

**THE
PARLIAMENTARY DEBATES**

OFFICIAL REPORT

*IN THE SECOND SESSION OF THE NINTH PARLIAMENT OF THE REPUBLIC
OF TRINIDAD AND TOBAGO WHICH OPENED ON DECEMBER 17, 2007*

SESSION 2009

VOLUME 10

HOUSE OF REPRESENTATIVES

Wednesday, June 03, 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 requesting leave of absence: hon. Harry Partap, Member for Cumuto/Manzanilla, for the period June 03 to June 06, 2009; hon. Kamla Persad-Bissessar, Member of Parliament for Siparia, from today's sitting of the House. The leave which these members seek is granted.

TRINIDAD AND TOBAGO ELECTRICITY COMMISSION (AMDT.) BILL

Bill to amend the Trinidad and Tobago Electricity Commission Act, Chap. 54:70, brought from the Senate [*The Minister of Public Utilities*]; read the first time.

PAPER LAID

Audited statements of accounts of the University Students' Guarantee Loan Fund for the year ended December 31, 2007. [*The Minister of Finance (Hon. Karen Nunez-Tesheira)*]

To be referred to the Public Accounts Committee.

STATUS OF CHILDREN (AMDT.) BILL

Special Select Committee Report

(Presentation)

The Minister of Science, Technology and Tertiary Education (Hon. Christine Kangaloo): Thank you very much, Mr. Speaker. I wish to present the Interim Report of the Special Select Committee appointed to consider and report on a Bill to amend the Status of Children Act, Chap. 46:07, and to provide for DNA Analysis in Civil Proceedings.

ORAL ANSWERS TO QUESTIONS

Mr. Speaker: Well, I assume the Government is answering all of the questions today.

The Minister of Works and Transport (Hon. Colm Imbert): That would be my aspiration also, Mr. Speaker. But, regrettably, we are in a position to answer only three questions, namely, questions Nos. 11, 52, and 61 and I 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*]

**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*]

Summit of The Americas

(Details of)

- 58.** Could the Minister 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 area where they occurred? [*Mr. V. Bharath*]

Bailey Bridge Commission of Enquiry

(Status of Report)

- 59.** With respect to the Commission of enquiry 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*]

Corinth Hills Housing Development

(Status of)

90. (a) Could the hon. Minister of Planning, Housing and the Environment state whether persons who were allocated houses by the Housing Development Corporation in the Corinth Hills Housing Development were permitted to occupy them, although there were no toilets and/or sewerage facilities in the said development;
- (b) If so, is the Minister aware that this action by the Housing Development Corporation could result in a serious health hazard to the residents; and
- (c) Could the Minister state who made the decision to permit these persons to occupy these houses? [*Mr. S. Panday*]

Questions, by leave, deferred.

Tucker Valley Farm

(Details of)

11. **Dr. Hamza Rafeeq** (*Caroni Central*) asked the hon. Minister of Agriculture, Land and Marine Resources:

Could the Minister 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?

The Minister of Agriculture, Land and Marine Resources (Sen. The Hon. Arnold Piggott): Mr. Speaker, the total amount of money spent on the Tucker Valley Commercial Farm as at March 31, 2009, was \$6,643,657 of which \$3,555,013 represents capital cost, and \$3,088,644 represents operating cost.

The major items of capital expenditure were:

- Supply and installation of seven greenhouses—\$1,338,842;
- Local consultancy fees—\$923,680;
- Construction of grow boxes—\$345,650;
- Procurement of office furniture and equipment—\$335,000;
- Infrastructural upgrade and development; that includes 36 acres of land, roads, drainage and irrigation—\$323,794;
- Procurement of farm machinery—\$114,323;
- Training—\$32,990.

The major elements of operating cost were consumables, fertilizers, pesticides and other consumables:

- Conventional crops—\$457,768;
- Grow boxes—\$7,488;
- Greenhouses—\$45,799;
- Salaries and wages—\$1,427,779;
- Other operating expenses—\$1,149,810.

Mr. Speaker, the projected annual operating cost of preparing, cultivating and reaping at the Tucker Valley Commercial Farm for fiscal year October 01, 2008 to September 30, 2009 is \$4,655,514. This is disaggregated as follows:

Land preparation, brush cutting, ploughing, rotavating, banking and bed formation—\$372,144;

Cultivation and maintenance—\$3,581,370;

Reaping of crops—\$702,000.

Mr. Speaker, the total projected annual income from sales of produce from the Tucker Valley Commercial Farm for the corresponding period October 01, 2008 to September 30, 2009 is \$3,906,813.

Oral Answers to Questions
[SEN. THE HON. A. PIGGOTT]

Wednesday, June 03, 2009

The establishment of the Tucker Valley Commercial Farm at Chaguaramas would assist in upgrading the technical, managerial and entrepreneurial skills of our farmers, as it has a demonstration training component. It represents an important investment in developing our human capital in the farming community, which, like other similar investments, would generate significant medium- and long-term benefits, not only to the farming community, but to the country as a whole.

Mr. Speaker, I thank you. [*Desk thumping*]

Mr. Speaker: Supplemental?

Mr. Sharma: Thank you, Mr. Speaker. Can the Minister advise the crops that are intended to bring in this revenue of \$3 million at September 30, 2009? [*Crosstalk*]

Mr. Speaker: Order!

Sen. The Hon. A. Piggott: Mr. Speaker, the crops that are to be in production at the Tucker Valley Commercial Farm, a major initiative of the State, are: cucumber; sweet pepper, green and coloured; lettuce; cassava; bodi; sweet potato, cantaloupes; corn; radish; salad bean; carrot; cauliflower and tomato.

Mr. Speaker, if the hon. Member would wish for me to show him some crops out of there, I would be happy to show him. I have just come from the farm and I have some tomatoes here that I can show him. [*Desk thumping*] [*Crosstalk*] I have some tomatoes and some sweet peppers, Mr. Speaker. I have just returned from the farm.

[*Tomatoes and sweet peppers shown*]

Mr. S. Panday: Thank you very much, Mr. Speaker. Could this amount of money not be better spent in giving support to existing farmers? [*Desk thumping*]

Mr. Speaker: Supplemental.

Dr. Rafeeq: The Minister mentioned that the projected—

Mr. Speaker: Order!

Dr. Rafeeq:—income is \$3 million. Are you in a position to tell us what is the actual income so far?

Sen. The Hon. A. Piggott: I will not be able to disaggregate that for you at this time.

Dr. Rafeeq: Since this is a demonstration farm, can you tell us how long this farm is expected to operate?

Sen. The Hon. A. Piggott: I have never reported this farm to be a demonstration farm only. I said it is a commercial farm which has a demonstration component for training the farmers in the field. [*Desk thumping*]

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

52. Mr. Subhas Panday (*Princes Town North*) asked the hon. Minister of Agriculture, Land and Marine Resources:

With respect to fiscal year 2009, could the Minister 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?

The Minister of Agriculture, Land and Marine Resources (Sen. The Hon. Arnold Piggott): Thank you very much, Mr. Speaker. The Ministry of Agriculture, Land and Marine Resources does not have any plans in fiscal 2009 to build or rehabilitate agricultural access roads bounded on the north by the Guaracara Tabaquite Road, south by the Lengua Road, east by San Pedro Road and on the west by Garth/Williamsville.

However, Mr. Speaker, active consideration is being given to those roads for fiscal 2010 in our development programme. Based upon this fact therefore, there is no response required for parts (b), (c) and (d) of the question.

I thank you.

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

61. Mr. Ramesh Lawrence Maharaj SC (*Tabaquite*) on behalf of Mr. Jack Warner asked the hon. Minister of Works and Transport:

Could the Minister 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?

The Minister of Works and Transport (Hon. Colm Imbert): Thank you, Mr. Speaker. Work on the widening of the Churchill Roosevelt Highway between O'Meara Road and Wallerfield is expected to commence in the second half of 2009.

PROCEEDS OF CRIME (AMDT.) BILL

[Third Day]

Order read for resuming adjourned debate on question [May 15, 2009]:

That the Bill be read a second time.

Question again proposed.

Mr. Speaker: Hon. Members, the debate on the second reading of the following Bill, which was adjourned on Friday, May 22, 2009, will be resumed: a Bill entitled an Act to amend the Proceeds of Crime Act, Chap. 11:27. On the last occasion we met considering this Bill, the hon. Member for Diego Martin North/East, the Minister of Works of Transport, was on his legs and he had spoken for four minutes. He has 41 minutes of original time remaining.

1.45p.m.

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, as I indicated on the last occasion, I am deputing for the Minister of National Security, who was unavoidably absent, and, therefore, as the Minister in charge of the Bill, I shall proceed to wind up this debate.

On the last occasion, a request was made by the Members opposite with respect to the drafting of possible amendments. Since then, we have gone through the comments made by Members of the Opposition and looked carefully at their requests to see whether any amendments were required. We are of the view that the Bill is acceptable in its present condition, but I will seek to address some of the comments made.

Mr. S. Panday: Also his behaviour in the recent past!

Hon. C. Imbert: The Member continued to make the astonishing proposal that an appeal tribunal should be established comprising judges, social workers and persons from the non-governmental organizations, and said that during the course of a hearing, mitigating circumstances could be raised and if there were sufficient mitigating circumstances, a court could return the proceeds. He demanded to know, in his usual very strident, vociferous and argumentative way, why we were giving the President all that power. Of course, he insisted that we should do no such thing.

All this tells me is that the Member for Couva North—I mean Princes Town North, easy to mix them up, "same ting"—I would assume that the hon. Member was not being mischievous, frivolous and vexatious. All I would assume is that the Member is suffering from amnesia, because if we go to the parent Act, passed by the UNC government in the persona of the now Member for Tabaquite in 2000, the Proceeds of Crime Act, Chap. 11:27, Act No. 55 of 2000, clause 42 reads as follows:

"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."

Therefore, if the Member for Princes Town North has a problem with the power given to the President in the amendment Bill, then, perhaps, he might want to ask himself, ask his own political party, ask his brother, ask the then Attorney General, why in 2000, the UNC government passed the Proceeds of Crime Act and introduced a power that allowed the President to restore the proceeds of crime. Are you suffering from amnesia, Sir? What is the problem? It is you who put this in the Bill. That deals with that.

Let us move on now to what other tomfoolery the Member for Princes Town North subjected us to. He spoke about terrorist financing; he said that in the 32 clauses of the proposed Bill there was nothing about terrorist financing. Let us see what the facts are. Mr. Speaker, the Member obviously did not understand. When you look at the contribution made by the Member for Princes Town North, throughout his discourse, he obviously did not understand what was being done with this Bill.

If one looks at the new definition of a specified offence, for example, it would now include an indictable offence committed in Trinidad and Tobago from which proceeds of crime are derived, whether or not the offence is tried summarily, or any act committed or omitted to be done outside of Trinidad and Tobago, which would have constituted an indictable offence.

Mr. Speaker, the last time I checked, terrorism was an indictable offence; I think so. [*Mr. Speaker nods his head*] Attorney General, I think so. Since the definition of "specified offence" under the Bill will now cover all indictable offences, then, clearly, it will cover acts of terrorism. But, Mr. Speaker, the Member for Princes Town North is a qualified lawyer, a practising attorney. I mean, I am aware of a particular case with a boy in a cage, for which he achieved certain notoriety, but I am sure he is familiar with other aspects of the law.

He made a big song and dance about the new definition of "specified offence". He claimed that the Government wanted to make up space in the Bill,

because the new definition does not add anything to the definition of "specified offence". Let us go to the parent Act.

I gather that the Member for Princes Town North either did not read it or did not understand it, or was not paying attention when the UNC passed this law in 2000. In the parent Act:

"Specified offence' means an indictable offence or an offence specified in the Second Schedule except that in sections 32 and 33, 'specified offence' means an offence under the Dangerous Drugs Act and Part 2 of this Act;"

The problem with that is that there are offences outside of the Dangerous Drugs Act, which are indictable offences that are not captured by sections 32 and 33 of the current legislation. We had a lot of discussion on exactly how we would define a specified offence in order to be compliant with the recommendations of the Financial Action Task Force and (FATF) and in order to ensure that the legislation would achieve the intended purpose.

So if you look very closely at the definition in the Bill before the House, I wish to repeat, it includes an indictable offence committed in Trinidad and Tobago from which proceeds of crime are derived. We had a lot of discussion on this when we were drafting this legislation, as to if you left it completely open to all indictable offences, these indictable offences might have nothing to do with the proceeds of crime, money laundering, and so on. Therefore, the definition is very tight.

It says:

"an indictable offence committed in Trinidad and Tobago from which proceeds of crime may be derived..."

Then it goes on to include:

"...any act committed or omitted...outside of Trinidad and Tobago, which would have constituted an indictable offence within the meaning of paragraph (a)..."

Which is an indictable offence from which the proceeds of crime are derived.

This would mean that the specified offence would now be all indictable offences, such as offences under the Income Tax Act, the Corporation Tax Act, the Value Added Tax Act, the Copyright Act, and so on. So it fits in quite well with the recommendations of the Financial Action Task Force.

