

Leave of Absence

Friday, May 15, 2009

HOUSE OF REPRESENTATIVES

Friday, May 15, 2009

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I have received communication from the following Members: Mr. Ramesh Lawrence Maharaj SC, the hon. Member of Parliament for Tabaquite, for the period May 15 to May 26, 2009. May I indicate to the House that on the last occasion we met Mr. Maharaj had intimated to me that he would like to make a personal statement but, as you know, he is out of the country for this period, so when he comes back, if he still wants to make that statement, I will allow him. Also, the hon. Member for Arima, Miss Penelope Beckles has asked to be excused from today's sitting of the House. The leave which these Members seek is granted.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Sangre Grande Regional Corporation for the year ended September 30, 2000. [*The Minister of Finance (Hon. Karen Nunez-Tesheira)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Sangre Grande Regional Corporation for the year ended September 30, 2001. [*Hon. K. Nunez-Tesheira*]
3. Annual audited financial statements of Caroni (1975) Limited for the eight years ending June 30, 2000 to June 30, 2007. [*Hon. K. Nunez-Tesheira*]
4. Annual audited financial statements of Rural Development Company of Trinidad and Tobago Limited for the year ended September 30, 2008. [*Hon. K. Nunez-Tesheira*]

Papers 3 and 4 to be referred to the Public Accounts (Enterprises) Committee.

5. Third report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Siparia Regional Corporation for the year ended September 30, 2001. [*Hon. K. Nunez-Tesheira*]

Papers 1, 2 and 5 to be referred to the Public Accounts Committee.

Papers Laid

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6. The appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order, 2009. [*The Minister of Works and Transport (Hon. Colm Imbert)*]
7. The Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order, 2009. [*Hon. C. Imbert*]
8. The Commissioner of Police and Deputy Commissioner of Police (Acting Appointments) (Selection Process) (No. 2) Order 2009. [*Hon. C. Imbert*]

JOINT SELECT COMMITTEE REPORT

(PRESENTATION)

Data Protection Bill

Electronic Transactions Bill

The Minister of Public Utilities (Hon. Mustapha Abdul-Hamid): Mr. Speaker, I wish to present the First Report of the Joint Select Committee appointed to consider and report on a Bill to provide for the protection of personal privacy and information, and a Bill to give legal effect to electronic documents, records and signatures.

ORAL ANSWERS TO QUESTIONS

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, the Government is in a position to answer six questions today, as follows: Nos. 24, 41, 45, 46, 56 and 57. We would ask for a two-week deferral of the others.

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*]

**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*]

**Families' Safety
(Freedom Street, Cocorite)**

- 35.** Could the hon. Minister of Planning, Housing and the Environment state:
- (A) whether four families at Freedom Street, Cocorite, whose homes were badly damaged during the December 2008 flood were forced to return to unsafe buildings, despite assurances from Government that alternative accommodation would be found for them?
- (B) what steps are being taken to assist these four families at Freedom Street, Cocorite to make their dwelling safe? [*Mr. H. Partap*]

**Agricultural Access Roads
(Fiscal Year 2009)**

- 52.** With respect to fiscal year 2009, could the hon. Minister of Agriculture, Land and Marine Resources state:
- (a) how many Agricultural Access Roads will be built and/or rehabilitated in the Princes Town Constituency in the area bounded on the North by the Guaracara Tabaquite Road, South by the Lengua Road, East by the San Pedro Road and on the West by Garth/Williamsville;
- (b) the exact location and name of each road;
- (c) the nature and scope of the rehabilitation to be undertaken on each road; and
- (d) the length of each road to be built? [*Mr. S. Panday*]

**Summit of The Americas
(Details of Cost)**

- 58.** Could the hon. Minister of Finance state:
- (a) The budgeted cost for the Summit of The Americas?
- (b) Whether there were any cost overruns? and
- (c) If the answer to (b) is in the affirmative, how much did the overruns amount to and the areas where they occurred? [*Mr. V. Bharath*]

**Bailey Bridge Commission of Enquiry
(Status of Report)**

59. With respect to the Commission of Inquiry established to investigate the collapse of the Bailey Bridge over the Caroni River, could the Minister of Works and Transport state why the report has not been laid in Parliament? [Mr. J. Warner]

**Eastbound Bridge at Macoya River
(Details of Collapse)**

60. A. With respect to the eastbound bridge along the Churchill Roosevelt Highway at the Macoya River which collapsed and has been replaced with two Bailey Bridges, could the hon. Minister of Works and Transport state:
- (i) Why the bridge collapsed?
 - (ii) Whether any cofferdam or other protective piling had been set to protect the existing foundation?
 - (iii) Why no work has started on the permanent replacement of the temporary Bailey Bridges?
- B. Can the Minister assure this House that standard safety practices will be employed to ensure that the works when commenced, will be protected from flash flooding of the river, and that the bridge will not collapse again? [Mr. J. Warner]

**Widening of Churchill Roosevelt Highway
(Commencement of Work)**

61. Could the hon. Minister of Works and Transport state when work will commence on the widening of the Churchill Roosevelt Highway between O'Meara Road and Wallerfield, in view of the Minister's announcement that a new contract had been awarded? [Mr. J. Warner]

Questions, by leave, deferred.

**Private Hospital Board
(Details of)**

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

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, yes, there exists a Private Hospitals Board.

The board was approved by Cabinet on May 07, 2009 and the members received their letters of appointment on May 13, 2009. The names, qualifications and experience of the board members are as follows:

- (i) Dr. Anton Cumberbatch, Chief Medical Officer;
- (ii) Dr. Akenath Misir, Principal Medical Officer (Ag.);
- (iii) Ms. Valerie Rawlins, representing the Ministry of Health and highly skilled in nursing administration;
- (iv) Mr. Earl Henry, representing the Ministry of Health and highly skilled in hospital administration;
- (v) Dr. Neil Singh, Secretary to the Medical Board of Trinidad and Tobago and a non-public sector member;
- (vi) Ms. Erica Phillip, retired Chief Nursing Officer and a non-public service member; and
- (vii) Dr. Keith Aleong, Medical Practitioner and a non-public service member.

The tenure of the board is for two (2) years from the date of appointment.

In the light of the response to part (a) of the question, part (c) is not applicable.

Dr. Gopeesingh: Mr. Speaker, I am sorry, I must have probably not heard properly. Was it May 09 which was about two weeks ago that the board was appointed?

Hon. C. Imbert: The board was approved on May 07, 2009 and the members received their letters of appointment on May 13, 2009.

Caroni (1975) Limited
(Names and Locations of Squatting Communities)

41. Mr. Nizam Baksh (*Naparima*) asked the hon. Minister of Planning, Housing and the Environment:

Could the Minister state;

- (a) the names and locations of squatting communities on lands formerly owned by Caroni (1975) Limited;
- (b) the total number of households in each squatting community; and
- (c) what is the authority that enables squatters to benefit from a supply of water and electricity?

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I will answer this one as well.

The Commissioner of State Lands has provided information for thirty-four (34) squatter settlements on the lands previously designated to the former Caroni (1975) Limited. The names and locations of squatting communities on lands formerly owned by Caroni (1975) Limited are as follows:

1. Carli Bay (North and South), Couva
2. Hermitage via San Fernando
3. Brickfield Village, Carapichaima
4. Dookiesingh Street Extension, St. Augustine
5. Caroni Savannah Road
6. The Coconuts Area, Felicity
7. Ojar Maharaj Avenue, Carapichaima
8. Golconda
9. Bronte
10. Williamsville
11. Harmony Hall, Gasparillo
12. Forres Park, Claxton Bay
13. Mount Stewart Village, Princes Town

Oral Answers to Questions
[HON. C. IMBERT]

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14. Pranz Village, Claxton Bay
15. McBean, Couva
16. Henry Street, Orange Valley, Couva
17. Korea Village
18. Orange Valley
19. Wyaby Road, Carapichaima
20. Savonetta Community
21. Toolan Drive, Phoenix Park, California
22. Ezperanza Village, Couva
23. Chinese Road, Carapichaima
24. Basta Hall Community, Couva
25. Sonny Ladoo Trace, Couva
26. Bennett Trace, Preysal
27. Roopsingh Road, Carapichaima
28. Greig Street, Balmain
29. Persad Avenue, off Mon Plaisir Road, Cunupia
30. Diary Road, Windsor Park, California
31. Union Village, Couva
32. Windsor Park, California
33. Diamond Picton
34. Mt. Pleasant Road, Basta Hall

From our research, information about the number of households in each community is not available. However, the Divestment Secretariat of the Ministry of Finance has indicated that as of August 2003 an approximate total of 2,329 households existed in spontaneous settlements on lands formerly owned by Caroni (1975) Limited.

The authority which enables squatters to benefit from a supply of water and electricity is a Cabinet decision of February, 2000 which states that once the utility lines exist in those areas, all squatters on such lands (State lands and lands

belonging to state enterprises) be provided, upon application, with electricity and water connection pending whatever regularization arrangements are put in place for their eventual settlement or relocation by the Ministry of Housing and Settlement. It should be noted that in 1998, the UNC Government passed the Regularization of Squatters Act and no new squatting on state lands should have been permitted after the passage of this Act in 1998.

However, it is clear from the Cabinet decision of February 2000, that the then UNC Government did not comply with the very law that it had passed. It should also be noted that 2000 was an election year and, therefore, it is quite likely that this Cabinet decision was made in the context of the 2000 election and it should be viewed as such. Therefore, the benefit given in February 2000 was meant to be a temporary one pending actions to be taken by the then Ministry of Housing and Settlements to bring an end to squatting on those lands.

In fulfilling its mandate for squatter regularization during 2003—2008, the Land Settlement Agency completed the upgrade of 1,564 lots at a cost of \$83 million. This programme of works (that is, regularization of squatters) is ongoing. Infrastructural works include the provision of roads, drainage, water reticulation systems, electrical supply and fire hydrants. In an effort to prevent further squatting, state land is continuously monitored and patrolled. As such, these sites under the LSA's jurisdiction are continuously checked for any new incidence of squatting. Activities include:

- monitoring and patrolling of squatter sites;
- serving of notices to squatters (or affixing same to their houses) advising of their illegal occupation of state lands;
- demolition of illegal structures.

Regional Health Authorities (Existing Vacancies)

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

Could the Minister 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?

The Minister of Works and Transport (Hon. Colm Imbert): I will answer this, Mr. Speaker.

