? How many of them suffered and will continue to suffer at the hands of this present administration? How many people have been discouraged from getting into the housing business? Landlords, in fact, made

up a fair amount of our population in the past. How many remained? They are a dying breed. How many people would we encourage in the private sector to provide low rental accommodation?"

He recognized that rent restriction has its limits and deficiencies. In the same vein, the Government is saying that since the Rent Restriction Act expired, it is not in the best interest of entrepreneurship and investors to reenact this legislation. You also have an enactment with a base rent that says you cannot charge in excess of $1,000 for unfurnished premises and where the premises are furnished, the limit must be $1,500. In those circumstances, landlords were saying that they would not renovate their properties if they were subject to those restrictions. Now, you have tenants living in substandard conditions. There was a situation where there was no incentive for landlords to build. [*Desk thumping*]

To give an example as to how the whittling down took place, as early as 1954—[*Interruption*] Are you following Member? Do not allow the distractions in the House to take away from the record. As early as 1954, which was 13 years after the Act came into operation, the first order to whittle down the class of protective premises occurred. Clause 2 of that Order stated:

"The classes of premises described in the Schedule are excluded from the operation of the Act."

That included all new buildings or the erection of new buildings.

Part II sought to exclude commercial buildings. From February 1960, every commercial building would have been excluded from the rent restriction provisions. Then you had properties owned by the University of the West Indies. Public and commercial buildings were being excluded. It went further than that.

Part VIII sought to deal with—Member never mind; I am sure that your powers of concentration are greater than that. Part VIII dealt with a listing of properties owned by Texaco Trinidad Incorporated at the time and sought to exclude dwelling houses in Pointe-a-Pierre, Barrackpore, Forest Reserve, Guayaguayare, Brighton, La Brea and Vessigny.

I make the point to show that as early as 1954, it was recognized that the class of properties covered by rent restriction could not subsist. The principle has to do with a recognition that free enterprise has to hold sway and the free market operation must hold sway in the interest of quality, in the interest of ensuring that the natural interplay of forces between tenant and landlord has some balance and parity. That is not to say that there are not landlords who charge exorbitant rents. I

will address that because you know the judgment of Madam Justice Jones which created the avenue for people who had been hard done to access the court. Even though the Rent Restriction Act expired, by the principle of incorporation, sections 13, 14 and 15 now reside in the Dwelling Houses Act. By virtue of that, any aggrieved person is able to petition the court for relief.

5.45 p.m.

So to answer the question directly as to the current position, the Act has expired and there is no intention to revisit that decision for all the reasons I have outlined. It is not to say that persons have been disenfranchised or deprived of a legitimate opportunity to plead the justice of their cause.

Just to read into the records that Madam Justice Jones presided over the matter of *Henry Chang v Empire Flats Limited* and that the judgment was delivered on November 29, 2006. Madam Deputy Speaker, that judgment really dealt with the nub of the problem the Member raised. The real issue was, in the circumstances of the failure to revalidate the Rent Restriction Act, Chapter 59:50, whether the protection afforded to a tenant by the Dwelling Houses Act, with respect to the restrictions placed on the landlord's right to possession, still exists, and the answer is yes.

As stated by virtue of the principle of incorporation, you are now able to make your petition. Madam Justice Jones, in her judgment, noted that where the Act had not been revalidated, it could not be that such a failure would affect the rights that have already been vested on the continued operation of the Dwelling Houses Act in the manner it operated prior to the lapse of the Rent Restriction Act.

Madam Justice Jones contended that it would seem, therefore, that the fact that the Act has not been revalidated does not affect the incorporation of certain of its sections into the Dwelling Houses Act. The rights and privileges of the tenant and the obligations and liabilities of the landlord acquired under the Dwelling Houses Act, by virtue of sections 13, 14 and 15 of the Act, continue. The real question, to my mind, is: What provisions are there now to allow the poor, the persons who live on fixed incomes—the most disadvantaged and the most vulnerable in society—to access the courts?

We take the point that petitioning the High Court could be prohibitive. It is in that context that I made the enquiry, when I was doing my research for this, as to where the Legal Aid and Advisory Board comes in. I addressed the situation on a motion, some time ago, from the Member for Princes Town North as to exactly where the Legal Aid and Advisory Board is.

I am happy to tell the honourable House and the Member that it is intended, in the amendments to the Legal Aid and Advisory Authority Act, that the ceilings that exist now will be increased. Where you had, for example, the existing provision that legal aid in a civil high court matter is available to persons whose disposable capital does not exceed $5,000, and whose disposable income does not exceed $7,000 per annum, the intended provisions are as follows:

- where the maximum disposable capital is now $5,000, it is contemplated that the figure be increased to $20,000; and
- where the maximum disposable income at present does not exceed $7,000 a year, it is contemplated that it be increased to $24,000.

So, ipso facto, once those proposals have the blessings of Cabinet, it means that many of the issues which are of concern to you and to us on this side as to how persons of the lower end of the financial scale would now "bring up" the landlord would be covered because they now have a greater access to legal aid and the volume of persons being able to access the court would have been increased. It is no longer limited to that narrow parameter.

In all fairness to both sides, that is a more equitable approach because you do not want, on the one hand, to protect the tenant at the expense of the landlord—you need to have the free interplay of market forces and this is how we propose to address the situation.

Easter Greetings

The Minister of Works and Transport (Hon. Colm Imbert): Madam Deputy Speaker, it was very remiss of me, I know I have already moved the adjournment, but we will shortly be coming up to one of the most important dates on the Christian calendar. There is some debate within the Christian church as to which day is most important—Christmas day or the Easter period; the resurrection I am speaking about.

To all Christians and other citizens of Trinidad and Tobago, on behalf of the Government, I wish a very happy and holy Easter celebration.

Mr. Ramesh Lawrence Maharaj SC (*Tabaquite*): Madam Deputy Speaker, it seems to me that I have the function of Chief Whip for a little while again. [*Laughter*] [*Desk thumping*]

On behalf of the Opposition, I join with the Government in wishing the Christian community and the people of Trinidad and Tobago happy Easter. It is an

important occasion on the calendar for Christians and I think that some Christians really regard Easter just as important, or even more important, than the Christmas season.

Thank you very much.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 5.53 p.m.