It is useful, at this time, to remind hon. Members of the 40 recommendations of the Financial Action Task Force, and to give a brief history of what this is all about. The 40 recommendations provide a set of countermeasures against money laundering—[*Interruption*]

Mr. Ramnath: Give that to Calder Hart; do not lecture to us!

Hon. C. Imbert: I am not speaking to you—covering the criminal justice system and law enforcement, the financial system and its regulation and international cooperation. The 40 recommendations have been recognized, endorsed and adopted by many international bodies. They set out the principles for action and allow countries a measure of flexibility in implementing these principles, according to their particular circumstances and constitutional frameworks.

They were initially developed in 1990, revised in 1996 to take into account changes in money laundering trends. More recently, the Financial Action Task Force, which would be after, Member for Tabaquite, met in 2003. That would be after the Proceeds of Crime Act was passed in the year 2000, hence the reason we need to update the legislation, to make it compliant with the 2003 recommendations that were reviewed and updated in that year.

The recommendations go through the whole gamut of criminal offences, speak deliberately to the offence of money laundering, and ask countries to apply the crime of money laundering to all serious offences, with a view to including the widest range of predicate offences.

That brings me now to a point made by the Member for Caroni East. The Member in his contribution was concerned that the amendment Bill before the House did not incorporate all the predicate offences recommended by the FATF. Member for Caroni East, this was one of your concerns. You were concerned that the Bill before the House did not incorporate all the predicate offences recommended by the FATF.

For those who do not know, I have brought a definition of "predicate offence". It means the criminal activity from which the proceeds of crime are derived. Money laundering is a derivative crime; its status as a crime depends on the origin of the funds involved. So firstly you have to be engaged in unjust enrichment, some kind of fraud, theft, something like that, drug trafficking and so on, and that leads to the crime of money laundering. Money laundering is a derivative crime.

When we look at what is being done in this Bill, the Member for Caroni East had contended that it did not speak about trafficking in human beings, arms trafficking, corruption, bribery, fraud. The Member argued that all these things were left out of the Bill and, in his usual scandalous way, said that was deliberate.

Now I know that the Member for Caroni East is studying law. Am I correct, Mr. Speaker?

Mr. Speaker: It is alleged.

Hon. C. Imbert: It is alleged? I think, Member for Caroni East, that you need to do some homework.

Hon. Member: Remedial! *[Laughter]*

Hon. C. Imbert: Not even remedial, because I do not think he has reached chapter 1. *[Laughter]*

In the new definition of "specified offence", it now includes all indictable offences. All those things that you spoke about: bribery, fraud, corruption, are indictable offences. *[Crosstalk]*

Member for Caroni East, do you now understand? If we are now including all indictable offence as specified offences, then all these offences that you claimed were being left out, are included in one phrase, "indictable offences". I hope that the Member will now go to chapter 2 of whatever law book he is reading from. *[Interruption]*

Dr. Gopeesingh: Could you then explain why in the FATF paper on the 40 recommendations, did they have that separate, as a glossary, and not include it in part of the major body of the FATF discussions? If you look at your paper, you would see it in the glossary.

2.00p.m.

Hon. C. Imbert: Mr. Speaker, the Financial Action Task Force's recommendations are to assist countries in improving, updating, correcting their domestic legislation. They are simply recommendations and the Financial Action Task Force has asked that all these types of offences; bribery, fraud, et cetera, be incorporated into domestic legislation so that they would be deemed to be associated with the Proceeds of Crime, which then leads to the offence of money laundering. There is absolutely no need to say all indictable offences, for example, bribery, fraud, et cetera; the word "all" only has one meaning, "all" offences that are indictable. So if you want to know which offences are indictable, you simply go into the Laws of Trinidad and Tobago and you will find out.

It would be very inelegant to draft legislation to list every single indictable offence. Why would one want to do that? Are you okay now? As I said, go to Chapter 2 now. After you find the meaning of the word "offence", go to Chapter 2 and find out what the meaning of the word "indictable" is. *[Interruption]* I understand you are struggling with your law exams as well. *[Crosstalk]*

Mr. Speaker, another point that the Member for Princes Town North made, was that money laundering is not criminalized in the Bill. The level of ignorance of the law displayed in some of the contributions was quite shocking.

Mr. Speaker, if one goes to clause 18 of the Bill before the House and I would ask the Member for Princes Town North to read the Bill before the House for the first time because obviously he has not read it before.

In clause 20 the Act is amended by inserting immediately after the heading "PART II, MONEY LAUNDERING" the following new section:

"Money Laundering 42A(1) An offence committed under sections 43 to 46 shall be known as a money laundering offence and the term 'money laundering' shall be construed accordingly.

(2) The offence of money laundering is an indictable offence."

So, therefore Mr. Speaker, how in God's name the Member for Princes Town North, a distinguished luminary, could come into this Parliament and say that money laundering is not criminalized in this Bill when it says so.

Mr. S. Panday: It was in the former Bill already.

Hon. C. Imbert: Let me repeat, the Act is amended, that means it is being modified; by inserting, that means you are putting into the Bill; the word "insert" means put into, immediately after the heading Part II, Money Laundering the following new sections; marginal note:

"Money Laundering An offence committed under sections 43 to 46 shall be known as a money laundering offence..."

Mr. S. Panday: That is redundant, it is already in the former Act.

Hon. C. Imbert: I do not know what to say. I know that the Member for Princes Town North is an intelligent man, I know that he knows better and, therefore, the only conclusion I could come to is that he did not read the amendment Bill.

Mr. S. Panday: Read the parent Act.

Hon. C. Imbert: Mr. Speaker, the Member for Princes Town North said there are no clauses in the amendment Bill that criminalize money laundering. That is what he said, and clause 20 states that an offence committed under sections 43 to 46 of the parent Act shall be known as a money laundering offence. That never existed before. I do not know what to do with them, Mr. Speaker. I do not know if it is remedial English.

Mr. Maharaj SC: Mr. Speaker, I thank the Member for giving way. I wonder if the hon. Minister can explain why an amendment is necessary if under section 43 of the Proceeds of Crime Act it expressly states that money laundering is an offence.

"A person is guilty of an offence who conceals, disposes, disguises, transfers, brings into Trinidad and Tobago or removes from Trinidad and Tobago any money or other property knowing or having reasonable grounds to suspect that the money or other property is derived, obtained or realized, directly or indirectly from drug trafficking."

And later down the section refers to any specified offence which would include an indictable offence. So if money laundering in respect of drug trafficking and indictable offences is already a criminal offence, why is it necessary to have that amendment?

Mr. S. Panday: He did not read the parent Act.

Hon. C. Imbert: Mr. Speaker, I thank the Member for Tabaquite for his intervention, unlike the Member for Princes Town North. I actually have a copy of the parent Act and whereas money laundering is the title of Part II, and I shall read section 43:

"A person is guilty of an offence who conceals, disposes, disguises, transfers, brings into Trinidad and Tobago or removes from Trinidad and Tobago any money or any property knowing or having reasonable grounds to suspect that the money or other property is derived, obtained or realized, directly or indirectly from drug trafficking."

We are now making it crystal clear that breaches of 43, 44, 45 and 46 shall now be known as money laundering offences. It is just for clarity. So all the amendment is doing is saying that any offence under 43, 44, 45, 46—because it is not expressly stated. It speaks about concealing property and money and so forth, but it is not expressly defined in 43 to 46 as money laundering offences. So all we are doing is making it crystal clear that breaches of sections 43, 44, 45 and 46 of the Act shall now be known as money laundering offences. I hope that deals with that.

The Member for Fyzabad, again, in his usual scandalous way had—

Mr. Speaker: No, you can do better than that.

Mr. S. Panday: No class.

Hon. C. Imbert: I am sorry, Mr. Speaker, it is all a matter of opinion and from where I sit the Member for Fyzabad is usually scandalous, but I bow to your ruling, Sir, and I would withdraw it. I would even apologize for it.

Mr. S. Panday: You are trying to embarrass the Speaker.

Hon. C. Imbert: The Member for Fyzabad uttered an inaccuracy; it appears I cannot say his usual inaccuracy. He uttered an inaccuracy as he is sometimes wont to do, and he spoke at length about suspicious activity transaction reports, claiming that the suspicious activity transaction reports were so basic that he could not understand why they had not been used once in Trinidad and Tobago.

Now, I would like to know how on earth the Member for Fyzabad would know that not a single suspicious activity transaction report in a single financial institution in Trinidad and Tobago since the year 2000 or before has not been acted upon? How does he know that? It is absurd and my information is that suspicious activity transaction reports are filled out on a regular basis, on numerous occasions by financial institutions, but one of the weaknesses in the system was that the designated authority did not have the capacity to analyze, generate trends and patterns in the information or to disseminate information to designated law enforcement agencies. It is for that reason that prosecutions were previously unsustainable under the Proceeds of Crime Act.

It is not a question of suspicious activity reports not being used or acted upon, of course, action was taken, but because the infrastructure was not equipped to deal with the offence of money laundering, there have been no prosecutions under the Proceeds of Crime Act with respect to that particular matter.

There is another Bill that is currently before the House which we would deal with afterwards, the Financial Intelligence Unit and in this Bill, the Proceeds of Crime (Amdt.) Bill, reference is made to the Financial Intelligence Unit and when that unit is established as the designated authority, it will give the system the institutional capacity to deal with the whole issue of money laundering and the necessary relationship with law enforcement authorities so that they can be provided with proper information leading to prosecutions.

Mr. Speaker, let me just go back to a point made about specified offences. As I said, we took a long time looking at the definition of specified offences and we discovered or determined that in the original Bill they were limited under sections 32 and 33 of the parent Act to drug trafficking offences and we felt that was too narrow and we wanted to broaden it. So when you look at the new definition of a specified offence, it includes all indictable offences from which the proceeds of crime have been derived.

That is basically it, Mr. Speaker. I think I have dealt with all the questions raised on the other side as to why the President should be given all the powers, the President already has them. The question about the specified offence, it—

Mr. Maharaj SC: I wonder if the hon. Minister would give way. I do not know whether what you are saying is accurate, because it seems to be inconsistent with what is in the Proceeds of Crime Act.

Specified offence in the Proceeds of Crime Act means an indictable offence, or an offence specified in the Second Schedule except that in sections 32 and 33 specified offence means an offence under the Dangerous Drugs Act, and Part II of this Act. So it seems that the existing law included an indictable offence as a specified offence. I think that what you want to do is extend that to if an offence is committed abroad which would have been an offence in Trinidad and Tobago; you want to make that an offence. Can I get that explanation?

Hon. C. Imbert: Mr. Speaker, I thank the Member for his intervention. It is not as simple as that. If you look at section 32 and section 33 in particular, and I will read the first part of section 32.

"A police officer may, for the purpose of an investigation, in or outside of Trinidad and Tobago, into—

- (a) a specified offence;
- (b) whether that person has benefitted from a specified offence;
- (c) the extent and whereabouts of the proceeds of a specified offence;
- (d) or drug trafficking, apply to a judge for an order...in relation to particular material or material of a particular description."

That implies that section 32 was meant to cover more than offences associated with drug trafficking because if it was not so intended, then it would not have had this recital; a specified offence, that a person has benefited and so on and then part (d) says drug trafficking.

When you go now to the definition of specified offence, a conundrum is created where it says except in sections 32 and 33, specified offence means offence under the Dangerous Drugs Act.

2.15p.m.

I am advised by the Attorney General that there is a particular matter in the local courts, a decision by Justice Ramadar where he made comments about those particular sections of the Proceeds of Crime Act. He has also told me that it has been reversed, but it was reversed on the question of it being unconstitutional, but I am sure the judge made some obiter comments with respect to sections 22 and 33. [*Desk thumping*]

Mr. Speaker, I think I have covered—

[*Pause*]

Dr. Moonilal: That was an intermission?

Hon. C. Imbert: I am afraid so.

Mr. Speaker, although I was about to take my seat, the fact of the matter is, this is very important legislation; it is not to be trivialized. We have to get it right. As you have heard from some of the things I said, there have been difficulties in terms of prosecution in respect to the Proceeds of Crime Act. I am subject to correction, but, as far as I am aware, there is no successful prosecution under the Proceeds of Crime Act at this point in time.

So that there are problems with the legislation and we need to get it right and, therefore, what the Bill is seeking to do is to take away as much of the ambiguity as possible. I was simply conferring with parliamentary counsel to make sure that if we go to the third reading on this Bill, that there would not be any issue and I am satisfied that there would not be, because we would also be taking the third reading of the Financial Intelligence Unit Bill and both will be assented to or proclaimed, as the case may be—I am not sure which one it is—at the same time, so that there will be no conflict. In fact, we may do one before the other to make sure there is no confusion in terms of which one takes precedence over the other.

So with those few words, Mr. Speaker, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clause 1.

Question proposed, That clause 1 stand part of the Bill.

Dr. Gopeesingh: Mr. Chairman, in the definition “Banking” is being replaced by “Exchange Control”. There is no—

Mr. Chairman: We are in clause 1, you know.

Dr. Gopeesingh: Yes, I know. It is in clause 2, under “definitions”.

Question put and agreed to.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Dr. Gopeesingh: “Banking” is being replaced by “Exchange Control” in the Bill and there is no definition of “Exchange Control” in this here.