As of May 07, 2009, the number of vacancies that existed at the following Regional Health Authorities for doctors, nurses and pharmacists were as follows:

Regional Health Authority	Doctors	Nurses	Pharmacists
North West	37	487	09
North Central	17	302	18
South West	173	733	82
Eastern	41	64	11
Tobago	07	34	10
Total	275	1,620	130

The disciplines in which the vacancies for doctors exist include:

- Obstetrics and Gynaecology;
- Anaesthetics
- General Surgery;
- Orthopaedic Surgery;
- Ear, Nose and Throat Surgery;
- Plastic and Burn Surgery;
- Internal Medicine;
- Urology;
- Neurology;
- Neonatology;
- Ophthalmology;
- Accident and Emergency;
- Forensic Pathology; and
- Paediatrics.

1.45 p.m.

I wish to remind this honourable House that during the period 1996 to 2001, the number of physicians in our health institutions increased from 957 to 1,234, an increase of 29 per cent. However, the number of physicians in the health sector overall, increased from 1,054 in 2002 to 1,543 in 2007 which would be an increase of 46 per cent over the period 2002 to 2007.

Furthermore, the ministry recently obtained Cabinet's approval to recruit 119 specialist medical officers from both Cuba and the Philippines. This measure would further reduce the existing shortage of specialist doctors across areas of discipline in our health care system by 43 per cent. This would be a more significant achievement in the history of our health sector, since most if not all our vacancy levels with respect to specialist medical doctors would be eliminated. More important to the average citizen, this recruitment exercise allows for greater productivity and a reduction of waiting times at our health care facilities, as well as a reduction in the number of patients who are currently in need of specialist surgical care.

Mr. Speaker: Supplemental.

Dr. Gopeesingh: He might not be able to do it, so I do not think that it is worthwhile asking.

**Chaguanas District Health Facility
(Construction of)**

46. Dr. Hamza Rafeeq asked the hon. Minister of Health:

With respect to the Chaguanas District Health Facility, could the Minister 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?

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I will answer this on behalf of the Minister of Health. No contract has been awarded for the construction of the Chaguanas Health Facility. Although a site for

the facility was selected in 2003 and the building's designs were completed in 2006, re-confirmation of the site and an extra parcel of land were granted in April 2009, by the Estate Management and Business Development Company Limited, for the construction of the Chaguanas District Health Facility.

The project is currently in the project planning stage and the procurement of a project manager to oversee its construction should be completed by end of the third quarter of this year.

In the circumstances, Part (b) of this question is not applicable.

Council of Pharmacy Board
(Details of Appointees)

56. Dr. Tim Gopeesingh asked the hon. Minister of Health:

Could the Minister inform this House:

- (a) When did the Council of the Pharmacy Board of Trinidad and Tobago ("The Council") inform the Minister that his two appointees to the 2008—2010 Council were required?
- (b) When did the Minister make those appointments to the Council and what caused the delay in making the appointments?
- (c) Have the said appointees attended any meetings of the Council since their appointment?
- (d) If not, why have the appointees refused to attend any meetings of the Council?

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I will answer this as well. On April 14, 2008, following the election of the Council of the Pharmacy Board of Trinidad and Tobago, the Minister was informed that two appointees to the 2008/2010 council were required in accordance with section 7(1)(a) of the Pharmacy Board Act, Chap. 59:22.

The Minister made the appointments to the council on July 09, 2008. The period between April 14, 2008, when the Minister was informed of the need to make the appointments and July 09, 2008, when the appointments were made, represents a period of three months which is not considered unreasonable under the circumstances.

The said appointees have not attended any meetings of the council to date.

The appointees have not attended any of the meetings of the council since this matter was embroiled in litigation initiated by others.

Dr. Gopeesingh: Are those appointees the Ministry of Health's appointees who have not attended the Pharmacy Board's meetings?

Hon. Imbert: Mr. Speaker, I feel like I am in the commission of enquiry. They asked me the same question five times, there too.

The said appointees have not attended any meetings of the council to date, the said appointees who are the subject of this question.

**Council of Pharmacy Board
(Non-attendance of Members at Meetings)**

57. Dr. Tim Gopeesingh asked the hon. Minister of Health:

Could the Minister state:

- (a) whether the Minister is aware that the non-attendance of his appointees to the Pharmacy Board is preventing a quorum of the Council from being constituted and the Council from meeting;
- (b) whether he is aware that the Council has not met for more than one year, since February 2008; and
- (c) what measures have and/or will be taken by the Minister to ensure that the appointees attend meetings of the Council?

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, once again, I will answer this question on behalf of the Minister of Health. As indicated in the previous answer, the meetings of the council of the Pharmacy Board of Trinidad and Tobago are adversely affected by the ongoing litigation initiated by other parties. The Ministry of Health hopes that there would be a speedy resolution of this court matter. However, it should be noted that other members of the council—and to forestall any supplementals—in addition to the appointees of the Ministry of Health are not attending any of the meetings pending the resolution of the court matter.

Dr. Gopeesingh: One question to the acting Minister of Health.

Mr. Speaker: He is not the acting Minister.

Dr. Gopeesingh: There is no quorum because of the absence of these two appointees from the Minister of Health. Can a quorum be held? That gives rise to the other members not attending. You need a quorum which includes the two appointees.

Mr. Speaker: He is giving you information.

Dr. Gopeesingh: Can a quorum be held in the absence of the two appointees of the Ministry of Health?

Hon. C. Imbert: Mr. Speaker, through you, I would love to help the Member for Caroni East, but I am afraid that I do not have the Act in front of me. Therefore, I am unable to answer that question.

DEFINITE URGENT MATTER (LEAVE)

Tuberculosis Patients

Dr. Tim Gopeesingh (*Caroni East*): Mr. Speaker, in accordance with Standing Order 12 of the House of Representatives, I hereby seek your leave to move the Adjournment of the House of today's sitting, Friday May 15, 2009, for the purpose of discussing a definite matter of urgent public importance namely, the failure of the Ministry of Social Development and the Ministry of Health to implement proper social and medical management systems to deal with socially displaced citizens who have been diagnosed with tuberculosis.

The matter is definite as it pertains to the fact that seven out of the nine remaining socially displaced patients being housed in container-like quarters at the St. Ann's Hospital have tested positive for tuberculosis. These ministries were improperly and inadequately managing the situation.

The matter is urgent because of the possible imminent spread of tuberculosis to scores of staff or all the staff and hundreds of patients at the St. Ann's Hospital, as of today and in the future, as a result of the non-transfer of these patients to Caura Hospital and no further medical management has been instituted for these infected patients who are there at St. Ann's now.

The matter is of public importance because at the St. Ann's Hospital, any one or more of the in-patients can be infected presently, as a result of the spread of the disease, in addition to workers and staff. The situation is further worsened by the absence of an adequate supply of drinking water at St. Ann's Hospital.

Thank you.

Mr. Speaker: Hon. Members, this matter does not qualify under the Standing Order.

STATEMENT BY MINISTER

**Trinidad and Tobago's Submission
(Limits of the Continental Shelf)**

The Minister of Foreign Affairs (Hon. Paula Gopee-Scoon): Mr. Speaker, this is the submission of the Republic of Trinidad and Tobago to the Commission

on the limits of the continental shelf, pursuant to the provisions of Article 76 Paragraph 8 of the United Nations Convention on the Law of the Sea. On May 12, 2009, the Republic of Trinidad and Tobago submitted to the Secretary General of the United Nations for onward transmission to the commission on the limits of the continental shelf.

The data and information required by Article 76 Paragraph 8 of the United Nations Convention on the Law of the Sea, for the alienation of the outer edge of the continental margin of Trinidad and Tobago. The delivery of the submission which took place last Tuesday at the Division of Ocean Affairs and the Law of the Sea of the United Nations Secretariat was in fulfilment of Trinidad and Tobago's obligation under the convention to submit for evaluation and recommendation by the CLCS any claim to a continental shelf beyond 200 nautical miles from the baselines from which the territorial sea is measured. Trinidad and Tobago's submission was the 49th submission received by the CLCS.

Trinidad and Tobago signed the convention when it was opened for signature in Montego Bay, Jamaica on October 10, 1982 and ratified in 1986, after the then Parliament enacted legislation to give domestic legal effect in Trinidad and Tobago to the provisions of the convention. The submission by the Government of the Republic of Trinidad and Tobago to the CLCS, in accordance with Article 76 and Annex 2 of the enclosure seeks to extend Trinidad and Tobago's continental shelf jurisdiction beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. Jurisdiction over the continental shelf therefore entails the exercise of sovereign rights in respect of the resources of seabed and subsoil.

I speak to the functions of the CLCS. The CLCS was established pursuant to Annex 2 of the convention. In accordance with this annex the 21-member commission which functions by way of sub-commissions composed of seven members is concerned only with consideration of data and other material relating to the maritime areas beyond 200 nautical miles from the baseline. The CLCS is a technical body and cannot settle legal issues. It cannot delineate the outer edge of the continental margin in any maritime space area in dispute, unless the states concerned agreed that it can proceed to delineate the outer edge of the continental margin in spite of existing disputes. It has no competence regarding maritime space within 200 nautical miles of the territorial sea baselines.

Speaking to the principal features of the submission, it locates Trinidad and Tobago as being geologically part of the South American mainland and therefore, entitled to part of the continental shelf appertaining to the South American

Statement by Minister
[HON. P. GOPEE-SCOON]

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continent. The submission establishes the geological, geophysical and morphological unity of the continental shelf stretching east and south east into the Atlantic Ocean along the shoulder of the South American mainland from Trinidad and Tobago to French Guiana. The Trinidad and Tobago outer limit line which establishes the line of demarcation where the jurisdiction of the coastal state ends and the jurisdiction of international sea bed authority begins extends from the first fixed point, located approximately 300 nautical miles east of Little Tobago to the last fixed point located more than 200 nautical miles off the coastline of French Guiana.

The Trinidad and Tobago extended continental shelf is located in a region where the extended continental shelf of Trinidad and Tobago, Barbados, Venezuela, Guyana and Suriname converge and overlap. The outer edge of the Trinidad and Tobago continental margin is located within or landward of the continental margins claimed by Guyana, Suriname and French Guiana.

In accordance with the rules of the CLCS the Government of Trinidad and Tobago consulted with the governments of Venezuela, Guyana and Suriname. Diplomatic contact was initiated with France on behalf of French Guiana. Trinidad and Tobago is able to represent to the CLCS that there is no dispute in respect of the maritime areas traversed by its extended continental shelf claim.

I now address the preparation of the submission, the chronology and institutional arrangements. In July 2007, Cabinet decided that Trinidad and Tobago should submit a claim to the CLCS pursuant to Article 76 and Annex 2, in order to extend this country's continental shelf jurisdiction beyond 200 nautical miles, from the baselines from which the breadth of the territorial sea is measured.