Mr. Imbert: What clause are you on?

Mr. Chairman: You are on the wrong clause, you know.

Mr. Imbert: What clause are you on, Member for Caroni East?

Mr. Chairman: You are on the wrong clause.

Dr. Gopeesingh: It must be in clause 2 under “definitions” because if “Banking” is being replaced by “Exchange Control” would you not have to have a definition of “Exchange Control” under clause 2?

Mr. Imbert: Member for Caroni East, you are looking at clause 2 of the Act; we are dealing with clause 2 of the Bill. They are two different things.

Dr. Gopeesingh: All right.

Question put and agreed to.

Clause 2 ordered to stand part of the Bill.

Clause 3.

Question proposed, That clause 3 stand part of the Bill

Mr. Maharaj SC: Mr. Chairman, I have a major problem with putting words in an Act where they do not have any meaning. The name of the Act is changed to “An Act to establish the procedure for the confiscation of the proceeds of certain offences and for the criminalizing of money laundering.” But money laundering was already criminalized. So I do not think this is accurate. But it is just a suggestion for the Government.

Mr. Imbert: What would you prefer?

Mr. Maharaj SC: I think you have to leave out—it already dealt with a procedure for the confiscation of the proceeds of certain offences and it already dealt with the criminalizing of money laundering.

Mr. Imbert: Right, but remember this is now going to be the title of the Act.

Mr. Maharaj SC: Yes, but it is not accurate. You are saying, “An Act to establish the procedure for the confiscation of the proceeds of certain offences”, but that was already established in the Act—

Mr. Imbert: This will now be the title of the existing Act. This new title will replace what is there now. So the current Act will have this title now, and it will do all these things that are in here. You follow?

Mr. Maharaj SC: What is wrong with the present title: “Proceeds of Crime Act?”

Mr. Imbert: No, no. Oh, I see what you mean. The Act being referred to is not this, you know; it is the Proceeds of Crime Act. The Act that is referred to—

Mr. Maharaj SC: If you are happy with it, but it already established it—I do not know.

Mr. Imbert: All right. Look at the current title. The current title of the Act is: “An Act to provide for the consolidation of the confiscation of the proceeds of drug trafficking and to provide for the confiscation of the proceeds of other crime and the criminalization of money laundering”. We are changing that to: “An Act to establish the procedure for the confiscation of the proceeds of certain offences.” So it now subsumes “proceeds of drug trafficking” and “proceeds of other crime” into “proceeds of certain offences” and we have kept the last few words, “and the criminalization of money laundering.”

Mr. Maharaj SC: If you are happy and your legal drafts person is happy with it—

Mr. Imbert: All right, good.

Question put and agreed to.

Clause 3 ordered to stand part of the Bill.

Clause 4.

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

Dr. Gopeesingh: That is the one. Mr. Chairman, clause 4(b)(i) and (ii):

- "(i) deleting the word ‘Banking’ occurring in paragraph (a) and substituting the words ‘Exchange Control’; and
- (ii) deleting the words ‘Central Bank’ occurring in paragraph (f) and substituting the words ‘Exchange Control’;”

There is no definition under clause 2 of “Exchange Control”. Where does it really come in?

Mr. Imbert: What this does is—you have to go to the parent Act. Do you have the parent Act?

Dr. Gopeesingh: Yes.

Mr. Imbert: Go to subsection (2) in the parent Act and go to the definition of “financial institution”.

Dr. Gopeesingh: What page is that?

Mr. Imbert: It would be page 8.

Dr. Gopeesingh: And you are saying? You are happy with that?

Mr. Chairman: He is offering you an explanation.

Mr. Imbert: We are just changing the word “Banking” in there from “Banking Act” to “Exchange Control Act” and under “Central Bank Act” to “Exchange Control Act”. You okay with that?

Dr. Gopeesingh: Yes.

Mr. Maharaj SC: Mr. Chairman, in respect of clause 4(d):

“in the definition of ‘police officer’ by—

- (ii) inserting after the semi-colon at the end thereof the words ‘or any officer of an agency of the state, lawfully vested with investigative powers similar to those exercisable by the Police appointed under the Police Service Act, 2006.’”

My view is that this is too vague, because you are giving persons the power to exercise coercive powers of the police service and if we just say “any officer” or any “agency of the state, lawfully vested with investigative powers similar to those exercisable”, what do we mean? In the previous Act we “specified customs officers”. We specified the officers, but you are giving here a blanket to persons to exercise coercive police powers and I have a major problem with that.

Mr. Imbert: So the words “similar to those exercisable by the Police appointed under the Police Service Act” are not good enough for you?

Mr. Maharaj SC: No. “similar” does not mean exactly or the same. If we want to ensure that—what is the problem we have with the customs officer, the existing officers who exercise coercive powers? Is the policy of this to expand the category of persons

who would exercise police powers under the Act? If that is the case, the police officer must be under the supervision of the Commissioner of Police, not under the Minister of Finance. I do not mean this particular Minister. Not under any Minister of Finance.

Mr. Imbert: Just give us a chance, Mr. Chairman.

Mr. Maharaj: And I am sure the hon. Attorney General would know of the famous decision of—is it Endell Thomas in which Lord Diplock stated that police officers should not be under the direction and supervision of the Cabinet or Ministers?

2.30 p.m.

Mr. Imbert: What will you recommend?

Mr. Maharaj SC: I hope that the learned Attorney General will take it into consideration. By the end of the day we could come up with a draft.

Mr. Imbert: We want to get on with this. Do you want to revert to the old definition?

Mr. Maharaj SC: In your desire to get on with expediency you are dealing with a serious matter, giving people police power.

Mr. Imbert: I am aware. Do you want to revert to the previous definition?

Mr. Maharaj SC: I did not see anything wrong with that. I do not know what your policy is.

Mr. Imbert: Mr. Chairman, can we come back to this? Can we defer consideration of this clause while the attorneys confer?

Mr. Chairman: Hon. Members, we will defer consideration of clause 4 and revert to 4(f).

Mr. Maharaj SC: This expanded definition of “security”, I want to get answers from the Government. “Security” means—“security” under the existing Act was expressly defined. It was limited to certain things including, stocks, bonds, shares, debentures, funds and certificates of deposit. I noticed that there is a very extended definition. In the light of recent events, I want to get some undertaking or answers from the Government.

“Security” means any document, instrument or writing evidencing ownership of, or any interest in the capital, debt, profit, earnings or royalties of any person or enterprise and without limiting the generality of the foregoing, includes any:

- (a) bond, debenture, note or other evidence of indebtedness;

- (b) share, stock, unit or unit certificate, participation certificate or share or interest; document, instrument or
- (c) writing commonly known as a security; document or writing evidencing;
- (d) an option, subscription or other interest in respect of a financial institution
 - (i) a credit union within the meaning of the Co-operative Societies Act;
 - (ii) or an insurance company, investment contract;
 - (iii) document, instrument or writing constituting evidence of any interest or participation in a profit sharing arrangement or agreement; a trust, an oil natural gas or mining lease, claim or royalty or other mineral rights.

It would seem that this definition will now cover Clico and the Hindu Credit Union. I want to know whether the purpose of this section is to cover these two organizations among other organizations.

Sen. Jeremie: I am sorry that I am now having a chance to read the provisions properly. The Preamble provides the necessary clause but it must be in the Bill itself. I am proposing that in clause 2 after clause 1, we insert the usual clause that “this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution”. As it stands, it is only the Preamble which reflects the fact that the Act will be inconsistent with the Constitution. It must have slipped through the crack. I am seeing it now.

Mr. Maharaj SC: I do not think that answers my question.

Sen. Jeremie: All the clauses will have to be numbered accordingly.

Mr. Imbert: With respect to the matter you brought up, I am advised that this is consistent with the new definition in the Financial Institutions Act which was passed around December 2008, where the definition of “security” in the new Financial Institutions Act is broader than it used to be. I am told that this is consistent with the new definition of “security”.

Mr. Maharaj SC: That is in the Financial Institutions Act. We are dealing now with a power being given which is coupled with a power in respect of matters abroad. If you look at (g) you would see the new offence under “specified offence” will cover situations outside Trinidad and Tobago. The old definition ordinarily, would not have covered the Hindu Credit Union and Clico for the purposes of the Proceeds of Crime Act under security. It seems to me that with this new definition, when you take (f) and (g), they will cover Clico and Hindu Credit Union in respect of security here and abroad. I want to know whether that is the intention.

Mr. Imbert: If you read, it speaks to credit unions and insurance companies. It is obvious.

Mr. Maharaj SC: Am I correct that one of the purposes of coming with this legislation is for it to apply to Clico and the Hindu Credit Union both locally and abroad?

Mr. Imbert: It is wrong to use specific examples. It will apply to all credit unions and insurance companies.

Mr. Maharaj SC: Would it apply retrospectively to Clico and the Hindu Credit Union?

Mr. Imbert: I cannot see how this Act could be retrospective unless there is a retroactive clause in it. I cannot see it.

Mr. Maharaj SC: Would you have any objection? The way it is put here in respect of there is nothing which prevents it from being retrospective in respect of activities. This Bill will be passed with a special majority, if it is passed.

Mr. Imbert: Is it not the normal practice that legislation takes effect from the day that it is passed and assented to, unless there is a clause which has a commencement date in it? Is that not the practice?

Sen. Jeremie: The practice is that the law will speak from the date it is brought into force. The general principle is—it is against retroactivity, particularly in respect of penal clauses or enactment, as you would know. If you have to put in a retrospective clause, you would require a very high special majority. I imagine that you would have to do that and satisfy the Act ad hominum test.

Mr. Maharaj SC: I have noted what the Government said with that. I have my reservation. Can I deal with section 4?

Mr. Imbert: Are you clear on this now?

Mr. Maharaj SC: I am clear on it. I want to be quite honest. I read this Bill. Most of the matters that you have put here already exist in the Act. It seems to me—I may be totally wrong—that this is geared for a particular purpose.

In (g), “specified offence”, we have this law which covered an indictable offence in Trinidad and Tobago. It already covered (a). The specified offence relates to any indictable offence in Trinidad and Tobago. It already covered an offence specified in the Second Schedule, but you wanted an additional category of offence. What did you say?

"any act committed or omitted to be done outside of Trinidad and Tobago which would have constituted an indictable offence within the meaning of paragraph (a);"

You are saying therefore, that the courts in Trinidad and Tobago would have jurisdiction in respect of a matter which constitutes an offence in Trinidad and Tobago if committed abroad. Normally, a court in Trinidad and Tobago will not have jurisdiction over matters which occur abroad.

Why is it necessary for this matter? Since the Proceeds of Crime Bill was passed, is there any matter which arose which the Government of Trinidad and Tobago could not have prosecuted? Since the Proceeds of Crime Bill was passed, how many prosecutions you had? How much success you had? Why is it necessary for line (b)? I will tell you why I want to find out that, hon. Minister. I have a feeling—I may be totally wrong—that this Bill is being passed for Clico and the Hindu Credit Union in order to get at some of the assets. I want to be satisfied in my mind because I think that the public will want to be satisfied that this amendment is not being passed for a specific matter.

Sen. Jeremie: Sir, if you will allow me?

Mr. Maharaj SC: Sure.

Sen. Jeremie: The problem is no different than what we encountered in relation to the airport matter which you know about. CL Financial has its primary place of business in Trinidad and Tobago. It is covered under (e) whether it does wrong in Miami or Liechtenstein or the Bahamas, as we had in the airport matter. The nexus, the fact that they are covered in Trinidad and Tobago allows us to make MLAT requests because we are entitled to do that of the US authorities and cooperate with them. We have an excellent relationship with them in order for their processes to be engaged.

As a matter of fact, what you find is that there is an arbitrage because our court system is, relatively speaking, slow. These things are dealt with quicker. There are people in jail in the United States and forfeiture orders. Last week we made a forfeiture order for \$2.5 million against Burke Hillman in the United States, based on conduct which started in Trinidad and Tobago.

The extraterritoriality dimension of this clause is due to the fact that we are enacting best practices from a convention. As you know, with respect to illicit trafficking in children, terrorism and certain crimes, the international community has made those offences extraterritorial. There are certain countries that do not

like to pass legislation which extends beyond its borders, but recently, the United States, Singapore and Trinidad and Tobago in relation to this piece of legislation—that is what we are seeking to do.

Mr. Maharaj SC: I agree with what you said, but this is not what I am talking about with the greatest respect. I am not talking about cooperation with countries. We know that we can get that cooperation under the Mutual Legal Assistance Act. You are now creating a basis for a company or an individual to be charged for money laundering, when the person could not have been charged before because if the Act which was done abroad constituted an offence in Trinidad and Tobago, you could not have charged that person for money laundering. Under this it seems as though you are creating a new criminal offence in which the courts of Trinidad and Tobago would have jurisdiction in respect of what occurred abroad.

There has been no other matter of which I know. It seems to me that this is being created for a particular situation in which two companies or persons connected with that money laundering charge could now be used as a basis to go into all the assets of the individuals; trace them—I am not saying harass them—and get at them if you could not get at them before. All I want is some explanation from you guaranteeing that this is not the case.

2.45 p.m.

Sen. Jeremie: As I was trying to explain, perhaps inelegantly, the point is that these institutions to which you refer—the Hindu Credit Union and CL Financial—both have a presence in Trinidad and Tobago so that they are caught under Part A in any event.

Mr. Maharaj SC: Why do you need Part B?

Sen. Jeremie: It is best practice in relation to money laundering. We live in a global village so that there is a possibility that, in some case not tied to these two—the premise you operate under is that the legislation is targeted at specific institutions; that is not the premise. We are trying to give effect to an international convention which contains gold standards and those standards are that in respect of money laundering, which is an international offence, you have money floating all over the world. The G20 has recently put forward fresh rules on it and we are trying to bring our legislation up to par with the best in the world, so that, if you are outside Trinidad and Tobago, you do not touch Trinidad and Tobago, but you involve yourself in money laundering, that will be an offence in respect of which our courts will have jurisdiction.

Mr. Maharaj SC: I have looked at it, but I may not have found it. Can you show me anything where the Financial Action Task Force shows that this provision is a recommendation?

Mr. Imbert: The 40 recommendations were adopted by the Plenary of the Financial Action Task Force in June 2003. I understand you are not familiar with this because you were out of office. I excuse you.

"Recommendation 1

Countries should apply the crime of money laundering to all serious offences, with a view to including the widest range of predicate offences...

Where countries apply a threshold approach, predicate offences should at a minimum comprise all offences that fall within the category of serious offences under their national law...

Predicate offences “—this is where the important part of recommendation No. 1 comes in—” for money laundering should extend to conduct that occurred in another country, and which would have constituted a predicate offence had it occurred domestically. Countries may provide that the only prerequisite is that the conduct would have constituted a predicate offence had it occurred domestically."

Mr. Maharaj SC: What year was that?

Mr. Imbert: June 2003.

Mr. Maharaj SC: Why did you not come from 2003? Why is it necessary now?

Mr. Imbert: Now you see it is an integral part of recommendation No. 1. We have to do this first before we do recommendation No. 2. It says that countries may provide that the only prerequisite is that the conduct would have constituted a predicate offence had it occurred domestically. We are simply trying to comply with the recommendation of the plenary session of FATF of June 2003.

As you may or may not know, there was a meeting in Trinidad and Tobago recently, where Trinidad and Tobago was criticized for being non-compliant with this recommendation and the usual threats of blacklisting and so on were uttered. I hope this clears this up.

Mr. Maharaj SC: I understand the urgency.

Mr. Sharma: Will the Leader of Government Business consider adjourning this aspect until we view the FIU? The recommendations also obtain under the FIU and we have not yet done it so there is a—

Mr. Imbert: This Bill, when passed, will not be assented to until we have also passed the FIU and the two Bills will be assented to together. The FIU will probably be assented to first and then the Proceeds of Crime (Amdt.) Bill.

Mr. Sharma: You are really dealing with FIU issues under this. It is not kind to us and does not make sense.

Mr. Chairman: We will revisit clause 4—

Mr. Imbert: We have no objection to reverting to what is in the parent Act, in other words, not tampering with the definition of “police officer” at this time. We would like to delete clause 4(d). Let us defer consideration of clause 4, until we go through the other clauses.

Dr. Gopeesingh: I want to raise a problem on 4(b). It is an anomalous situation. Whereby there is a definition of “financial institution” in the parent Act, which has not been changed in the amendment Bill, it is substantially different from the definition in the Financial Institutions Act, 2008.

In the definition in the Financial Institutions Act, 2008, “financial institution” is defined as “a company which carries on or used to carry on all or any aspects of banking business or business of a financial nature.” The parent Act says that “financial institution” means (a) to (j), so it is substantially different in the parent Act from the Financial Institutions Act, 2008. And this Bill does not incorporate that aspect of it. They have not sought to change it in this Bill.

If the Minister looks under the Financial Action Task Force—

Mr. Imbert: I am advised that the definition casts a very wide net and if there is any amendment that needs to be made, we can sort it in the other place.

Dr. Gopeesingh: Why can we not say that the financial institution accordingly is defined as—

Mr. Imbert: We prefer to do it this way. As you see, we are changing a bank licence under the Banking Act rather than under the Exchange Control Act for a specific reason. We are looking at foreign exchange, so we prefer to leave it so, but we will take on board your suggestion and address it in the other place.

Mr. Chairman: We will defer clause 4 and move on to clause 5.

Question put and agreed to.

Clause 4 deferred.

Clauses 5 to 29 ordered to stand part of the Bill.

Clause 30.

Question proposed, That clause 30 stand part of the Bill.

Dr. Gopeesingh: What is the rationale for removing the affirmative resolution from the regulations and bringing it under a negative resolution?

Mr. Imbert: Efficiency.

Dr. Gopeesingh: Not at all. You cannot see a justifiable reason for it?

Mr. Imbert: That is the reason; if you object to regulations, you just file your motion and you debate it.

Dr. Gopeesingh: These are important regulations that the Minister of Finance would have to put forward for changes on this Bill. It is only wise that—the amendment is that we should leave it as affirmative action.

3.00 p.m.

Mr. Imbert: If we go with “negative resolution” it saves time, it is more efficient and it gives the Opposition the opportunity to object by filing a resolution.

Sen. Dr. T. Gopeesingh: It would have given the Opposition the ability to see it firsthand, as with affirmative resolution. Why do you want to change it? You have no reason.

Mr. Maharaj SC: I think it is an important principle, because an affirmative resolution means that the Government will have to bring that resolution for it to become effective. A negative resolution or any measure takes effect until it is annulled. There is a time frame. I think in an important matter in which the Minister is given the power to make regulation in a Bill which needs a specified majority, the regulations could be even ultra vires or all sorts of objections, it should be by an affirmative resolution. I think that is the policy which underpins the parent Act.

Mr. Imbert: We feel that for efficiency, it should be negative.

Mr. Chairman: Let me put it to the vote.

Mr. Imbert: We will consider it in the other place.

Question put and agreed to.

Clause 30 ordered to stand part of the Bill.

Clause 31 ordered to stand part of the Bill.

Clause 32.

Question proposed, That clause 32 stand part of the Bill.

Mr. Imbert: Mr. Chairman, I beg to move that clause 32 be amended as follows:

The word “agencies” which appears in clause 32(3A)(b), which speaks about forfeiture or seizure of the property of law enforcement agencies; change that to “authorities”. That is to make it consistent with the FIU.

Question put and agreed to.

Clause 32, as amended, ordered to stand part of the Bill.

Clause 33.

Question proposed, That clause 33 stand part of the Bill.

Dr. Gopeesingh: When regulations are made—they are not made as yet, under section 56 for the selection of the supervisory authority, this FIU is a temporary measure. The ultimate is the supervisory authority and that comes under the recommendations of CFATF. This supervisory authority will be the final. We are trying to pass legislation here to give a temporary measure; that is to introduce the Financial Intelligence Unit as a stopgap for the eventual one, which is the supervisory authority.

What is the Government’s position, in terms of—CFATF has asked member countries to try and put their house in order, to bring on the supervisory authority. We understand that the member countries are asking for assistance from CFATF to introduce this supervisory authority. As a result, this Financial Intelligence Unit is a stopgap measure for the eventual supervisory authority. Are we passing legislation and making regulations for FIU and then the eventual issue would be the supervisory authority? Where do we stand as a country, in terms of this?

Mrs. Nunez-Tesheira: That is not correct. The Financial Intelligence Unit is not a stopgap measure. It is an administrative unit using the model of the administrative unit and it is a recommendation from the Financial Action Task Force. In fact, when you look at the recommendations they say that the country should establish an FIU that would serve as a national focal point for receiving, requesting, analyzing and disseminating of suspicious transaction reports. When we go on to debate the FIU you will find out that section 8 in particular sets out the powers of the FIU. The FIU is the administrative model. Its functions are to collect, disseminate, analyze suspicious transactions and thereafter pass that on to a designated authority. In this case, it is a unit in the Ministry of National Security, who will then take on the investigative component. The FIU is not a stopgap measure. It is the Intelligence Unit, whose responsibility is to enforce much of the proceeds of money laundering laws.

Dr. Gopeesingh: I think the Minister has failed to see it in the 40 recommendations of CFATF. You have admitted that you approached CFATF to seek assistance in establishing a comprehensive regime for identifying supervisory authorities and creating the necessary legislation which would regulate the listed businesses. CFATF has indicated to countries that the supervisory authority should be the ultimate and final. I agree that the FIU is going to come under the Ministry of Finance, but it is a temporary measure.

Mrs. Nunez-Tesheira: It is not. I understand what you are talking about; you talking about the listed businesses. Currently, in terms of a regulatory supervisory authority, they do not have, in Trinidad and Tobago, a supervisory authority. Many of the new businesses that have been added to the Schedule of the Proceeds of Crime Act are businesses which include jewellers and real estate agencies. Currently, we do not have, whether it is in terms of the manpower or otherwise, in fact a specific regulatory authority to regulate those specific listed businesses. However, until a regulatory authority is established for those listed businesses outside financial institutions, the FIU will have that oversight. The FIU will always have the oversight over financial institutions. It will have oversight over what we call nonfinancial institutions; those listed businesses. Until a regulatory authority is established for those listed businesses, the FIU will be the supervisory authority.

Dr. Gopeesingh: You are in fact admitting that the FIU is a stopgap measure until you have that regulatory authority to be the supervisory authority.

Mrs. Nunez-Tesheira: No, I am not saying any such thing. You are twisting my words. I am saying to you that it is not a stopgap measure. It is a unit that is going to be established by law. There is no intention to wind it up. Its remit at this time is broader than is intended in the long term, because of the fact that as it stands, listed businesses under the Proceeds of Crime Act that do not have a regulatory authority, until there is a regulatory authority, the FIU will perform that function, but it will continue to be the regulatory authority for financial institutions. It will continue to so act. I do not know how I—*[Interruption]*

Dr. Gopeesingh: I want to get an appreciation. You have the FIU now. If we pass this legislation you would have the FIU. Would you be going on, ultimately, to have the supervisory authority as the final destination?

Mrs. Nunez-Tesheira: We are the supervisory authority. What you are asking is: Will we go on to form supervisory authorities specifically for certain of the listed businesses? The research has shown—*[Interruption]*

Dr. Gopeesingh: That is what CFATF recommended.

Mrs. Nunez-Tesheira: Yes, and therefore what we are doing is in the immediate. The FIU is the Financial Intelligence Unit and will continue to be the regulatory authority, in terms of collecting information from financial institutions. With regard to the listed businesses to which you speak, until there is an authority set up specifically to deal with some of those listed businesses, the FIU will do that. To say it is stopgap, it is not a stopgap for the financial institutions.

Dr. Gopeesingh: I want to get from the Government, until regulations are made under section 56 for the selection of the supervisory authority, whether you all would be making regulations for the supervisory authority, subsequent to the passage of this Bill?

Mr. Imbert: Mr. Chairman, let me assist the Member for Caroni East. Recommendation 26 of the June 2003 FATF Plenary:

"Countries should establish an FIU that serves as a national centre for the receiving (and, as permitted, requesting), analysis and dissemination of...information regarding potential money laundering or terrorist financing."

It is a requirement of the FATF that we establish a Financial Intelligence Unit.

Question put and agreed to.

Clause 33 ordered to stand part of the Bill.

Clauses 34 and 35 ordered to stand part of the Bill.

Mr. Imbert: Mr. Chairman, I would like to put in new clause 2. How do we do this? I want to defer consideration of clause 4. I beg to move the suspension of the committee stage.

House resumed.

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I wish to report that the Proceeds of Crime (Amdt.) Bill was considered in committee and progress was made. We have not completed our deliberations and I ask that the committee stage be suspended for 10 minutes while we deliberate on clause 4 and we resume committee stage and complete our deliberations thereafter.

Question put and agreed to.

3.13p.m: *Sitting suspended.*

3.34 p.m.: *Sitting resumed.*

Committee resumed.

Clause 4 reintroduced.

Mr. Imbert: Mr. Chairman, after due consideration of all the points made, we have decided at this time to make a small amendment to clause 4(d)(ii) as follows:

Change the last two lines from “exercisable by the Police appointed under the Police Service Act, 2006” to “exercisable by a Police Officer under the Police Service Act, 2006”.

So, we would be deleting the word “the” and replacing it with the word “a” and deleting the word “appointed” and replacing it with the word “Officer”. However, we have taken note of the points made by the Member for Tabaquite, and we will consider them as we take this legislation to the other place.

Mr. Maharaj SC: Could you read it again for me?

Mr. Imbert: Clause 4(d)(ii) would read as follows:

Inserting after the semi-colon at the end thereof the words “or any officer of an agency of the state, lawfully vested with investigative powers similar to those exercisable by a Police Officer under the Police Service Act, 2006.”

Question put and agreed to.

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

New clause 2.

Mr. Imbert: We would like to insert a new clause 2, marginal note, “Act inconsistent with Constitution” and it would read as follows:

“This Act has effect even though inconsistent with sections 4 and 5 of the Constitution”.

And we will renumber existing clauses accordingly.

New Clause 2 read the first time.

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

Question put and agreed to.

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

Question put and agreed to.

New clause 2 added to the Bill.