From January 14—18, 2008, Trinidad and Tobago co-hosted with the United Nations, a training course for particular Caribbean countries for delineation of the outer limits of the continental shelf beyond 200 nautical miles and preparations of submissions to the commission on the limits of the continental shelf.

In May 2008, the commission of the limits of the continental shelf unit is established in the Ministry of Foreign Affairs to prepare the submission to the CLCS.

2.00 p.m.

In July 2008, a ministerial oversight committee, chaired by the Minister of Foreign Affairs, including the Attorney General and the Minister of Energy and Energy Industries, was appointed to oversee the preparation of the submission to the CLCS.

With regard to methodology, the Government found it necessary to conduct a seismic and bathymetric survey on part of the Trinidad and Tobago extended continental shelf, in order to gather data needed in preparation of the submission for presentation to the CLCS. The results of the geomorphological/geological/geophysical and hydrographic data and information collected and analyzed showed definitively that the natural prolongation of the land territory of the Republic of Trinidad and Tobago does extend beyond 200 nautical miles. The data also revealed that both the distance constraint, that is 350 nautical miles from the baselines, and the depth constraints, 100 nautical miles from the 2,500 metre isobaths, are relevant for the delineation of the outer limit of the continental shelf in the maritime area of interest to Trinidad and Tobago; and that Trinidad and Tobago has made an important contribution to the development of the law of the sea related to the continental shelf. The Gulf of Paria was the geographical area in respect of which, on February 26, 1942, the United Kingdom and Venezuela signed the historic treaty that delimited the submarine areas of the Gulf of Paria. This treaty to which Trinidad and Tobago succeeded on Independence in 1962, was the very first bilateral agreement ever signed by any two states regarding the delimitation of the seabed and subsoil beyond the territorial sea.

What does all of this mean to Trinidad and Tobago? What does the submission mean? The recommendation by the Commission on Trinidad and Tobago's submission would confirm the delineation of the outer edge of Trinidad and Tobago's continental margin. It would also provide the international legal framework or the exercise of sovereign rights by Trinidad and Tobago in the management of the continental shelf for present and future generations. The recommendation by the Commission would allow this country, after delimiting the maritime areas that overlap in other coastal states in the area, to exploit the natural resources of the seabed and subsoil beyond 200 nautical miles from the territorial sea baselines for the continued development of Trinidad and Tobago.

A very significant proportion of the economic activity generated in Trinidad and Tobago today is derived from the exploitation of the mineral resources of the continental shelf around Trinidad and Tobago. A significant proportion of the wealth enjoyed in the society and economy has its origin in the exploitation of the natural resources of the continental shelf.

The recommendation of the Commission on Trinidad and Tobago's submission would permit this country greater access to the resources of the continental shelf beyond 200 nautical miles from the territorial sea baselines for the continued development of the economy of Trinidad and Tobago. Trinidad and Tobago's continued growth and development is inextricably connected to the sea.

Statement by Minister
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The Trinidad and Tobago's submission will be included for consideration in the provisional agenda of the 25th Session of the Commission to be held in New York in March/April 2010. The Government of Trinidad and Tobago is confident of a favourable outcome not too long thereafter.

In conclusion, submissions by eligible states such as Trinidad and Tobago to the CLCS are important for the international community, because this process helps states party to uncloseto advance to the day when the boundaries of national jurisdictions will be clearly demarcated from the area of the seabed, that is beyond national jurisdiction and, therefore, under the jurisdiction of the control of the International Seabed Authority as the common heritage of mankind. These submissions are important for the coastal states themselves, because once the recommendation of the CLCS is made, the coastal states concerned can then proceed to delimit among themselves the overlapping maritime entitlements.

Approval by the Commission of the recommendation of the submission on the outer limits of the continent shelf of a coastal state requires the majority of two-thirds of Commission members present and voting. The actions of the Commission shall not prejudice matters relating to the delimitation of boundaries between states with opposite or adjacent coasts. The recommendation of the Commission shall be submitted in writing to the coastal state, which made the submission and to the Secretary General of the United Nations.

The Government of Trinidad and Tobago is confident that after the requisite examinations of Trinidad and Tobago's submission, the Commission will make a recommendation which would allow Trinidad and Tobago to extend its continental shelf jurisdiction beyond the 200 nautical miles from the baselines, from which the breadth of the territorial sea is measured. Trinidad and Tobago would then be able to exercise sovereign rights jurisdiction over the extended continental shelf, including the right to explore and exploit the mineral and other non-living resources of this marine area.

In closing, as to Vision 2020, the governance pillar in Vision 2020 has as one of its targets for which the Ministry of Foreign Affairs has been given responsibility, the defining of the maritime boundaries of the Republic of Trinidad and Tobago. The submission and recommendation that will ensue from the Commission will lead to the definition of the boundary between the jurisdiction to the exercise by Trinidad and Tobago and the jurisdiction to the exercise by the International Seabed Authority over the area that is regarded as the common heritage of mankind.

Mr. Speaker, I thank you.

PROCEEDS OF CRIME (AMDT.) BILL

Order for second reading read.

The Minister of National Security (Sen. The Hon. Martin Joseph): Mr. Speaker, I beg to move,

That a Bill to amend the Proceeds of Crime Act, Chap. 11:27, be now read a second time.

I rise to present the Proceeds of Crime (Amdt.) Bill to this honourable House. This is one of three pieces of legislation drafted to institute a comprehensive regime to deter and detect all forms of money laundering and to provide for the confiscation of the proceeds from illicit activities.

The second is the Financial Intelligence Unit Bill, which is before this honourable House. The third is the Financial Obligations Regulations, which will be presented to this honourable House in due course.

Trinidad and Tobago, as a signatory to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, commonly referred to as the Vienna Convention, is obligated to enact legislation for several purposes, including the countering of money laundering.

The Proceeds of Crime Act, (POCA) 2000, was one of the items of legislation enacted in furtherance of these Treaty obligations. POCA was debated in this very Parliament and was assented to October 27, 2000 and proclaimed on November 06, 2000. Since POCA has been in operation, money laundering methods and techniques have become more sophisticated in response to the development of countermeasures. These changes have been met with several international initiatives. One such international initiative is the United Nations Convention Against Transnational Organized Crime, to which this country became a signatory on September 26, 2001.

Specific reference is made to Article 7 of this Convention which calls upon states to:

“institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer identification, record-keeping and the reporting of suspicious transactions.”

Another such international initiative is found in the operations of the Financial Action Task Force, commonly referred to as FATF, to which I would refer in my presentation. The FATF is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing.

Forty recommendations were initially developed by FATF in 1990, as an initiative to combat the misuse of financial systems by persons laundering drug money and were revised for the first time in 1996.

In October 2001, the FATF expanded its mandate to deal with the issue of the financing of terrorism and took the important step of creating special recommendations on terrorist financing.

In response to increasingly sophisticated combinations of money laundering techniques, such as the increased use of legal persons to disguise the true ownership and control of illegal proceeds and an increased use of professionals to provide advice and assistance in laundering criminal funds, FATF again reviewed and revised the 40 recommendations in 2003, into a new comprehensive framework for combating money laundering and terrorist financing. The new FATF recommendations are now known as the 40 + 9 recommendations.

These recommendations cover all the measures that national systems should have in place within their criminal justice and regulatory systems, the preventative measures to be taken by financial institutions and certain other businesses and professions and measures to ensure international co-operation.

FATF 40 + 9 special recommendations have been recognized by the International Monetary Fund and the World Bank as the international standards for combating money laundering and the financing of terrorism.

Although Trinidad and Tobago is not a member of FATF, we are nevertheless required to implement the 40 + 9 recommendations by virtue of our membership in the Caribbean Financial Action Task Force, commonly referred to as CFATF.

CFATF is an associate member of FATF and is an organization of 30 states and territories of the Caribbean. It was established as the result of meetings convened in Aruba in May 1990 and Jamaica in November 1992. Members of CFATF have agreed to implement common countermeasures against money laundering from a regional perspective.

Just for the information of the honourable House, the countries that make up CFATF are: Anguilla; Antigua/Barbuda; Aruba; Bahamas; Barbados; Belize;

Bermuda; British Virgin Islands; the Cayman Islands; Costa Rica; Dominica; Dominican Republic; El Salvador; Grenada; Guatemala; Guyana; Haiti; Honduras; Jamaica; Montserrat; Netherland Antilles; Nicaragua; Panama; St. Kitts & Nevis; St. Lucia; St. Vincent and the Grenadines; Suriname; Trinidad and Tobago; Turks and Caicos Islands and Venezuela.

In November 1996, 21 members of CFATF, including Trinidad and Tobago, entered into a memorandum of understanding which now serves as the basis for the goals and work of CFATF. In this memorandum of understanding, CFATF members agree, inter alia, to adopt and implement the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and to endorse and implement the 40 recommendations of FATF. The CFATF has called upon all member countries to take the necessary steps to bring their national systems for combating money laundering and terrorist financing into compliance with the FATF recommendations and to effectively implement these measures.

2.15 p.m.

Mr. Speaker, the Mutual Evaluation Programme is the primary instrument by which CFATF monitors progress made by member countries in implementing the FATF recommendations. Each member country is examined in turn by the CFATF on the basis of an on-site visit conducted by a small team of experts in the legal, financial and law enforcement fields from other member countries. The purpose of the visit is to draw up a report assessing the extent to which the evaluated country has moved forward in implementing an effective system to counter money laundering and terrorist financing, and to highlight areas in which further progress may still be required.

An evaluation was carried out on Trinidad and Tobago in 2005. The Mutual Evaluation Report which documented the results of that evaluation was presented and adopted at the XXV Plenary of CFATF which was held from May 07—May 10, 2007. The findings of the report indicate that Trinidad and Tobago is compliant with only one of the 40 recommendations, largely compliant with six, partially compliant with 13 and non-compliant with 20. The eight special recommendations on combating terrorist financing were also rated as non-compliant. Even though I talked about 40 + 9, here I am talking about eight, because the ninth recommendation of terrorist financing came on board after the evaluation was done on Trinidad and Tobago. The principal reason for the non-compliant rating of Trinidad and Tobago is the absence of legislation, regulations or other enforceable means to give effect to the requirements of the recommendations.

Proceeds of Crime (Amdt.) Bill
[SEN. THE HON. M. JOSEPH]

Friday, May 15, 2009

Mr. Speaker, Trinidad and Tobago, as a member of CFATF is obligated to implement the 40 recommendations of FATF, and its nine special recommendations on terrorism. It is against this background that the Government of Trinidad and Tobago now seeks to enact the Proceeds of Crime (Amdt.) Bill, 2009.