Mr. Chairman: The existing clauses will be renumbered accordingly.

Preamble approved.

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

House resumed.

Bill reported, with amendment.

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

The House voted: Ayes 26 Noes 0

AYES

Imbert, Hon. C.

Manning, Hon. P.

Nunez-Tesheira, Hon. K.

Gopee-Scoon, Hon. P.

Kangaloo, Hon. C.

Abdul-Hamid, Hon. M.

Dumas, Hon. R.

Ross, Hon. J.

Taylor, Hon. P.

Swaratsingh, Hon. K.

Parsanlal, Hon. N.

Beckles, Miss P.

Mc Donald, Hon. M.

Hunt, Hon. G.

Le Gendre, Hon. E.

Browne, Hon. Dr. A.

Callender, Hon. S.

Cox, Hon. D.

Jeffrey, Hon. F.

Hospedales, Hon. A.

Joseph, R.

Financial Intelligence Unit of Bill
[DR. MOONILAL]

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Hypolite, N.

Regrello, J.

Rowley, Dr. K.

Roberts, A.

Sinanan Ojah-Maharaj, Mrs. I.

The following Members abstained: Dr. H. Rafeeq, B. Panday, K. Ramnath, Dr. R. Moonilal, Dr. T. Gopeesingh, V. Bharath, S. Panday, Miss M. Panday, C. Sharma, N. Baksh, W. Peters, R. L. Maharaj SC.

Question agreed to.

Bill accordingly read the third time and passed.

FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO BILL

[Second Day]

Question proposed.

Dr. Roodal Moonilal (*Oropouche East*): Mr. Speaker, thank you very much. The measure before us, an Act to establish the Financial Intelligence Unit of Trinidad and Tobago, for the implementation of the anti-money laundering policies of the Financial Action Task Force which is to be considered along with the Proceeds of Crime (Amdt.) Bill and to be read as well in accordance with Act No. 55 of 2000, brings very serious changes. Mr. Speaker, this measure has very serious implications for the conduct of business; matters pertaining to pursuing criminal elements involved in money laundering and in the financing of terrorist activities.

3.45 p.m.

The Government is seeking to put in law and establish with legal identity the Financial Intelligence Unit in the Ministry of Finance to receive, analyze and disseminate information arising from what is usually called Suspicious Activity Reports (SAR) from financial institutions and listed businesses.

The measure is by no means a simple measure; it is by no means a measure that we can easily gloss over; it is a matter that we should consider in some detail, and debate in the House the very serious implications. I would try to do several things in my contribution. First, I would try to explain this Bill in layman terms, to explain the measure as it would affect businessmen and companies in Trinidad and Tobago, including certain listed businesses such as that of an attorney-at-law, an accountant, an auditor and so on.

I will go through the Bill to look at some of the provisions and to raise some matters that we consider to be objectionable. I will also depend on some research material dealing with the matter of financial intelligence units across the world, looking at the experiences in Europe, India, South Africa, Italy, Bahamas—nearby—to make some suggestions as to how we can improve on the measure before us. So, I am saying at the beginning that we consider the measure before us to be inadequate, incomplete and in need of some changes, before we can consider the larger question of support at this moment.

I want to make a few preliminary points on this matter. It is very instructive that the Government, as the Minister said on the last occasion, driven by the imperative of bringing this measure to satisfy international obligations under the Financial Action Task Force and under the Egmont group— *[Interruption]* Well, you would say Egmont because you have not been trained properly in French. The “Egmont”/Er:mont Palace at Laurinburg in Brussels. You are dealing with the “Egmont”/Er:mont, but the Prime Minister will say Egmont; that would be fine; you could talk about Egmont at the family day. *[Interruption]* You know you usually take 10 minutes before you disturb me, so relax—that has been instigating and stimulating international dialogue and practice in the area of financial intelligence, that has inspired in some measure the recommendations and conventions coming to the Financial Action Task Force.

Mr. Speaker, they are putting in place a measure to give statutory identity and legal validity to the Financial Intelligence Unit established in 1997 by the United National Congress. They are doing this now, but we have been asking for years to give legal validity and legal identity to the Special Anti-crime Unit of Trinidad and Tobago, and they would not do that. They would not bring legislation to put in law the role and the functions of the Special Anti-crime Unit, which today operates outside of the law, operates without legal authority, but they are coming now—because they have an imperative with an international convention—with a measure to give effect to a financial intelligence unit, and this is hypocrisy at the first phase. It is hypocrisy that you cannot bring a measure to deal with the Special Anti-crime Unit of Trinidad and Tobago, that has been spending millions and millions of dollars and doing precious little, but you are coming now to deal with financial intelligence.

While this Bill seeks to deal with the issue of the financing of terrorism, the word “terrorism” is not used in the Bill incidentally, and there are serious concerns on the part of the Opposition with the issue of autonomy and accountability. Let me explain in a simple way and quickly, how this is working.

Under the Ministry of Finance there is to be established a unit called a Financial Intelligence Unit; there is to be established a director or a director will be recruited and a deputy director among other officers. The Bill says nothing of how this director would be appointed, what qualifications, on what terms, how he may be removed from office, because that is a very important matter. When you appoint persons to office to deal with matters as sensitive as financial intelligence and you are appointing a director who may be dependent on the Minister for that job, you must put in the law the conditions that must arise to appoint and possibly removal as well, in law, so they are protected. [*Desk thumping*] I would get into some detail on that, because that is not the only issue.

The issue of accountability and autonomy of this unit is questionable. What this unit will do in practice is something to the effect of when a banking or financial institution or now a listed enterprise, a listed business— Let us use, for example, an attorneys-at-law because we can understand that. When they submit a report called a Suspicious Activity Report (SAR), they submit this report to the Financial Intelligence Unit based upon some grounds of suspicion. This unit will look at it, will analyze —how they do that we do not know—will collect and will disseminate and pass it on to law enforcement agencies who would then investigate.

Dr. Gopeesingh: Who are they passing it on to?

Dr. R. Moonilal: Who are you passing it to? Is it the Attorney General? Is it the Director of Public Prosecutions? Who are you passing it on to? The gentleman in the middle, the person, the director of the Financial Intelligence Unit is collecting sensitive information from financial institutions, from a lawyer, an accountant and so on, concerning businesses, and that person and that unit will have this power to collect material; they are the repository of information and intelligence.

Mr. Speaker, not every piece of information that is suspicious is illegal or to be used for an unlawful purpose. There may be situations where a businessman might be involved in some transactions pursuant to his business, someone may intend to migrate in a couple years and decide look, he is establishing some business links abroad, having certain cash transfers and so on, pursuant to an intention to migrate, et cetera.

So that a suspicious activity is not necessarily an illegal activity or towards an unlawful purpose to commit a crime, but the Financial Intelligence Unit can raise a flag and say this is a suspicious activity and that information comes to the director of the unit. This is very serious, and that person is in a sensitive position. It is almost like a financial "maco". He has under his remit, collecting information of a sensitive nature.

Unless we do not take our time and put processes whereby that person can be appointed and can discharge those functions with the highest level of confidentiality and immune from the political directorate, then you could be setting in trace a financial mongoose gang to go after political opponents, Members of the Opposition and others against the Government.

When we pass legislation, we must pass legislation in the context of the local conditions of our domestic environment, institutional environment, political and legal system, cultural environment. When we scan today, the governance, the structures, the institutions, what do we see? Are we in a position where we can say, that the national community can say, that we have faith in these institutions that are supposed to be independent? Could we say that there are institutions in this country that are not only independent but they appear to be independent and they are without political pressure?

I want to get to this matter because the director has certain powers. I will give you just two examples of this power. If a report on a suspicious activity is made to the financial unit, the director has the power that he can tell the financial institution, stop, do not complete the transaction, we would like to take a look at it, and the law will provide that the director has the power to indicate to a financial institution to stop a transaction. Now, that could be a legitimate business transaction—but to stop—that is an enormous power.

The director also has another power here to consult with other persons and/or institutions relevant to these offences of money laundering and financing terrorism. Which institutions are we talking about? We are talking about the institutions that are there to prosecute, primarily the Director of Public Prosecutions. When that happens, could we say in this country, that there is a guarantee that the political directorate will not exert political pressure on the office of the Director of Public Prosecutions? Could we say that? No.

So, we must look at this law with a magnifying glass in the context of the reality that faces this nation today. [*Desk thumping*] There are serious allegations in the national community concerning the conduct of the then and now Attorney General, John Jeremie. Mr. Speaker—

Mr. Speaker: I am on my feet please. You fall squarely into Standing Order 36(10). You can bring a motion if you want to deal with that.

Dr. R. Moonilal: Mr. Speaker, could I speak about the office of the Director of Public Prosecutions?

[*Mr. Speaker nods yes*]

Dr. R. Moonilal: Okay, fine, I will reverse the argument. I assume I can also speak about the office of the Attorney General?

[*Mr. Speaker nods yes*]

Dr. R. Moonilal: Good. There are serious matters in the national domain concerning the manner in which the office of the Director of Public Prosecutions has been subjected to alleged political interference by the office of the Attorney General.

I think I am making my point. You see these allegations are very serious, and when a former office holder can bring to the national community and have in the public domain, very serious allegations of political interference, the national community should take note, that a former office holder can be involved in an exchange of letters between two offices.

Mr. Speaker: You see, you have to be very careful. Use the English language very carefully.

Dr. R. Moonilal: Mr. Speaker, could I therefore read from the newspaper? I am not in any way suggesting that what the newspaper is saying is the truth, I am just reading to establish the fact that that was established. In the *Sunday Express*, May 31, 2009 with the headline at page four: "Jeremie's bid to remove DPP". I am reading from the newspaper I assume that this name Jeremie is related to the last Attorney General, but let me read on. Camini Marajh is stating in the *Express* and these are what are outlined in the *Express*, it is not my view.

"Attorney General John Jeremie, back in Cabildo Chambers for a second term, attempted to push former Director of Public Prosecutions (DPP), Geoffrey Henderson, now a High Court judge, to charge powerful political and corporate players under criminal investigation in 2006, including Opposition Leader, Basdeo Panday and businessman Lawrence Duprey."

So, Camini Marajh is saying the Attorney General, John Jeremie attempted to exert influence to charge powerful players Opposition Basdeo Panday and businessman Lawrence Duprey.

4.00 p.m.

Mr. Speaker, this article explains correspondence that was obtained by the newspaper, suggesting that the Attorney General was telling the former DPP that the State had spent considerable sums conducting corruption probes into Desalcott and Proman, and his failure to charge named individuals was untenable. Imagine that! The then DPP office responded in a letter to indicate that the amount of money you spend is not the test of whether there is evidence or not to charge anyone.

The office of the DPP, in response to this naked and blatant attempt to politicize the prosecution system and to persecute Members of the Opposition and those against the Government; the former office holder of that office of DPP had to stand up and tell the former Attorney General where to get off and to indicate, as he said quite frankly, "This is not your business." The matters dealing with prosecution under the Constitution is the purview of the DPP, not the office of Attorney General and that very issue comes alive today in the Financial Intelligence Unit. [*Desk thumping*] It comes alive, because the Financial Intelligence Unit must now give information and share information with other agencies involved in prosecution, namely, in our context, the Office of the Director of Public Prosecutions. [*Interruption*]

When I read that in the *Sunday Express* it was unthinkable that something like this could happen in Trinidad and Tobago. It was unthinkable that someone occupying the office of Attorney General could seek to undermine the justice system like that and to persecute political Opposition, particularity the Leader of the Opposition and businessman Lawrence Duprey. Where have we reached when this is happening? Where have we reached as a society? [*Interruption*]

The Financial Intelligence Unit and the establishment of this unit is not contemplated in an environment where political office holders would undermine the administration of justice. It is not! The Financial Intelligence Unit is not contemplated for those who use their public office to undermine the administration, and indeed, to pervert the course of justice. The Financial Intelligence Unit has another dimension to it. I have taken the opportunity to read the presentation of the Minister of Finance in piloting this measure and I want to get to her presentation. It is a debate and I must respond to the Minister of Finance. I must! It is my duty.

The Minister of Finance came to the House—I have her presentation here—and the Minister of Finance was explaining—and I want to quote—why the Government adopted a particular model. It is called the Administrative Unit Model and I think it is very clear. There are three models you can adopt with a finance intelligence unit, you could go for the administrative unit, you could go for a law enforcement unit or you could go for a judicial unit, meaning a unit in the Judiciary, one in the police, or administrative unit in the Ministry of Finance. I want to quote from her, this is on May 22, 2009, the Minister says:

"The rationale for this selection is needed to establish a buffer between the financial sector and, more generally, entities and professions and the law enforcement authorities responsible for finance, crime and investigation."

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"Often financial institutions facing a problematic transaction or relationship do not have the hard evidence of the fact that such a transaction involves criminal activity or that the customer is a member of a criminal organization. Such institutions would therefore be reluctant to disclose their suspicions to a law enforcement agency out of concern that their suspicion could be based on a wrong interpretation of the facts. The role of the FIU then is to substantiate the suspicion and refer the case to the authorities in charge of criminal investigations and prosecutions only if the suspicion is substantiated."

When I did the research with the support of the office of the Leader of the Opposition, I came across a document entitled *Financial Intelligence Units: An overview*, produced by the International Monetary Fund and the World Bank, 2004. I just want to read a part of this document: In dealing with administrative-type FIUs.

"The main rationale for such an arrangement is to establish a "buffer" between the financial sector...and the law enforcement authorities in charge of financial crime investigations and prosecutions. Often, financial institutions facing a problematic transaction or relationship do not have hard evidence of the fact that such a transaction involves criminal activity or that the customer involved is part of a criminal operation or organization. They will therefore be reluctant to disclose it directly to a law-enforcement agency..."

Mr. Speaker, this is exactly word for word in the speech of the Minister of Finance.

Mr. Ramnath: She did not quote? Plagiarism!

Dr. R. Moonilal: This is a high academic sin called "plagiarism". In her speech there is absolutely no reference to the IMF/World Bank document. [*Interruption*]

It is not in inverted commas. There is absolutely no reference to the document that it came from. I just completed marking 116 scripts at the University of the West Indies and we fail students for much less than this. The Minister of Finance is reading paragraphs in her speech. It comes solely from a report of the IMF and World Bank and there is not a reference here, a quotation, a point to say, well look, according to the IMF or World Bank—now that is akin to the former chairman of the Integrity Commission. What do you have in common with him now? [*Interruption*]

That is the first matter that I wanted to raise, that, really, when you are making a speech and using a piece of literature from someone else—

Mr. Ramnath: Put it in inverted commas, "nah".

Dr. R. Moonilal:—there is a requirement, legal and moral that you give the credit, you indicate which report it is coming from and you put it in quotations.

Mrs. Nunez-Tesheira: You call that desperation.

Dr. R. Moonilal: No, when you cut and paste like this—[*Interruption*]

The Minister of Finance, I understand, is a former teacher, and we wonder how the education system collapsed. I want to stay with the IMF, World Bank Report, notwithstanding that high academic sin, the Minister indicated that the Government has adopted the administrative-type Financial Intelligence Unit, and in the IMF document there are certain disadvantages of this unit that the Government has adopted. Certain disadvantages! Now, that part of the report could not find itself in the Minister's speech—of course not, it was left out.

The disadvantage of this administration unit now, let me remind you, the administrative unit is a unit lodged in a ministry under the aegis of a ministry—it is called an administrative unit—and the disadvantage is the FIU usually does not have the range of legal powers that law enforcement agencies and judicial authorities have to obtain evidence. The administrative type FIUs are more subject to the direct supervision of political authorities. This is the disadvantage! And you wonder whether the Government adopted this model because it is subject to the direct supervision of political authorities. The IMF is saying that this overview is the weakness of the model that the Government is proposing. It could easily be manipulated by political authorities.

Mr. B. Panday: Especially in a small place like Trinidad and Tobago.

Dr. R. Moonilal: I have already raised the issue of the undermining of the office of the DPP. [*Interruption*] In that context we are asked to support a measure to put in place an administrative unit that the IMF and the World Bank indicate is susceptible to supervision by political authorities. So, Mr. Speaker, you can understand the problem that the Opposition would have in dealing with this matter.

On the issue of autonomy and accountability, I want to go to the report again at page 23. This report indicates the core function of the FIU, its objectivity in decision-making and the timely processing of incoming information; the strict protection of confidential data. There must be operational autonomy. Accountability mechanisms need to ensure that the special powers entrusted to the FIU are not abused and that the public resources put at its disposal are used efficiently for the intended purpose. Are we protecting the FIU from the political directorate in this case? Are we protecting from the Prime Minister, because that is the problem that we face here—the Prime Minister? [*Desk thumping and Crosstalk*]

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I want to take us back to the Bill. In the Bill, I believe, clause 8 provides for the establishment of the unit, powers and functions, and while, as I said before, the function of the FIU is really like a conduit, to take information from the business community and pass on to the law enforcement authorities. While they provide for this function—collecting data and so on—when it comes to the appointment of the director we have precious little in the Bill. There are no provisions that will guide us as to how the director should be appointed; whether the director would come from the civil service, outside the civil service and the extent to which the director will be protected from political interference.

Remember, a unit in the Ministry of Finance depends on the Minister of Finance for money, the budget, for resources. If you need to buy biscuit and cheese because you are meeting later in the evening, you probably need to get permission from the Minister for that. When you institute a mechanism like this in a ministry and indicate that the Minister has power over that unit, can that unit be independent?

Mr. Ramnath: Not this unit.

Dr. R. Moonilal: Autonomous! Now, part of the Financial Intelligence Unit is to gather information on suspicious activities.

Now, hypothetically, Mr. Speaker—I point fingers at no one—let us just assume that a business transaction is taking place over a period of time—let us just say one year—and a particular business in this country finding itself in difficulties because of global problems and so on, decides, look, we are moving some assets out of Trinidad and Tobago; it is not related at all to the issue of money laundering or terrorist financing, and this is the content of a suspicious activity report. It goes to the unit director who is appointed by the Minister, who depends on the Minister for resources, we could expect to see the Minister of Finance moving down the road with a big hand bag, clearing out another account. We could expect to see—hypothetically—a Minister of Government bailing out money—not this Minister of course—we can expect to see high political officials having insider information as to what is happening in certain financial institutions. [*Interruption*]

Now, if without this we had a problem, could you imagine now? We are putting in law the power of a Minister of Finance to supervise and monitor under a ministry a Financial Intelligence Unit. This is madness!

4.15 p.m.

Mr. Speaker, the UNC opposition is calling for the establishment of an autonomous and independent Financial Intelligence Unit outside of the Ministry

of Finance, outside of the claws of the political directorate. That is what we are calling for. When you look at the provisions here, the power of the director—and what you have to keep in mind, Mr. Speaker, it is not only local information. Remember, the local FIU collects data from abroad, from partner FIUs. So if the FIU in the United States decides that there is a suspicious activity report concerning Trinidadian, John Smith, they will send it to the FIU in Trinidad. So the local director now has global information and that person is not protected from the political directorate. He can be victimized, abused, undermined, and what guarantee do we have that that person will have the fortitude of High Court Judge, Geoffrey Henderson.

Mr. Speaker, Geoffrey Henderson deserved the highest award of Trinidad and Tobago for standing in defence of the office of the Director of Public Prosecutions. [*Desk thumping*] We need "hendersonian" courage to stand up to this Government. Is that a good term, "hendersonian" courage and fortitude to confront the Office of the Attorney General? We are not sure that others will show similar courage. So I am putting to you that there are no provisions for the proper recruitment and appointment of the director, not even qualifications. But for all you know, you could hire the director—Sunday morning what you had there? The PNM family day. You could hire the director by Eddie Hart ground. There are no qualifications stated: what is the level of training, what are the requirements and so on.

Mr. Speaker, they had the family day and it bust. I think they got a couple people there. I must tell you in all fairness, you got a car load from Oropouche East. You got a car load because my constituents called me and told me that if they do not attend, they stand to lose their URP job. So I told them—[*Interruption*]

[*Mr. Manning is on his feet*]

Mr. Speaker: No, no, he is not giving way. He is not giving way.

Dr. R. Moonilal:—that they should go. I told a car load of them that they should attend.

Mr. Manning: We had a whole team of the—[*Inaudible*]

Dr. R. Moonilal: Mr. Speaker, let me proceed with this matter. [*Crosstalk*] I told him it would be more successful if he had dropped the PNM and just called it Family Day. Maybe more people would have come, just family. Like Indian Arrival Day, you know you do not like the word "Indian", but drop PNM and maybe as Family Day you might encourage people to come and it will not bust as the case was on Sunday last.

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Mr. Speaker, the director and deputy director, absolutely no reference to qualifications. Absolutely none! Absolutely no provision for appointment or removal. When you appoint persons as judges, you appoint persons to the Industrial Court, et cetera. In law, you have to provide to insulate these officeholders from the politicians, from the political directorate, from persons who will trample on the independence of those institutions. So you must provide as well in law that there is a method by which they can be removed. So they are protected. *[Interruption]*

Mr. Ramnath: Otherwise they would be fired by the AG.

Dr. R. Moonilal: Mr. Speaker, I am still on the administrative unit that the Government intends to establish. We go one step further in the Opposition this afternoon, and we suggest that this must be an independent unit that reports to an independent council—*[Interruption]*

Mr. Imbert: Opposition Members.

Dr. R. Moonilal:—where you can place independent persons to work in collaboration with the director, and that council may include a Minister of Government, but certainly not only the Minister of Government. And I advise you to look at what was done in India. In doing our research, we looked at places like India, Italy, even South Africa, where they have implemented measures such as these, to ensure that they protect the institution from political manipulation.

In India, they have an Economic Intelligence Council that includes the Finance Minister that is in charge of supervising the Financial Intelligence Unit. If you look at Italy, South Africa and Belgium, they also have such units which act as a buffer between the Intelligence Unit and the political directorate. We are suggesting and recommending to the Government that in reviewing this measure, we put in place an independent council that will supervise the work of the Financial Intelligence Unit, and not the Minister of Finance. So that is a solid recommendation we would like to place on the table.

In recruiting your director and deputy director, they must be away from the political directorate. It must be very clear the calibre of people you intend to recruit. You cannot take them from Balisier House. You cannot take and put people who would coil, would succumb to the reach of the Attorney General as he tried in the matter with Geoffrey Henderson when he was DPP, to influence Geoffrey Henderson to proffer charges against the Opposition Leader and Mr. Lawrence Duprey. That is crystal clear to use that term.

Mr. Speaker, I want to get back to the measure. There are several issues in the Bill that we consider to be unworkable. I described earlier the movement from collecting Intelligence Units and passing on to the law enforcement agencies. What law enforcement agencies are we describing? Clearly, specialized agencies in the police service, the office of the Director of Public Prosecutions and so on. But there is a particular clause in the Bill that provides—and I will find it easily because I took a note of it and next to that clause, I put in the word "madness", so it should be easy to find—for the director informing a financial institution to seize a transaction, to stop the process of a transaction pending investigation by the local law enforcement agencies. But they said that they can stop it for three days, and I wanted to get to the three days. Imagine three days. So if you are conducting a transaction and it is suspicious, and the director believes that there may be something foul here, you can stop that transaction for three days and in three days, the law enforcement agencies should investigate and give the clearance.

Mr. Speaker, they shoot somebody in Laventille and it took two months to get a report. The Police Commissioner took two months to get a report on a shooting in Laventille, and we are saying that the law enforcement agency will take three days and clarify whether you can proceed with your transaction or not. Which country are you talking about? There was a mass meeting when there was a motion of no-confidence in the Prime Minister. The Commissioner of Police attended an illegal meeting and up to this day, we are waiting for the report. There is no report. But they said that the law enforcement agency in three days will give you the clearance. That is Fantasy Island. That is not Trinidad and Tobago. That could never happen. You need to review that issue.

The other issue that we have a problem with is the reporting. I have in my possession as well—and when you raise issues of reporting, this Government has a phobia. They are quick to point out these are national security issues, we cannot say too much. National security, we cannot undermine security by talking too much. Well, I want to tell you that if the murder rate is 230, we should talk more. Do not stay quiet because the quietness is not helping. I think you should probably talk plenty, maybe it might stop. But every time we raise national security, we cannot give information. So where are the criminal elements getting it from?

I have in my hand here Financial Intelligence Unit, Republic of Mauritius annual report of 2008; 2008, already there is an annual report, Mauritius. I have the reports of the Bahamas. You can get reports from other countries. In Britain, the FIU is under SOCA, Serious Organized Crime Agency. That is where the FIU is located under that agency. And incidentally, I must put a note here for you. The

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Serious Organized Crime Agency in the United Kingdom under which the Financial Intelligence Unit is located, is sponsored by, but operationally independent from the home office, independent from their Ministry of National Security and their home office in United Kingdom. They already have their annual report 2008/2009. These reports must come to the Parliament, and we would like the Government to review that provision where in the Bill now it says that the report will be sent to the Minister, who will lay that report two months later in the House. Why? Why do you need two months; to do what; to check what; to correct and amend what? To sanitize? There is a Commission of Enquiry Report on the EBC, has anybody ever read that? There is a report on the commission of enquiry into the airport, has anybody ever read half a paragraph from the report? We have not seen it.

Mr. Speaker, this provision in the Bill should be amended so that the Financial Intelligence Unit will lay annually, a report of the unit in the Parliament of Trinidad and Tobago. [*Desk thumping*] Remove this conduit of going to the Minister, and then the Minister may in two months lay the report. [*Interruption*]

Dr. Gopeesingh: Never laid.

Dr. R. Moonilal: Or, never. We have seen within recent times where ministries of government have not provided their annual reports pursuant to the Constitution. This is a Government that presides over the undermining of the Constitution at every material point. [*Desk thumping*] Ministries of government have not produced their annual report pursuant to the Constitution. We expect that the Minister of Finance will bring an Intelligence Unit Report? Never! The law must be so worded to direct the Financial Intelligence Unit to send their report directly to Parliament. That is what we want, and the nonsense about security matters and security matters, a report like this is not to name persons. To indicate whether you seize—[*Interruption*]

Mr. Manning: [*Inaudible*]

Dr. R. Moonilal: I know it would affect you because you could have been included in a suspicious activity report.