Mr. Speaker, please allow me to take you and hon. Members through the salient parts of the Bill. The long title of the Bill is being repealed at clause 3, and is now being replaced with a long title that is more appropriate to the intent of the Act which will result from the amendments. The long title will now read, “An Act to establish the procedure for the confiscation of the proceeds of certain offences and for the criminalizing of money laundering”.

In clause 4, there are several significant definitions. Clause 4(a) of the Bill proposes that the definition of “Designated Authority” be substituted for the following definition:

“FIU” means the Financial Intelligence Unit of Trinidad and Tobago established under section 3 of the Financial Intelligence Unit of Trinidad and Tobago Act, 2009.”

The Act is to come, and because of the inter-relatedness of the legislation, they are interrelated. So, we are dealing with Proceeds of Crime (Amdt.) Bill (POCA) and the Financial Intelligence Unit Bill will be coming immediately. Mr. Speaker, because of the inter-relatedness of the pieces of legislation—the Financial Intelligence Unit Bill together with the Proceeds of Crime (Amdt.) Bill 2009—it is for this reason we refer in this clause to the Financial Intelligence Unit Act, 2009.

This new term “FIU” is intended to correct a deficiency in the existing Act, which establishes the “Designated Authority” as a single individual. Recommendations of FATF require the “Designated Authority” to be established as a unit.

Administrative arrangements that are currently in place have not been given effect to any legislative framework. The existing Designated Authority is not a formal structure, but undertakes the responsibilities recommended by the FIU by FATF. It is essential, therefore, that a body be formally established and named the FIU.

Recommendation 27 of FATF expressly requires a highly trained or specialized investigative body with responsibility for investigation of money laundering offences. FATF further recommends that the investigative body be included in legislation. This is the purpose of the extended definition of “police officer” in clause 4(d) of the Bill.

Clause 4 of the Bill amends section 2 of the POCA to provide a new definition of the words “specified offence”. The amendment by clause 4 is necessary to satisfy part of recommendation 1 of FATF, which states that countries should apply the crime of money laundering to all serious offences, with a view to including the widest range of predicate offences. The effect of this recommendation is that Trinidad and Tobago is required to extend its definition of the term “specified offence”.

The Government is proposing to do this firstly by applying the law to all indictable offences from which the proceeds of crime may be derived. Secondly, by extending it extraterritorially in the sense that the law, when enacted, would also apply to a specified offence committed outside of Trinidad and Tobago. We are retaining the offences listed in the Second Schedule of the Act, hence the definition of the term “specified offence” would consist of three components.

It would include all indictable offences from which proceeds may be derived, whether committed in Trinidad and Tobago, or outside of Trinidad and Tobago, and the offences in the Second Schedule which fall under the Income Tax Act, Chap. 75:01, the Corporation Tax Act, Chap. 75:02, the Value Added Tax Act, Chap. 75.06 and the Copyright Act, Chap. 82:80.

This clause will also delete subsections (6) and (7) of the said section 2 of the Act. You will note that these two provisions are not definitions; they are procedural provisions and, therefore, are placed more appropriately in section 10 of the Act.

Clause 4(f) of the Bill also deletes the definition of the word “security” and substitutes a new definition. The new definition widens the scope of the old definition and brings the Act into accord with the definition of security which is now found in the Financial Institutions Act, 2008.

Clause 5 of the Bill deletes the terms “Designated Authority” and “person engaged in relevant business activity” wherever they occur and substitute the acronym “FIU” and the words “listed business” respectively.

This amendment satisfies recommendations 26 to 32 of FATF, which provide that countries should establish a FIU that serves as a national centre for the receiving, requesting, analysis and dissemination of suspicious transaction/activity reports and other information regarding potential money laundering or terrorist financing. The effect of this recommendation is that the FIU is now the institution charged with these responsibilities as required under the FATF recommendations.

This Bill widens the range of business that is under an obligation to keep records and to disclose suspicious transactions to the FIU. Mr. Speaker, “listed

business” in the Bill is defined as a business or profession in the First Schedule to the Act and includes real estate, motor vehicle sales, money or value transfer services, gaming houses, an accountant, an attorney at law or other independent legal professionals, national lotteries, pool betting and online betting games.

Mr. Speaker, at clause 6, the opportunity is being taken to introduce certainty in the law as it applies to the jurisdiction of the magistrate in dealing with the specified offence. Section 110 of the Summary Courts Act, Chap. 4:20 provides inter alia as follows:

“The Court may order the seizure of any property which there is reason to believe has been obtained by, or is the proceeds of, any summary offence, or into which the proceeds of any summary offence have been converted, and may direct that the same shall be kept or sold, and that the same, or the proceeds thereof if sold, shall be held as it directs, until some person establishes, to its satisfaction, a right thereto.”

When POCA was enacted, clearly it was intended that decisions on proceeds of all specified offences would not be taken by the magistrate. It was intended that the magistrate would, in accordance with section 3 of the Act, send all such matters to the High Court for its determination.

In the absence of any amendment to the Summary Courts Act, both provisions being co-existent, some confusion arises as to the magistrate’s jurisdiction in respect of specified offences. Mr. Speaker, this Government is of the view that a magistrate’s jurisdiction should be made very clear in statute to avoid any challenges of this nature.

We are, therefore, proposing an amendment to clause 6, which would ensure that a magistrate can convict a defendant for the commission of a specified offence, but decisions on questions relating to the proceeds of such an offence must be addressed by the High Court in accordance with the provisions of POCA.

Clause 18 amends section 38 of the Act, which provides for the seizure and detention of cash by a senior customs officer on duty at a port, or by a police officer of the rank of sergeant or higher on duty at any place if there are reasonable grounds to believe that the cash is the proceeds of crime. The amendment seeks to insert the correct title of the senior customs officer on duty. The section would now refer to the Customs and Excise Officer of the rank of Grade III or above, in the same manner in which the rank of police officer is identified in the existing section.

Clause 20 inserts a new section 42A. The proposed new section 42A(1) creates the offence of money laundering. This provision would satisfy FATF's requirement for a definition of "money laundering" in the Act. The proposed subsection (2) stipulates that money laundering is an indictable offence.

Mr. Speaker, money launderers manipulate their illicit proceeds in an effort to conceal or disguise their true source and movement, with the ultimate objective of integrating these proceeds into and through the legitimate economy.

Through the proceeds from illicit activities, the drug dealers, the terrorists, the arms dealers, just to name a few, are able to expand their criminal activities. In clothing these illicitly received gains with apparent legitimacy, these criminal elements are able to manipulate financial systems and erode the integrity of a country's financial system. Recognizing the damning effects of money laundering, the Government through this Bill is sending a strong signal that money laundering is an offence of a serious nature and is to receive the highest form of censure.

Mr. Speaker, just an aside. When we entered into talks with the Opposition sometime ago, which is commonly referred as "the crime talks", one of the matters raised by the Opposition on numerous occasions was the ability to what they referred to as "trace the money". They said that in the absence of the ability to "trace the money", we are going to continue to put the country in a compromising position. This now represents a major step in the ability to "trace the money", using the quotation used by those on the other side.

Clause 21 amends section 43 of the Act to delete the reference to "drug trafficking" and substitute the words "specified offence". This amendment is being effected in order to foster consistency with the definition of specified offence, thereby giving effect to the purposes of the Act. Corresponding amendments to delete references to drug trafficking throughout the Act are found at clauses 22, 23, 24 and 25.

2.30 p.m.

Clause 26 amends section 51 of POCA by deleting subsections (7) and (8). At subsection (7), there is a definition of "money laundering" but no offence was created. Now that the offence is being created in clause 16, that definition is unnecessary.

Section 52 of POCA is amended by deleting paragraph (c), which formerly provided that a person was guilty of an offence if he did not disclose the information or other matters to a police officer. Clause 27, by amending section 52, allows the report to be made to an FIU agent and is consistent with ensuring that the FIU is part of the reporting process as recommended by FATF.

Clause 29 of the Bill amends section 55 of the Act to require a financial institution or listed business, where it suspects or knows that funds are the proceeds of a specified offence, to report that knowledge or suspicion to the FIU on the prescribed form within 14 days of the date the transaction was deemed to have been known to be suspicious.

The purpose of this amendment is to introduce the element of knowledge or reasonable suspicion into the provision. As the provision now stands, reporting may be made without this requirement in the law. Reporting of suspicious activity may have serious consequences and therefore, arbitrary reporting is being discouraged.

Mr. Speaker, as you may be aware, there are anti-money laundering guidelines in existence in Trinidad and Tobago. It has been noted by CFATF that the Central Bank of Trinidad and Tobago (Bank) Guidelines on Combating Money Laundering and Terrorist Financing were largely adhered to by the institutions supervised by the bank. However, our country was still rated as non-compliant as these guidelines were not legally enforceable but were met through the use of moral suasion.

It would appear, that on the enactment of POCA, consideration was not given to the full range of obligations that this country was required to implement in order to satisfy the recommendations of the Financial Action Task Force. Alternatively, if such consideration was given, the intention may have been to enact these obligations by other pieces of legislation.

Mr. Speaker, when we prepared regulations to give effect to the full range of obligations, section 56, which empowers the Minister of Finance to do so, could not accommodate what was required.

Thus, it is essential that clause 30 delete and substitute subsection (1) of section 56, to expand the scope of regulations which could be made under that section of the Act. The amendments to this section are therefore intended to ensure that the regulations that the Government intends to bring to this House are not ultra vires the Act.

This clause would also amend subsection (2)(a) of the said section 56 of the Act, to delete the word "affirmative" and substitute the word "negative" thereby providing for these regulations to be subject to the procedure of the negative resolution of Parliament. The rationale for this amendment has its basis in the dynamic nature of the offence of money laundering and the need for a procedure by which response to the need for regulations can be instant.

Mr. Speaker, we acknowledge the need for parliamentary oversight, and this amendment seeks to balance this need with the reality of the ever-changing climate of cross-border international crime.

Clause 31 would amend section 57(1), to provide a penalty for breach of regulations made under section 56. Section 63 of the Interpretation Act, Chapter 3:01, provides that where no penalty is provided in an Act for breaches, only a minimum penalty can be imposed.

Clause 32 amends section 58 of the Act and inserts a new subsection (3A). This clause seeks to empower the Attorney General to enter into an agreement with any foreign state on behalf of the Government of Trinidad and Tobago for reciprocal sharing of the proceeds of property confiscated, forfeited or seized either under this Act or by the foreign state. This clause satisfies the FATF recommendation for the sharing of confiscated assets between or among governments.

The recommendations of FATF require the assignment of a supervisory authority with responsibility for ensuring compliance with the provisions of the Act. In the larger developed countries most categories of listed businesses are regulated by legislation. In the context of the smaller developing countries such as ourselves, this is not the case.

We have approached CFATF to seek assistance in establishing a comprehensive regime for identifying supervisory authorities and creating the necessary legislation, which would regulate the listed business. Pending the response to our request, the Government has implemented a temporary measure at clause 33, which would provide for the FIU to perform the functions of the supervisory authority.

Clause 34 would provide for the deletion and substitution of the First Schedule of the Act.

Mr. Speaker, as we now know, the POCA will apply to all financial institutions as defined in section 2 of the Act and to the proposed listed business to be included in the First Schedule of the Act. We have been advised that the implementation of the Act in relation to these listed businesses is challenging. Under the existing Act, several categories of relevant business activities have been included, but identifying them in accordance with enabling legislation or defining them properly in accordance with current business practices has not been possible in all cases.

The Government seeks to remedy this situation by the proposed new First Schedule. This schedule would provide an interpretation of "listed business" that would assist in identifying those businesses to which the Act would apply and therefore facilitate its implementation.

Proceeds of Crime (Amdt.) Bill
[SEN. THE HON. M. JOSEPH]

Friday, May 15, 2009

Mr. Speaker, this Government recognizes that the Proceeds of Crime Act is a highly technical item of legislation and that many of its provisions represent serious challenges in their administration. However, the Government of Trinidad and Tobago, as a responsible Government, has exercised an option to comply with its international obligations.

Financial markets worldwide are undergoing a phase of dynamic development, which demands that there be a solid regulatory framework allowing for financial stability and market integrity. Money laundering is a grim reality that destabilizes financial institutions, private sector enterprises and a country's economic development.

Failure to comply, at this time, with the recommendations of the FATF will result in dire consequences for the financial sector of this country and will place Trinidad and Tobago in the unenviable position of being among the few countries upon which the ultimate financial sanctions have been imposed.

In recognition of the gravity of the consequences, this Government is seeking to ensure that vulnerabilities are diminished or better yet, eradicated. To do so, there must be effective regulating, monitoring and management of financial institutions and businesses that can be susceptible to illegal activity.

This Government's efforts dovetail into our vision for financial services in Trinidad and Tobago. By the year 2020, we would have done all that was necessary to ensure that Trinidad and Tobago is recognized as the pre-eminent financial centre in the Caribbean and Latin America.

This Government is cognizant of the fact that various actions must be undertaken to achieve these goals. It is for this very reason that we now bring before this honourable House the Proceeds of Crime (Amdt.) Bill, 2009, which seeks to incorporate into our domestic legal and financial framework, policies and international standards to combat money laundering and to confiscate the proceeds of illicit activities.

Mr. Speaker, having regard to the foregoing submissions, I commend the Proceeds of Crime (Amdt.) Bill, 2009 to this honourable House, and I beg to move.

Mr. Speaker: Gentleman, stay right there.

Question proposed.

Mr. Subhas Panday (*Princes Town North*): Thank you very much, Mr. Speaker. I see you had to pull up the next DPP. [*Crosstalk*] Mr. Speaker, when I

look at the legislation before us, there is one thing I could agree with the hon. Minister, that this is technical legislation and it is very dry and drab.

I read all the *Hansard* of the Proceeds of Crime Act in 2000 and everyone complained in the proceedings, of the highly technical nature of the Bill. Before I embark upon my contribution, I have noted in this legislation at section 42 of the parent Act, it has given the President certain powers. Section 42 of the parent Act says:

“The President may direct that anything forfeited under section 38 to 41...”

That is money, goods or whatever.

“of this Act other than a dangerous drug be restored...”

And that is restored to the owner.

“on such terms and conditions that he thinks fit.”

The new amendment now goes further. At clause 8, which amends section 10 and I refer. It says:

“Section 10 of the Act is amended...”

When one looks at subsection 10(d)(iv), it grants the President the power to pardon persons in respect of these serious crimes, which the Minister spoke about.

In those circumstances, the President is given very wide discretions, which will involve plenty of money, and which could impact upon the society, and I humbly submit that this House under Standing Order 90, suspend Standing Order 36(8), because the President has been given so much power, it is necessary for us to discuss the activities of the parent Act as it relates to this Act. [*Desk thumping*]

In these circumstances I humbly move that this honourable House suspend Standing Order 36(8), so that we may discuss—because the President has so much discretionary power, I think we are passing legislation and we ought to discuss the function of the President as it relates to this Bill.

So, Mr. Speaker, I humbly move that this honourable House suspend the Standing Order 36(8) pursuant to Standing Order 90.

I beg to move, Mr. Speaker.

Mr. Speaker: I do not know what you are begging to move, you know. [*Laughter*] I am not sure whether you would get a response from the Government Benches. If the Government is going to respond, I would take my seat, but I get the impression that they are not going to respond to you, so may I ask you to continue.

Mr. S. Panday: I wonder if they do not want me to respond because the Standing Orders are so archaic. It is a 1961 Standing Order, which speaks about a majesty or the governor general, and since the President is a creature of statute and he is not covered by the Standing Orders, maybe he is not included in the Standing Orders, and I am permitted in those circumstances, as a matter of right, that I discuss the activities of the Speaker. [*Laughter*]

2.45 p.m.

Mr. Speaker: Hon. Member, I think you know better than that.

Hon. Member: What are you trying?

Mr. S. Panday: How do you mean what I am trying? The President is a creature of statute. These Standing Orders are 1961 Standing Orders. These Standing Orders were designed specially for Her Majesty. Do you know why, Mr. Speaker? They said you must not call Her Majesty's name in the Parliament because Her Majesty or the queen can do no wrong because the queen does not do anything. That is why you should not call the queen's name in the Parliament, she does no wrong because she does nothing and the Governor General was the representative of the queen.

We are under Republican Constitution and we created the post of a President under the Republican Constitution and in that Constitution it gave the President discretionary powers, so it is different from the queen and in the circumstances the law society, everybody in Trinidad and Tobago and every dog and cat on the streets in Trinidad and Tobago could discuss the action of the President and you mean to say, Mr. Speaker, we are interpreting an old, archaic and colonial Standing Order to prevent the Members of this House, the representatives of the people in the Parliament, in the highest forum in the Parliament from discussing matters of national interest. [*Desk thumping*]

Mr. Manning: [*Inaudible*]

Mr. S. Panday: Pardon me, Mr. Prime Minister.

Mr. Manning: [*Inaudible*]

Mr. S. Panday: Okay, when you all take the Member for Siparia to the Privileges Committee we will deal with you at that time. [*Interruption*] These are two sections which really confront us in our face, because that is all the highfalutin language the hon. Minister spoke about, he did not touch a fundamental issue which will affect the society. You are saying that in the Act under section 42:

“The President may direct that anything forfeited under section 38 to 41 of this Act other than a dangerous drug be restored on such terms and conditions as he sees fit.”

Now, what madness!

Mr. Manning: How many times are you going to make that point?

Mr. S. Panday: How do you mean, Mr. Prime Minister? What is the criteria that office holder—I will not use the word “President”—uses to return to persons moneys which have been confiscated, goods which have been confiscated? Will that be done privately? Who will get away and who will not get away? I humbly submit—

Mr. Manning: [*Inaudible*]

Hon. Member: He is disturbing you? He is disturbing your sleep?

Mr. S. Panday: If the Prime Minister wants to sleep, I will speak softly. [*Laughter*]

We cannot give one person and one office, Mr. Prime Minister, such important function. I would humbly submit, it says in sections 38 to 41 of the Act that notwithstanding section 110 of the Summary Courts Act that a magistrate can confiscate proceedings or the proceeds from proceeds of crime. Therefore, what happens is that the magistrate will hear the evidence and the magistrate will confiscate the proceedings—

Mr. Manning: The proceeds, boy. [*Laughter*]

Mr. S. Panday: Okay, “Mr. breakfastes”, I apologize to you. [*Laughter*] You have a court and a court has heard the evidence, having convicted the person then the DPP will move in and decide whether a complaint should be laid before the magistrate to confiscate the proceeds of the offence. Therefore, it is a judicial situation where you will hear evidence, you will have the defence in place, you will have legal arguments—and this Act is saying, although you have heard the evidence and a case has been proven, it may be on a civil standard, on balance of probability, it is not the criminal standard but the burden of proof is on a similar standard.

When that magistrate says, that is confiscated; you are saying, somebody here could write the President and ask the President to return that to me. I do not know if they want to hold on to this because of the fiasco that has taken place at Clico, where there are persons who allegedly have benefited from illegal acts like insider trading was alleged, that persons from Clico have purportedly benefited from illegal acts may be able to go to the President and get theirs. But when you have a member of the public who is poor and does not have the right contacts, they might not have that facility.

What I humbly submit, is that what we should have done, is that in the event that the person wishes to have the proceeds returned maybe there is an appeal process or you set up a tribunal consisting of legal persons, people who know the law; not people who do not know what is a person in public life, but people who know the law, people who analyze the law and then you go into mitigating circumstances and then if there are mitigating circumstances then a court could return the proceeds. Why are we giving that to the President? Why? The hon. Member spoke about we are trying to fulfil international obligations, I wonder if he could tell us whether in other jurisdictions that power to give back, to return to persons the proceeds from money laundering, and the office which will return that is the President. Something is wrong!

Having regard to the development in the recent past, a week or two ago, one wonders if now is not the time that we should really review this piece of legislation and in particular section 42 of the Proceeds of Crime Act. I do not know what is happening in that it says here under clause 8, it speaks about section 10 of the Proceeds of Crime Act and what does section 10 say? Section 10 says that after you have convicted the person for a money laundering offence:

“(a) an order made by a court under this Part is referred to as a ‘confiscation order.’”

That is after the person has been found guilty of a money laundering offence then you get a confiscation order. It says:

“(b) a person against whom proceedings have been instituted for an offence to which this part applies (should be called a) defendant.’

What has the amendment done? What the amendment has done, it says in relation to section 10:

“(a) deleting the word “and” at the end of paragraph (a);

(b) deleting the full stop at the end of paragraph (b) and substituting a semicolon; and

(c) inserting”—

So when it goes in the law it is insert in section 10 what it says:

“inserting after paragraph (b) the following new paragraphs”

And it says and I quote the new section 10 of the Act will read as follows:

“proceedings for a offence are concluded on the occurrence of the following events—”

Hear what we are doing: discontinuance of the proceedings, acquittal of the defendant, quashing of a conviction for an offence where no retrial is ordered and a grant of the President's pardon in respect of the offence.