Mr. Speaker: You are now getting out of hand. Please! Hon. Members, the speaking time of the hon. Member for Oropouche has expired.

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

Question put and agreed to.

Dr. R. Moonilal: Mr. Speaker, I must thank you. I am much obliged because I could now say what I preferred not to say before. You see in the political history of this country, there was a Member of Parliament—the name does not come to me now—who either sold or purchased a car from someone who was reputed to be involved in drugs. There is a particular Member of Parliament who either sold his car to or purchased a car from someone who is reputed to be in drugs and if that would happen, that Member of Parliament would be the subject of a suspicious activity report. Who is that Member of Parliament? That Member of Parliament would have been the subject of a suspicious activity report—and then sold his house and told the country he did not know who brought it.

The Financial Intelligence Report must be laid in the Parliament because in this country we concentrate a lot on process, but not on outcome. So we put things in place, but we never monitor performance management. We do not monitor whether something is successful or not, and if we have the unit telling us what they have confiscated, how many properties, how many business persons or professionals have been charged and convicted—To this day, this Government has not convicted one single person for money laundering with all the talk about dealing with crime and so on.

Mr. Speaker: Hon. Members, the sitting of the House is suspended for tea, we will resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Dr. R. Moonilal: Mr. Speaker, before the tea break, I was indicating to the House that while the measure before us was, indeed, commendable—in fact, the government of the UNC did seek to establish a financial intelligence unit—and, clearly, the global effort is toward removing the profit from the proceeds of crime as a key tool in reducing serious crimes and, particularly, offences related to drug trafficking, there is a need to undertake a comprehensive review of the present measure before us, because we believe the measure falls on certain matters; particularly the fact that an intelligence unit like this should be independent and autonomous from a ministry of government and from direct or indirect control by the political directorate over its budget, over its resources and staff.

The Bill before us should provide for the recruitment of staff of high integrity and calibre, highly trained staff and should also provide the mechanism by which they may be removed, so that they would be insulated from the whim and fancy of the political directorate.

I wanted to go back to the International Monetary Fund (IMF) World Bank report on intelligence units. I am sure that this document is in the possession of the Government, because there was a point at which in the Minister's contribution of last Friday, he literally cut and paste from this document. So I assume that the document is present in the Ministry.

The IMF and World Bank speak, not only of placement in administration, meaning where the unit should be located, but also the appointment and dismissal of the FIU head. I want to quote from the report on page 24:

"The laws of many countries contain special provisions that tend to protect the autonomy of the head of the FIU. In some cases, the appointment is given more solemnity by being made by the president of the country on the recommendation..."—of the Government.

It is not far-fetched to consider that for such an important position as Director of Financial Intelligence, that it may well be that we look toward the model of the Police Service Commission, where both the Government and Opposition collaborate to agree on the appointment of a director of the Financial Intelligence Unit.

I wanted to put on record the research that we have done into this matter, because I made the point earlier that the Financial Intelligence Unit should be protected and isolated from the politicians. I indicated the example of India where there is an Economic Intelligence Council—which includes the Minister of Finance—that oversees the Financial Intelligence Unit.

If we look to another country, Italy, there is the Guidance Committee which was established in 1997. Mr. Speaker, you would agree that when we call the names of these committees, because we are dealing with language and translation, the names may sound a bit simple or even funny. But there is a Guidance Committee in Italy established to make an annual overall examination of the activity of the FIU, in order to evaluate the progress and results of the activity and formulate policies aimed at enhancing the effectiveness of anti-money laundering action. Clearly the unit is being supervised, and reports to a Guidance Committee in Italy.

If we look at the Netherlands, there is a committee called the "Assistance Committee" made up of representatives of ministries, law enforcement, prosecution agencies, financial sector supervisors, et cetera. The Assistance Committee is charged with assisting the FIU in its functioning, offering its knowledge and expertise and advising on the way the FIU carries out its duties and the effectiveness of disclosure obligation.

So we have looked at Italy and the Netherlands. Even in South Africa, a relatively new democracy, they provide for a Money Laundering Advisory Council, which advises the ministry on policies on best practice to identify the proceeds of unlawful activities and which also acts as an advisory body to the FIU, concerning the performance of its functions, and acts as a forum in which the FIU, representing various categories of institutions, can consult.

The South Africa legislation is called the Financial Intelligence Centre Act, 2001. If you look at Belgium, India, Italy, the Netherlands and South Africa, they have in place already a model that allows for the FIU to work in an independent manner, away from the political directorate, and reports to an independent council that supervises its activities, and the FIU reports to the Parliament of the land.

I made the point earlier as well concerning the removal of officers. I want to place on record as well that there are countries and, in fact, one in the region, a Caricom partner incidentally, and I refer to Antigua and Barbuda, where they have in place legislation that provides for the removal of the members of the Financial Intelligence Unit. To remove the members of the unit and to make changes with the staffing, it requires that a motion be moved in the Parliament for Parliament to decide on their removal.

You can see that even within the Caricom region or in the wider world, there is that movement towards checks and balances in designing the financial intelligence units throughout the world, to protect them from political interference, which they believe is one of the major issues affecting the workings of those institutions.

I have another point that I want to raise, and maybe the Government could respond. I am not sure, because it was not stated in the Minister's contribution, whether or not the Government undertook a process of consultation with members of the national community and, particularly, the affected organizations: banking institutions, financial institutions, the Law Association, the Association of Auditors, if there is one, accountants, Car Part Dealers Association or whatever, there are listed businesses. From reading the literature, there is the suggestion that Government should consult with the private sector, the financial sector and other related institutions, such as the Law Association, to build confidence, understanding and collaboration so that these institutions would know their obligations.

I want to stay with my one case example of the law firm. The reporting agencies must buy into this Financial Intelligence Unit. They must understand their obligations, their responsibilities; there must be an understanding to build

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confidence and support. So when you ask for suspicious activity reports, the institutions and those businesses, would understand the nature of what has to be done and they would support it.

It is recommended that before Government implements legislation like this, they must consult with the affected parties, those institutions and organizations representing the listed businesses, so they could build a collaborative effort to implement this type of legislation. We did not hear from the Minister of Finance in her opening statement that the Government undertook that process of consultation to arrive at the Bill.

The Minister of Finance also referred in her presentation to relevant factors, such as integrity, transparency, public confidence, accountability and so on, in establishing the Administrative Unit. I have been at pains to point out that the Administrative Unit may not be the model best suited for Trinidad and Tobago. It may well be that we must look at a hybrid between the Law Enforcement Unit and the Judicial Unit, where these activities relate directly to an arm of the Judiciary that can work in conjunction with the police and law enforcement agencies. When you put administrative units under a ministry of government, you give rise to a lot of problems which I thought I had indicated earlier in the proceedings.

In the Minister's presentation as well, there was a reference to "compliance officers", but in the Bill there is no provision for compliance officers. So I am not sure where those officers are coming from, how they are appointed and who they are, because the Minister made reference to compliance officers and there is none in the Bill before us.

This Bill is also silent on the matter of combating the financing of terrorism, which is a key objective of this process to identify businesses and individuals who may be involved in financing terrorist activities and subject those entities and person to further investigation and, possibly, criminal prosecution. But the Bill is silent on this; there is no section or group of provisions that deals specifically with combatting the financing of terrorism. The recommendations that influenced this Bill dealt with that matter. It is a concern for us as to the extent to which the Bill attempts to deal with financing terrorism. It is missing in the content of the Bill.

Let me indicate, using the same one case scenario, that unless we do not protect this Financial Intelligence Unit from influence, particularly from the political directorate, there would be no credibility. This institution will have no credibility; the institution will have no integrity. I do not want to get into it. This is not certainly the time to revisit the recent collapse of the Integrity Commission,

but it happened; it is a fact. If we do not start properly with this Financial Intelligence Unit, and the national community does not buy into it and develop confidence, this unit will not have the credibility to operate.

Mr. Speaker, let us get down to "brass tacks", as they say. Somebody involved in money laundering, the drug trade, financing terrorist activities, and so forth, businesses and persons like that generally have a lawyer, they generally have an accountant; they would have an auditor. They may have a political leader. They may have a series of professionals around them who operate and undertake their private work.

You do not want a situation where the Financial Intelligence Unit abuses its authority, threatens business persons and institutions outside of its purview and acts in bad faith. It could well be that if a lawyer, an attorney-at-law, is against the Government and speaks out against the Government, his business could be the subject of a suspicious activity report. So whether it is Prakash Ramadhar, Vernon de Lima or whoever, attorneys-at-law—

Mr. Manning: Or Ramesh or Panday. [*Laughter*]

Dr. R. Moonilal: Not in the criminal jurisdiction. I understand the Member for Tabaquite is no longer in the criminal jurisdiction.

5.15 p.m.

Mr. Speaker, the Government, through the Financial Intelligence Unit (FIU) can get to an attorney-at-law if they believe that a particular attorney is against their government, if they believe a particular businessman is not supporting the party. He clearly did not give enough money for the family day, they could decide to go after him with a suspicious activity report and bring the business person into disrepute, or undermine a law firm. [*Crosstalk*]

Mr. Speaker, I wish we could take the word of the hon. Prime Minister, I really wish we could but regrettably we are not in a position to trust the hon. Prime Minister. I say this with deep regret and it is so unfair and I say it with a heavy heart indeed, but we are not in a position. I wish it was otherwise but it is not, and in those circumstances, we need to protect the autonomy and independence of the Financial Intelligence Unit.

I just want to take one or two issues from the Bill itself because there are a couple smaller issues that need to be dealt with. We spoke already about the reporting to Parliament, I think that is clear. We are also talking about the location of the unit outside the Ministry of Finance and established in an independent framework, supervised by an independent council that can report annually to the Parliament.

We are also referring to the fact that the Financial Intelligence Unit is not a unit that can investigate any offence, it has no powers to investigate, and indeed it would have no resources to do so. All it does is act as a mailbox; they collect information if they believe for whatever reason that the information constitutes a suspicious activity and I can define suspicious activity.

Incidentally, the Bahamas has already issued regulations that deal with suspicious transaction guidelines. If the unit believes it is suspicious, they then pass it on to the local law enforcement agencies or foreign FIU for investigation. I think it is wise because many persons will not understand some of these matters.

When we say a suspicious transaction, a suspicious transaction includes:

- "a request for or the discovery of an unnecessarily complicated trust or corporate structure involving several different jurisdictions;
- payments or settlements to or from an administered entity which are of a size or source which had not been expected;
- an administered entity entering into transactions which have little or no obvious purpose or which are unrelated to the anticipated objects;
- transactions involving cash or bearer instruments outside a recognized clearing system...
- sales invoice values exceeding the known or expected value of goods or services;
- sales or purchases at inflated or undervalued prices;"—the sale of a motor car maybe, or a house.
- a large number of bank accounts or other financial services products all receiving small payments which in total amount to a significant sum;
- large payments of third party cheques endorsed in favor of the customer;
- unwillingness to disclose the source of funds;
- the use of postal boxes for no obvious advantage;
- unnecessarily complex group structure;
- unexplained subsidiaries;
- the use of several currencies for no apparent purposes;"

And it goes on, but in the Bahamas they have explained what suspicious transactions that we talk about are, and because it is so wide it is then susceptible for a Financial Intelligence Unit to abuse the power. It is almost anything. If you decide that you are buying properties abroad because you intend to migrate, that may be seen as a suspicious activity; if you are in Trinidad and Tobago as a professional, you are sending resources to Miami, that might be seen as suspicious and then this intelligence unit goes after the individual and refers it to the law enforcement agencies.

An interesting point is that while information collected is for the purpose of suspicious activities relating to the offences of money laundering and financing terrorism, can that information also be used if it discloses other offences? Can they use that information to prosecute in any other matter? Tax evasion, et cetera, is not clear in the Bill and if that is not clear, then the business person, the financial institution may not be willing to cooperate if they believe that the information they give could be used for another purpose apart from the purpose that is in the Bill itself.

Mr. Speaker, as I indicated before, lawyers in opposition to the Government can find that the Financial Intelligence Unit scoop down on their office and accuses them of being involved in money laundering and financing terrorist activities. This is possible.

In fact, Mr. Speaker, sometimes we use this language and Members on the opposite side groan and hurl abuses but it was a Member of the Government on television on Monday evening who warned the national community that the Government may be going in the direction of Zimbabwe. That was not Moonilal talking, it was a Member of the Government and I think the national community should take note that a former Cabinet Minister is now suggesting that this Government is now moving in the direction of Zimbabwe.

Mr. Speaker, I do not have the heavy heart to say that one, but when we were saying that for years and years they would attack us, but today a Member of the Government has gone on record and indicated that this Government and Prime Minister is moving in the direction of Zimbabwe. I draw no conclusion from this matter; I think it is one that the Member—I say that, not with the heavy heart, but with Calder Hart. *[Interruption]*

Mr. Speaker, let me get back to the Bill before the Member for St. Augustine distracts me further. There are a couple other matters I want to raise. We need to review the Bill before us to deal with the issuance of public reports, and while

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there are offences in the Bill to prevent the director and other officers from divulging information and breaching their code of confidentiality, we need to relook as well, the issue of the Director, Deputy Director and other officers of the FIU himself or herself participating in offences. They themselves are involved. What is to prevent the director from receiving kickbacks or bribes from the financial institutions or listed businesses to protect them? Where is the accountability? Where is the transparency? That is the point we were making from the beginning why we cannot support the measure.