Hon. Member: He has gone back to the President again.

Mr. S. Panday: Yes, that is why we are saying this Act gives the President so much discretionary powers that we need to review it. The grant of the President's pardon in respect of the offence—or, the court's sentencing or otherwise dealing with the defendant in respect of the offence.

“The satisfaction of a confiscation order made in proceedings by payment of the amount due under the order or by the defendant serving imprisonment...”

I would like the Minister to respond, why are we expressly saying in such serious legislation which is affecting—well—money laundering, drug offences, et cetera, which affects the fabric of this society, which deals with corruption, which deals with dealing in drugs; why are we expressly putting into this legislation that the proceedings can be concluded on the occurrence of the following events, the grant of the President's pardon in respect of an offence? I find that is dangerous, because under the general law the President already has that power to grant pardon for certain offences.

Why? Do you all want to protect Calder Hart? Why are you asking that the President return the money from money laundering to persons who have been convicted? Do you want to protect persons who spend a large amount of state money and who are known to be in corruption, and who, if they are found guilty in a court of law, be it the Magistrate's Court or be it the High Court that you are saying in the face of that you want the President to return the proceeds? Something has to be wrong! At the same time you are saying that you are going to determine the proceedings of confiscation because this Bill here is about confiscation of the proceeds of drug trafficking or money laundering, and you are granting the President that power to pardon somebody.

It is clear that the PNM knows what they are doing and there are certain persons they want to protect. Although the hon. Minister said here today, “oh, we want to comply with international obligations”, when you read the legislation and you read between the lines, like the integrity legislation, they have taken steps to undermine the integrity legislation to protect certain people, those persons in companies, and here they are doing the same thing, in-between they are slipping in sections here and there to undermine the legislation. [*Desk thumping*]

So this Government is not genuine. You are not genuine when you come here and you pontificate that you are going to 2020 vision, [*Interruption*] because the President has the power to pardon under the general law. There are many persons—I know there are many persons who are convicted of minor offences, not offences serious like these offences for which you have to pass a whole Act—things like assault and battery—and they apply to the President for a pardon so that their criminal records may be wiped off so they have a clean slate to start life again. Mr. Speaker, I want to tell you, from my own experience, about 99 per cent of those persons, especially small, poor, unknown persons, whether you are from Laventille, Penal or Princes Town, they never get through.

3.00 p.m.

Mr. Speaker, since the President's action cannot be questioned in any court, those persons, without having the right to be heard, are condemned to the dustbin of the society. But here we are giving the President power to pardon in respect of this serious offence.

What is the rationale behind it? Do you not think that the law should be explained? The Minister should have told the population what criteria the President will use to grant this pardon. [*Desk thumping*] Will he give it *vaille que vaille*? Will it be given to the members of the cocktail circuit, or the chairmen of boards and the majority of persons in Trinidad and Tobago will be excluded? We want to know, and we would like the Minister to explain to us today what criteria will be used by the President.

First of all we are saying that the President should not be given that function, because it is a discretionary one, the President is not answerable to any court and that is like a binding decision which cannot be challenged. So in those circumstances, it should not be given to the President. I humbly submit that a tribunal should be set up comprising of judges, social workers and persons from NGOs who have their feet on the ground, who will not make a *faux pax* runaway and do not care what happens, but who is here with our people and can understand the pain and suffering of a small boy who may take a little pull on a joint and loses his whole life.

We want to have persons who are from a wide spectrum of the society to make those decisions and that group should be the one to exercise that function. Not only that, we as a Parliament—this is people's money—is the place to protect the welfare of the people and oversee the society, and as such, we are demanding today that the Government tells us before this debate is over what criteria should be used by the President or any body or organization.

Mr. Manning: Is that the only place where it exists?

Mr. S. Panday: We are afraid of Calder Hart getting away under this. When the Uff Commission is making such serious allegations against Calder Hart and UDeCott, the Prime Minister went on the Waterfront to hug Calder Hart saying: “Oh, he is in my heart.” “Calder Hart in yuh heart.” That is why we are afraid this legislation has ulterior motives.

At the PNM Convention, the Chairman of the National Insurance Board, Chairman of NIPDEC, Chairman of the Home Mortgage Bank, and the Chairman of UDeCott were in the front seat. Is this legislation to protect the “PNM boys”? We must know, we need to know what criteria will be used.

Mr. Speaker, that was the reason I was asking you to give me an opportunity to deal with it, but I will bow to your ruling and will not mention it at all.

Mr. Speaker, I do not want to breach sections 36(5) or 36(7) of the Standing Orders, but this has been the most incompetent Minister we have ever seen. I find it strange that this Minister will pilot this piece of legislation about money laundering and drug trafficking when the murder rate has increased more than 200 per cent under him. This Minister should not have the gall to come here and pontificate. The murder rate is now 202 in less than five months.

What has been the history under him? In 1999, there were 99 and as time went on you see a progression under this Minister and today he will come and pilot this legislation. [*Interruption*]

Mr. Speaker, I do not know if the Minister read the Crime Act. I ask the hon. Minister if he read the Bill before the House. The Bill says it will:

“(a) enable Trinidad and Tobago to achieve a higher compliance...on Money Laundering and the Nine Special Recommendations on Terrorist Financing...;”

I ask the question: Where in the 32 clauses of this Bill which has amended the Act 61 sections, do we have anything about terrorist financing? When the hon. Minister spoke about this Government signing the Vienna Convention and when the mutual evaluation body came here, it produced a report which we spoke about; the report was the Mutual Evaluation Detail Assessment Report on Anti-Money Laundering on Combating or Financing of Terrorism.

Although there were nine recommendations, how many did the Government of Trinidad and Tobago implement? This is innocuous; it is neither here nor there,

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it does not change anything, it does not change the philosophy, it is really editorial and before I go on to that, let me go to the amendment to show you.

This is what they took nine years to try to amend. In clauses 21, 22, 23, 24, 25; delete the words “drug trafficking” from these sections. In clauses 43, 44, 45, 46, 47 and 50, it goes on again.

“Section 8 of the Act is amended—

- (a) in subsection 4(b), by deleting the words ‘(4)(b)’ and substituting the words ‘(3)(b)’; and
- (b) in the second line of subsection (5) by deleting the word ‘(7)’ and substituting the word ‘(6)’.”

“9. Section 12 of the Act is amended—

- (a) in subsection (6), by deleting the words ‘10(2)’ and substituting the words ‘11(2)’; and
- (b) in subsection (7)(b) and subsection (8) by deleting the words ‘10(2)(b)’ and substituting the words ‘11(2)(b)’; and
- (c) deleting the words ‘10(2)(b)’ and substituting the words ‘11(2)(b)’.

10. Section 15 of the Act is amended in subsection (9), by deleting the words ‘5(2)’ and substituting the words ‘5(3)’.”

So when the Member for D'Abadie/O'Meara asks if we are supporting it, they have done nothing. They are asking to substitute one section and add another section. There is no change in the philosophy. [*Interruption*]

Mrs. Nunez-Tesheira: There is a change in the definition of money laundering.

Mr. S. Panday: That does not change the philosophy of the Bill and I will come to that in a minute. So one will see that although the long title says:

“An Act to establish the procedure for the confiscation of the proceeds of certain offences and for the criminalizing of money laundering.”

When you said that the purpose of this Bill was to deal with money laundering and financing of terrorism, the point I was making is this PNM Government sat on this Bill for five years—because it was passed in 2000—and when the committee came to Trinidad and evaluated what it has done the incompetence of the PNM was so manifested that it was wrongly condemned—wrongly and loudly condemned for being incompetent and not fulfilling the requirements of the agreement.

Mr. Speaker, we ask the hon. Minister today: Why did he not come with a comprehensive amendment? Why did he not come with a comprehensive piece of legislation with the recommendations which were made by the committee in 2005? Is it that he does not have any intention to implement and is just fooling Trinidad and Tobago and the international community giving them the impression that he is fulfilling his international obligations? [*Interruption*]

The Minister says that the purpose of this legislation is to:

“(a) enable Trinidad and Tobago to achieve a higher compliance rating with the revised Forty Recommendations of the Financial Action Task Force on Money Laundering and the Nine Special Recommendations on Terrorist Financing...”

Mr. Speaker, this Government has had a history of hoodwinking the population and now it is attempting to hoodwink the international community and I am certain that when this committee returns in 2009 it will again condemn this Government for not fully complying with the requirements.

Hon. Joseph: Mr. Speaker, I thank the hon. Member for Princes Town North for giving way. I just want to remind him that in piloting the legislation, we indicated that the Bill will allow us to satisfy the vast majority of the Forty plus Nine. So it is not a question of hoodwinking anybody. The Member has been talking for the longest while concerning the question of the Presidential pardon.

3.15 p.m.

The issue of the Presidential pardon was not dealt with by our amendment; this was put in by their administration in 2000, so I guess you are best able to find out why the Presidential authority which you are talking so much about—[*Desk thumping*]

Mr. S. Panday: Thank you, Mr. Speaker and thanks to the hon. Minister. The reason I have raised this is because of the events of the last two weeks in which Trinidad and Tobago has been brought into shame and disgrace! That is why I referred to it. [*Desk thumping*] So when you tell me that I should know better, I am telling you why I did it. The reason I did it was because of the shame and disgrace this country was brought into recently. That is why it has engaged my attention and that is why when I was reading through the legislation I focused on this. We ask the next question:

“An Act to establish the procedure for the confiscation of the proceeds of certain offences and for the criminalizing of money laundering.”

I ask the Minister here today: Hon. Minister, look at your clause 35 amendment. Show this country; tell this country where you have established a procedure separate and distinct from what is in the parent Act for the confiscation of the proceeds of certain offences, because I have looked at the amendment and try as I may, I have not seen a new procedure or an additional procedure apart from what is in the Proceeds of Crime Act to deal with it.

So the question we are asking you: Do you really know what you are doing? It could not be. By saying delete section 10(2) and substitute it by 10(3), does that create a procedure? By saying in clause 15:

“Section 32 of the Act is amended –

(a) in subsection (1) by—

(i) “inserting the word ‘or’ after the semi-colon at the end of paragraph (b);”

Is that the procedure? Does that create a procedure? Also:

“(ii) inserting a comma at the end of paragraph (c) and by deleting paragraph (d);”

Where is the procedure? I ask the hon. Minister again. As one reads the legislation one sees that this Act is “to establish the procedure for confiscation of proceeds of certain offences and for the criminalizing of money laundering.” Where in this amendment is money laundering criminalized? Is it not already there in the parent Act? So you may need to even change the Long Title of your Act, because nowhere in this amendment does one see anything or any additional section which criminalizes money laundering.

The hon. Minister also stated that in this Bill the designated authority should not be one person but is now the FIU and the FIU means the Financial Intelligence Unit of Trinidad and Tobago established under section 3 of the Financial Intelligence Unit of Trinidad and Tobago, 2009. One would have thought that in order for completeness that we could have debated both Bills. We could have dealt with the Bills as a legislative package. Why did you bring this just like this? You laid it earlier this month and you rushed it within 15 days. Why? Why did you only take this one out? Do you not find that we look foolish when we speak here today about the Financial Intelligence Unit of Trinidad and Tobago?

Clause 4 of the Bill states:

“‘FIU’ means the Financial Intelligence Unit of Trinidad and Tobago established under section 3 of the Financial Intelligence Unit of Trinidad and Tobago Act, 2009.”

Should that Act not come first? You are referring to an Act which has not been enacted.

I asked the hon. Minister what was the definition of “specified offence” in the parent Act? The definition of “specified offence” in the parent Act was an indictable offence. What is the new definition of “specified offence”? It says in this Bill:

“‘specified offence’ means-

- (a) an indictable offence committed in Trinidad and Tobago from which proceeds of crime may be derived and whether or not the offence is tried summarily;”

So what they are really saying, they are expanding the definition of indictable offence to include, what they call in law a hybrid offence. A hybrid offence is an indictable offence which could be tried summarily.

So we ask the question: Do you think, really, that for such serious activity, how many offences will fall under—Member for Princes Town South/Tableland—Chap. 4:20 of the Second Schedule? How many offences will fall under that? Because if an offence is a hybrid offence under Chap. 4:20, the Second Schedule, then that means that it is not so serious that it must be tried by a judge, but could be tried by a magistrate. That is the question we ask.

We feel that you put this there just to make up space because it does not add anything significant to the definition of the indictable offence, especially when one deals with money laundering. Because listen to the offence that money laundering deals with. Money laundering deals with offences like piracy, hijacking, kidnapping, kidnapping for ransom, forgery, insider trading, and when one looks at the crimes which we are dealing with in terms of proceeds of crime, one would see that those are very, very serious offences.

So I humbly submit—and I would like the hon. Minister to indicate to this honourable Parliament, what kind of offences, apart from the offences which are recommended to be offences which money laundering applies, which offence will fall under the Indictable Offences Act which could be tried summarily.

Mr. Speaker: Hon. Members, I am pleased to inform you that the speaking time of the hon. Member for Princes Town North has expired.

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

Question put and agreed to.

Mr. S. Panday: [*Desk thumping*] Thank you very much, Mr. Speaker. And to indicate that this Government is really hoodwinking the country, under this money laundering Act, up to the time when this document was written, not a single person had been convicted. So the Act of 2000 has never—they probably brought one or two cases, but nobody has been convicted under this Act. It has not been implemented.

So when you come here today and you say you are passing legislation and giving the impression that you want to do things, in truth and in fact, this Government, as I said, is really hoodwinking the population.

I found it. What I was looking for was the designated categories of offences which the Mutual Evaluation Committee spoke about and I quote from page 41 of the report:

“The offences include in the Second Schedule, fraud under the Income Tax Act; fraud under the Corporation Tax Act; various offences under the Value Added Tax Act, 1989; infringement of copyright under the Copyright Act...”

And I have to talk to you about that in a minute:

“Indictable offences include offences that are noted in the Table below.”

So what the international organization is saying, “We are looking to deal with the proceeds of crime for the following acts.”

“Participation in organized criminal group racketeering; terrorism, including terrorist financing; trafficking in human beings and migrant smuggling; sexual exploitation, including sexual or exploitation of children; corruption; bribery; fraud; kidnapping; grievous bodily harm; theft; smuggling; extortion; forgery; piracy and insider trading.”

These are the offences which the international organization said, “let us look to see whether we could go for the proceeds arising out of these crimes. These are serious crimes which affect the society.”

So when this hon. Minister comes here and says: “We are changing what is the definition of a ‘specified offence’”, we ask him: On whose advice you have done this and what additional benefit will accrue? That is why we say you are fooling the people.

3.30 p.m.

Another question which I would like the hon. Minister to answer is: Do you feel merely passing laws; adorning our statute books and satisfying the

international community would be the end of it? We know that the Government has no intention to implement it as they have been doing with other pieces of legislation. The Member for Princes Town South came to this house with a huff and puff and passed the Copyright Bill because copyrighting is one of those offences. You said that piracy was too important and we wanted the Copyright Act right away because artistes are suffering. I ask him: Has that Act been implemented? If so, tell us the results. Right now, I see that after you passed the Bill it was like fertilizer to the pirates. At the present time, the pirates are selling pirated CDs in front of the police station.

Mr. Taylor: Will you give way?

Mr. S. Panday: Yeah.

Mr. Taylor: I thank the hon. Member for giving way. In answer to the question, the Member will remember that subsequent to the passing of that Bill, a committee was set up to examine the ways in which we can seek to find a humane and equitable way to address the piracy. That committee is headed by the very distinguished Gillian Lucky. I expect that that committee will respond or submit their report in probably three to four months. It is not a question of a knee-jerk response.

Mr. S. Panday: I thank the hon. Minister for his confession. He has confessed that we have passed the Copyright Bill so long ago and nothing has been done; it has not been implemented. You are talking about a humane way when you are dealing with lawbreakers? Be that as it may. When you pass laws and in the laws you impose heavy sanctions and then fail to implement the law, the lawbreakers would look at you as a fool and treat you with impunity. That is what this Government is doing. You are passing laws and not implementing them. "Everybody tink all yuh is a pack of jokers."

I am not seeing the Member for Diego Martin North/East.

You will remember that we passed the breathalyser law in a hurry about three years ago, not yesterday. We are asking this Government why it has not implemented the breathalyser law to date. What is the obstacle? Apart from murders, road traffic accidents are the next greatest killer in the country. People are either losing their lives by homicide or road traffic accidents. Why? Tell the nation today why after three years of passing the breathalyser legislation, you have not charged one person under it. Tell the country why, hon. Minister! Tell us why! We are telling the population out there, this is the government you voted for and that is why "all yuh chirren getting kill on de road" and at the barrel of a gun.

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I am certain that before this debate is ended today, some hon. Member from the other side will stand and say why this Government is not implementing the law. The Copyright Act, we had a confession. The breathalyzer. There is no explanation by this Government for not implementing the law. We wanted to give them some more advice to save the lives of people to pass legislation, so that when people go to those pubs, nightclubs and bars, the law would impose upon the owners and sellers of those bars, the obligation to ensure that when they sell rum or alcoholic beverages to people, they should not permit them to leave. They should be given breathalysers to do tests on people who drink alcoholic beverages in their places. They should be charged if somebody is permitted to leave their place in an inebriated state.

It makes no sense telling you because you would never implement it. We also want to tell you that you must not allow persons to modify their engines. It should be against the law to modify an ordinary car engine to use nitrous oxide. They fly like aeroplanes in the night. We should pass those laws. It makes no point in giving you advice because you would not implement the law. We have suggestions for you. We want to see this country go forward. We want to see the lives of our young people saved. Many of those persons who die on the road are persons who could make a substantial contribution to the country.

Mr. Speaker: Give us some suggestions on the Bill before us. Leave that road traffic matter for another time.

Mr. S. Panday: You cannot help them. They are a lost cause. That is the point I was trying to make. "All ah all yuh is a loss cause."

Like the Copyright Bill and the breathalyser legislation, this piece of legislation will never be implemented. Did you read the recommendations of the committee? Did you see the shortfalls, except the legislative shortfalls? What were the shortfalls in the system? If you pass the legislation and do not put the infrastructure in place, it cannot be dealt with. What is the state of the DPP's department? If one looks at this legislation one would see that after nearly every fifth clause, the Director of Public Prosecutions has a role to play. What is the status of the DPP's office for the implementation of this Act? Where is the training for the DPP's office? Where is the training for the Magistracy? Where is the special training for the police? I am certain that if you had done it, you would have told us in your presentation.

This piece of document has pointed out a number of shortfalls. They spoke about the DPP's office being understaffed; not being properly compensated; police

reform and training. What is the state of the DPP's department? They will not even appoint a DPP much more to staff the department. If you do not have an effective Director of Public Prosecutions office in place nothing would happen. This Prime Minister used the veto under the Constitution to try to prevent and block even an acting appointment. You are passing legislation and giving the impression that you are going to do things and when you look at what you are doing, you are interfering and stultifying progress.

We need police officers to be trained in detection of crimes which will deal with money laundering. What is the state of the police service? You set up a group called SAUTT which appears to be an army and pay them exorbitant wages. An officer in SAUTT gets \$5,000 more than an officer in the police service. Do you expect SAUTT will take over the mongoose gang? The answer is this Government has created such low morale. They could pass whatever legislation and they will not move. In order for the police to implement this legislation, you must have efficient, competent and well trained police officers. You have not only an acting DPP, an acting Chief Parliamentary Counsel, an acting Solicitor General but also an acting Commissioner of Police. Everybody acting like if it is Bollywood or Hollywood or something like that. Everybody acting.

Sometime ago we passed the legislation for the appointment of a commissioner. They did not get the commissioner that they wanted. They struck down—

Mr. Speaker: The legislation before us is the Proceeds of Crime (Amdt.) Bill, 2009. Please address it. You do not have much time left.

Mr. S. Panday: That is what the Recommendations of the Mutual Evaluation Detail Assessment Report on Anti Money Laundering and Combatting Finance and Tourism speak about. That is the recommendation from which the amendment came. That is why they are linking it. It is mentioned in the report. That is why we are asking the Government. “Nobody cyah protect all yuh.” That is why we are connecting the police to the Bill. We are saying that without having the proper infrastructure in place this Bill would not be implemented.

My other colleagues—“as yuh tell meh, meh time finish; ah know dat is de wish.” There are other things I wanted to speak about. This Government has no intention of implementing this and “pulling something on de country.” If we are speaking about money laundering and talking of the proceeds from corrupt activities, let us take our state enterprises. When these special purpose companies spend a large amount of people's money, why is it that both in the integrity legislation and this legislation we are stressing or passing legislation to deal with a situation after the event has taken place?

3.45 p.m.

Why is it, with respect to both the integrity legislation and this legislation, we are passing legislation to deal with a situation after the event has taken place? For example, in these state companies “you know wah dem fellas doing, de Calder Harts and dem?” We know about Calder Hart giving Sunway and those companies contracts. That is now subject to the Commission of Enquiry. Do you remember what happened at the Estate Management Business Development Company where surveyors complained that they were asking for money?

The crime takes place at the time of entering the contract or the time of awarding the contract. That is the time the corruption takes place. Why is it that we do not put measures in place to deal with the issue before it occurs? Like the doctor would say: Why do we not use preventive medicine? There are companies which have their own system as to how they would give out contracts and also the procurement process with respect to purchasing. Each one does it their own way. Each one is a PNM honcho at the top or has somebody who feels that he is more powerful than you and that you cannot talk to him because the big man put him there. He could do what he wants with impunity.

We have UDeCott at the Commission of Enquiry where the attorney and secretary said: “We have procurement procedures but we do not follow them.” They make rules and they do not follow it. Other companies do the same thing.

The Government—I thought when they were forming these companies—had put out a paper called the *Reform of Government Procurement Regime*. This was a Green Paper, which went to a White Paper and came back to a Green Paper, in 2004. That was when you formed all these companies. The recommendation of this—[*Interruption*] I am coming back. Shortly?

I think that it is a good move that we can come here and the Parliament will put in place a procedure to ensure that each state company follows a particular procedure in those circumstances, to ensure as the Cabinet Note indicated:

“The Terms of Reference Procurement Reform Committees would review Government’s procurement policies and processes to make recommendations for improving government’s procurement regime, including appropriate procurement model and to prepare a draft policy.”

In each case, what this Green Paper has said is that the objective procurement procedure must be transparent. Secondly, there must be value for money. Thirdly, the process must be adhered to.

I humbly submit that by so doing, if that Green Paper comes and if that process and procedure is implemented, all the corruption which is taking place in every special purpose state company will be dealt with. We are warning you, when you bring that legislation, we do not want you to say—because you put your PNM boy who lost election to sit on those boards, you will bring a slipshod piece of legislation. We are warning you that we shall ensure that there is transparency and fairness and we would get value for money and not end up like the Brian Lara Complex or in the way the EMBD and UDeCott have been performing.

With those one or two words, I thank you very much.

[Continuous fluctuation of the electricity supply]

The Minister of Information (Hon. Neil Parsanlal): Mr. Speaker, I rise to join this debate this afternoon on the amendments to the Proceeds of Crime Act, No. 55 of 2000. I wish to immediately congratulate the hon. Minister of National Security for his piloting of this Bill. It is not often that we hear him in this House and when he comes, it is usually to defend this Government and the people of Trinidad and Tobago against the wickedness and snares of those who prefer to see us wallow, rather than win and to see us sink rather than swim.

Today, however, he has come and presented in a manner few on that side could master, a sober and compelling argument for amendments to a piece of legislation which was passed in both Houses. We would see Trinidad and Tobago lifted even further in profile.

Additionally, this specific contribution is on the Financial Action Task Force. For his presentation, I wish to congratulate him. This debate, and I listened attentively, as best I could, to the ramblings of the Member for Princes Town North. He made, what in my estimation could have been—*[Continuous interruption and crosstalk]*

The first point he attempted was to put the President's Office—when he said all kind of things—into disrepute, by imputing to us on this side—*[Interruption]*

Hon. Member: A violation.

Hon. N. Parsanlal: A violation of the Standing Orders. He was imputing to us on this side that we were only introducing this new amendment because we want to give the President this wide latitude. What is very obvious to us in this House is that either those on the other side of the House are very short on memory or they are complete strangers to the truth.

In the very Act that they have passed, the parent Act, No. 55 of 2000, section 2(7)(d) says:

“Proceedings for an offence are concluded on the occurrence of one of the following events:

- (d) the grant of the President’s pardon in respect of his conviction for the offence;”

In section 42(2) of the very same Act, it says:

“The President may direct that anything forfeited under sections 38 to 41 of this Act, other than a dangerous drug, be restored on such terms and conditions as he thinks fit.”

It is in this Act they passed the very same provision empowering the goodly President, yet still they are coming to this House today attempting to hoodwink the population again into believing the PNM has done this and put in the wide latitude of power. Nothing could be further from the truth. What is even damning is that he looks at these things that are enshrined in the Constitution of the Republic of Trinidad and Tobago.

Section 87(2) speaks of the powers of the President to pardon. So that they have come here, those Members opposite, attempting to castigate the PNM for all kinds of things; strangers to the truth.

The second point that he attempted to make is that of the PNM to protect the chairmen of state boards. In the little time we have, before we take the break, I want to read something from the *Sunday Express* of July 22, 2001. Headlines: “Scam, Schemes and Scandals; “Allegations of Corruption;” “Head of the First Executive of the NWRHA Suspended, Investigations Against Allegations of Impropriety”; “Call for Investigation into Nipdec”; and Damming Probe Report”.

Mr. Speaker, the reports are multitudinous.

Here is another one, July 22:

“Basdeo Panday blocks Ramesh. Another attempt by Prime Minister Mr. Basdeo Panday has taken a stance for the protection of his ministerial term.”

[*Interruption*]

I have been raised to have pity on the afflicted, the conflicted and the convicted, so I am not going to take him on.

What is evident in all of this is that there is a serious case of hypocrisy on the other side. They have come to this House not to debate the Proceeds of Crime (Amdt.) Bill.

What we have here is a mishmash of apologetics on the other side; a speaker who rambles in his presentation, not knowing where he is. At one point he spends about 10 out of his 75 minutes of the debate trying to be brought to heel by you all time.

The Proceeds of Crime (Amdt.) Bill that we have today will ensure that this country becomes compliant. We have indicated more than 23 of the 40 recommendations for the Financial Action Task Force. That is what we are attempting to do today. They are recommendations of amendments to ensure that what we have before us when these amendments are passed is much to strengthen the financial sector. What we have here is an opposition that is totally bereft of anything constructive.

4.00 p.m.

Every week we come here to get something of substance, and when we listen to the Member for Princes Town North today, it is clear that they continue to manifest in their contributions and to all and sundry that there is this reservoir of intellectual bankruptcy on the other side. [*Desk thumping*] It is clear that the Benches are bereft of, at least, two of their speakers and, perhaps, they might be the ones to add intellectual capacities to Members on that side.

Mr. Speaker, this debate today is about strengthening our financial systems. This debate today is about moving Trinidad and Tobago onto the world stage with respect to our compliance with the recommendations of the Financial Action Task Force. This debate today is about ensuring that persons engaging in whatever sphere or business activity are not allowed to hide behind a veneer of legitimacy while spiriting away millions of dollars in other enterprises. This legislation before us today is about making this country a lawful and abiding place. It is for all these reasons that I want to posit this afternoon—I could understand the recalcitrance of those on the other side to be part of such an endeavor since for all intents and purposes, such a desire is beyond them. In fact, such a desire is anathema to the composition of the UNC.

Mr. Speaker, what we have heard today from the Member for Princes Town North is yet, again, another rehash of baseless accusations—chastising the Minister of National Security—and a rehash of a number of things that have been said time and time again. The only thing that the Member's contribution confirms in my mind is character assassination. They have taken Mr. Hart's name all over the place. What it confirms in my mind is that character assassination is easier and surer than physical assassination, and it involves far less risk to those who call themselves assassin. That is what we had to endure in the Member's contribution.

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Friday, May 15, 2009

Mr. Speaker, nothing the Member for Princes North said can convince us that the legislation before us is either so technically flawed or irrelevant that it has to be withdrawn. There was no part in his contribution that could tell us this afternoon that there was something that he proposed and that is why the Bill should be withdrawn. He has offered nothing in the debate. He has added no value to the debate this afternoon. It was 75 minutes of sound and fury. [*Desk thumping*]

Indeed, what the Member's contribution underscored is that it does not require a majority to prevail, but rather an irate, tireless minority keen to set brush fires in people's mind. That is all they do—an irate, tireless minority, setting brush fires in people's mind and trying to scare the population into believing that everything we do on this side is the result of something of a conspiracy, and all we are trying to do is move the country's financial sector to another level in terms of the legislation, and to ensure that we are compliant with international best practice. [*Desk thumping*] That is all.

We need to ask ourselves, what is the purpose of the Bill? The parent Act dealt only with two things; drug trafficking and money laundering. Although that was its focus, the offence of money laundering was never clearly defined, rendering the confiscation of proceeds almost impossible. One of the questions the Member for Princes Town North asked was where it creates an offence called money laundering. I could not believe that a seasoned practitioner—

Mr. S. Panday: I did not say that.

Hon. N. Parsanlal:—like the Member for Princes Town North, schooled by his brother and surrounded by such luminaries could come to this House and not have read the very Bill that he has come here to debate. [*Desk thumping*] Clearly, he would have realized that had he taken the time to read the Bill, and not concentrated so much on the role of the President, he would have realized that there is a new section 42, and it is that section that creates the offence of money laundering.

Mr. Speaker, you see, when they passed the legislation in 2000, money laundering was there, but it was never defined. If we want to engage in conspiracy theories, one would want to ask the question, why in 2000? When they were in office they had the opportunity to become compliant with all of these recommendations, and they had the opportunity to bring legislation to ensure that we were compliant with the legislation. They had the opportunity in 2000 to define what is money laundering. Did you accept that responsibility? Did you take the opportunity? No! You did not accept the responsibility then, and now you have come to the Parliament in 2009 when we have brought the legislation and you are asking where is the offence.

Again, this reminds me of the little old ladies from Lopinot, Bon Air/West when we were walking in the constituency. When the PNM points to the moon, the UNC only sees the finger. That is what is happening on that side. They could never understand the vision that exists on this side. [*Desk thumping*] Every time we attempt to move this country forward—every time we point to the moon—all they see is the finger. That is why some of us would say that is why we are here and that is why they are there. [*Desk thumping*]

Mr. Speaker: Hon. Members, I think it is a good time to take the tea break. A transformer has blown outside, and we do not have air-conditioning at the moment. May I suggest that we take the tea break now? It is now 4.05 p.m. and we will resume at 4.40 p.m.

4.05 p.m.: *Sitting suspended.*

4.40 p.m.: *Sitting resumed.*

[*Pause*]

ADJOURNMENT

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I beg to move that this House do now adjourn to Friday, May 22, 2009 at 1.30 p.m. at which time we will continue this debate.

Dr. Rafeeq: That date is Private Members' Day, and there was no consultation.

Hon. C. Imbert: You will get it back. I wish to convey my deepest apologies, but I will ask that we continue this debate next week. Because of the unforeseen event, we will resume the debate at 1.30 p.m. on Friday, May 22, 2009 at 1.30 p.m.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 4.45 p.m.