In the few moments before I close, I want to summarize the recommendations of the Opposition. The Opposition at this moment is recommending that the administrative unit be reviewed and the Government considers the establishment of a judicial and/or law enforcement type unit outside the control of any ministry of government, and certainly outside the control of the Attorney General of Trinidad and Tobago.

We are also indicating to the Government that it should look to those countries named for guidance in how to establish this Financial Intelligence Unit. We are also suggesting that the unit reports to an independent council and to Parliament at least once per year with an annual report to be tabled.

We are also suggesting that the entire section that deals with the appointment of the unit be revised to include in the law provisions for the recruitment, functioning and the removal of directors and deputy directors. The reference I was making earlier is that the Office of Drug and Money Laundering Control Policy Act, 2002 of Antigua and Barbuda—imagine Antigua, a Caricom country has a select committee of Parliament that is established to look at the FIU.

Mr. Speaker, these are the recommendations that the Opposition would like to make at this stage. Colleagues of mine, I am sure, will want to speak to this issue in greater detail as it relates to monitoring the Financial Intelligence Unit in Trinidad and Tobago. The UNC Opposition in no way is closing the book in this matter, we are prepared to listen to the views and suggestions of the Government and we are certain if the Government will accept our recommendations and remedies to correct the Bill, we will approach the matter with a very open mind.

Mr. Speaker, I thank you.

The Minister of Public Administration (Hon. Kennedy Swaratsingh): Mr. Speaker, I stand to add my support to this Bill to establish the Financial Intelligence Unit of Trinidad and Tobago for the implementation of the anti-money laundering policies of the Financial Action Task Force.

Mr. Speaker, as I listened to my very good friend and colleague from Oropouche East, I thought that the other side would have been better served to let a real lawyer, like the Member for Tabaquite, speak on this Bill.

Mr. S. Panday: Like a real priest.

Hon. K. Swaratsingh: I know you would jump in with that. Mr. Speaker, I really wanted to focus on the Bill, but I cannot but respond to some of the comments which he made as he used this Bill to attack the integrity of the hon. Attorney General. I want to reiterate the view that was expressed in the *Daily Express* of Thursday, May 28 by a prominent attorney, Israel Khan:

“Criminal Attorney Israel Khan SC yesterday described John Jeremie as one of the most courageous Attorneys General that this country has ever seen.” [*Desk thumping*]

“At this point in time of our history, we need an Attorney General like John Jeremie,” Khan said when contacted for a comment.

He said it was Jeremie who pursued the Yasin Abu Bakr matter to the very end.

‘We are now seeing the fruits of that labour,’ he said.

He said Jeremie has never allowed party allegiance to get in the way of the performance of his duties. Khan noted it was through the efforts of the Anti-Corruption Unit, which worked with the Attorney General’s office, that former PNM Chairman and senior minister Mr. Franklin Khan and former minister Eric Williams were charged.

‘They (Khan and Williams) had to undergo due process,’ Khan said, adding: ‘He (Jeremie) would not allow anything to stand in the way of doing his duties.’

On the Mustill report, Khan said the report found no wrongdoing on Jeremie’s part.”

Mr. Ramnath: Who is Khan, Israel Khan?

5.30 p.m.

Hon. K. Swaratsingh: I was not here when Mr. Jeremie was in his first iteration of Attorney General and I wonder why some people are so afraid of the return of Mr. John Jeremie.

Mr. S. Panday: He does lie plenty! He is a notorious liar!

Hon. K. Swaratsingh: I want to just state and I want to reassure the national community that the People’s National Movement, filled with profound talent as we are, having been blessed by the demitting of office of one very fine Attorney General, has another one that we can call in short order—[*Desk thumping*]*—*who will respond to the call for national service and, therefore, bravely embrace the task ahead.

The erstwhile Member for Oropouche East went on to also continue in the attack of the Minister of Finance. I just want to put on record that we on this side will not be deterred or daunted but will continue to press on with matters. They ask us why we have not arrested anybody. But they are the ones who left unfinished legislation that we could not implement, and now we come to implement what they have again committed themselves to and they chastise us for not implementing it. It could not be done. It can be done now, thanks to the Minister of Finance for bringing forth this piece of legislation. In fact, like so many things that they started, we have to conclude it to bring some semblance of order to make it work.

The hon. Member for Oropouche went on as well to speak about a number of things that ought better to be placed when discussing the regulations as opposed to the Bill to establish the unit. In fact, when he spoke about why the administrative approach, the very document that he quoted from continues in the following page to say:

“By making an administrative authority a ‘buffer’ between the financial institutions and law-enforcement sectors, authorities can more easily enlist the cooperation of reporting institutions, which are often conscious of the drawbacks *vis à vis* their clients of having direct institutionalized links with law-enforcement agencies. Administrative-type FIUs are often preferred by the banking sector. They may also appeal to other institutions and professionals that have been added to the list of reporting entities for the same reasons.”

In fact, I got a bit confused. What type did the hon. Member recommend when he talked about a hybrid, for example? It is said in the same document:

“This last category encompasses FIUs that contain different combinations of arrangements described previously. This hybrid type of arrangement is an attempt to obtain the advantages of all the elements put together. Some FIUs combine the features of administrative-type and law-enforcement-type FIUs, while others combine the powers of the customs office with those of the police.” [*Interruption*]

At least I know my Canon law.

“For some countries, this is the result of joining two agencies that had been involved in combating money laundering into one. It may be noted that in some FIUs listed as administrative-type, staff from various regulatory and law-enforcement agencies work in the FIU while continuing to exercise the powers of their agency of origin.”

You can solve that same thing by having a hybrid.

The point is that time and time again, as the Member for Oropouche stated, we will come with important legislation and all they try to do is to use it to see how best they can ridicule Members on this side as, of course, they try to do it in every contribution. The point is simply that this piece of legislation is important for us to complete the package of legislation that is required for us not to be blacklisted, having gone through the commitments that we have made in the past. In fact, one would say, therefore, that as we seek to satisfy our international obligations, we are, in fact, establishing well-founded and well-established practices that have been put in place across other jurisdictions across the world. Trinidad and Tobago, therefore, is seeking to do nothing other than what we have committed ourselves to so do.

I wanted as well to focus on a number of issues that were also raised in reflection by the contribution of the hon. Member for Oropouche East. One is the type of people that will staff the Financial Intelligence Unit. In fact, I think my colleagues will treat with it in more detail, but suffice it to say that this unit will be staffed by persons who—by the Bill that we are passing today—will themselves have to commit to an oath of confidentiality and how the data that comes into their purview is used and transmitted.

In fact, when we think about Part IV, I think, of the Bill and the implications that that will have on persons who serve on boards, institutions, chief executive officers; the penalties that they have therein, there must be some sense that we have to engage in some public education coming out of the passage of this legislation, because there are serious implications for organizations. You know, I remember in a previous debate one of the things that someone was throwing at us was that we really have no way of identifying who are some of the major players, the larger persons involved in criminal activity, whether it be from money laundering or other types of activities, and how do we source those kinds of persons and bring them to justice. This Bill goes a long way in establishing a framework for us to ensure that we follow the money trail to the point where we are able to identify those who are involved in illegal and illicit activity.

I just wonder why it is, therefore, that all Members of this House are not able to support this legislation. Why is it that we are coming to see how we could prevent this legislation from being passed as opposed to embracing the tenets of this Bill? Institutions, organizations, persons in positions of responsibility must therefore undertake with greater scrutiny the transactions that come before them, because in this Bill you will not only be guilty of sins of commission; you will also be guilty of sins of omission. You cannot turn a blind eye and you cannot say you did not know. In fact, when we think in terms of what are some of the penalties involved, persons must, therefore, now undertake to conduct their transactions with a greater level of scrutiny.

One of the things that we, as a society, have to be very conscious of, is that the establishment of institutions such as this is never an easy undertaking. In fact, the very document that was referred to by the Member for Oropouche East talked about the disadvantages that small island states have to implementing FIUs. It is well documented as to some of the things that we will have to look for and face up to. In fact, in my own view, we may also have to engender some level of significant training for persons to be able to adequately work in units such as this. But those things must not deter us or prevent us from making that step of establishing these units.

In fact, like the Member for Oropouche East, we agree that we require significant calibres and talents of persons to be able to staff and to work in units such as this. But we see no reason why—and the documentation is quite clear, while persons have used a number of approaches, that the approach that we have enunciated in this Bill is not one that Trinidad and Tobago should engage in at this time. The hon. Member went on to say that the Minister may or may not bring a report to Parliament about the operations of the unit. The Bill is very clear. In clause 17(2):

“The Minister shall, within two months of receipt of a report from the Director under subsection (1), lay the report in Parliament.”

It is not “The Minister may”; “the Minister shall”. That is why sometimes I have a great difficulty when we cast aspersions and make suggestions that the national community oftentimes can be misled, when the words in the Bill are quite clear.

Another point that the Member for Oropouche East went on to enunciate on is the whole area of autonomy and accountability. Again, all those issues are dealt with. In fact, at page 23 of the Financial Intelligence Unit Overview by the International Monetary Fund and World Bank it states:

“The core functions of an FIU call for objectivity in decision making, the timely processing of incoming information, and strict protection of confidential data.”

So the national community needs to be assured that one of the tenets of this unit is the strict code of confidentiality that will be appended to all data that comes into the purview of the unit.

“As the Exchange of information between FIUs is based in large part on trust, building an FIU that inspires trust from its counterparts is key to effective cooperation. To ensure that these requirements are met on an ongoing basis, FIUs need to be given enough operational autonomy to allow them to carry out their assigned tasks without undue interference.”

All those will be put into the regulations that will come as we establish the unit:

“A number of factors enter into the definition of the autonomy and accountability of the FIU.”

Not one, but a number of factors. One is the placement of the FIU and the other, of course—whether it is inside or outside the structures of the public sector.

“The law may also protect the independence of the FIU by defining the manner in which its head is appointed and replaced.”

And all those issues that were raised by the Member for Oropouche East, we consider all those things as important aspects of the establishment of the structure of the FIU.

Having dealt with some of the issues raised by the Member for Oropouche East, let me go on to talk about some of the things that happened in the Caribbean. In fact, in recent times, St. Kitts was removed from the black list, St. Vincent and the Grenadines. I mean, we have a number of Caribbean agencies being removed one at a time from being blacklisted. Trinidad and Tobago now stands on the verge of once again coming under the shadow of being blacklisted.

Therefore, as we seek to pass these Bills today, we are not only doing so to satisfy our international obligations, we also feel that it is the right move as we move towards developed country status, that we strengthen our institutions to ensure that we create a financial sector where the investment climate, where the level of trust, the level of business decision engagement also is one where we attract the right kinds of persons to do business in Trinidad and Tobago. In fact, as we seek to do that, we are also building, as you know, our international financial centre. We are becoming a centre in the Caribbean for business transactions. So we are beginning to build up the kinds of institutional framework that will give rise to Trinidad and Tobago’s credibility in this way.

Many of our institutions or businesses, banking sector and a lot of other institutions, have for a long time not established the kinds of rigour that would give rise to detecting a number of the illegal activities that we find ourselves faced with, both on the local and international scene. That is why this unit is so important:

5.45 p.m.

This is the expertise that we require that do not now reside either in the agencies that we have established or in the sectors that operate Trinidad and Tobago. It is important therefore, that the national community understand that we require a new type of expertise going forward if we are to take our place seriously in the international framework and establish the kinds of institutions that are required. *[Interruption]* “Well yuh know you good at that.” You would recognize it very easily.

The sophistication of crime today requires that we establish new institutional framework to deal with some of these matters. As we continue on this path we must be careful to assure the national community that the fear that oftentimes comes from others who seem to want our institutions to remain where they are, the fear that their data, information and business would be out on the street because we are establishing these units would be somehow compromised, must be completely repudiated as we seek to establish confidence in the units that we are establishing. In fact, the public must feel reassured that when we establish these units, we would have enough governance framework in them to ensure that the data of persons whom we have coming through are protected at all costs.

Today, when we think in terms of the society we live in, we sometimes feel that people’s businesses are not protected by the sanctity of the institutions that we have. This is one unit in establishing it. We have to continuously reassure persons that they will not have to worry. That is why we have chosen the administrative type of Financial Institution Units (FIUs) to ensure that we protect the sanctity of persons’ information as they come into the purview of this unit. As a Government, we always seek to ensure that persons know that not only can we establish the right mechanisms to ensure that our business is done in a way that allows and instills confidence, but also that in the day-to-day operating of the institutions, as alluded to by the Member for Oropouche East, we like to establish things but we do not think about the actual outcomes. In the outcomes of this unit we are going to ensure the kind of professionalism and trust that can be fostered very concretely.

One of the things that has worried us in a number of ways is the environment that we have where we seem to be unable to look at some of the legislation in a holistic context. Think about crime. From where does it come? Illicit drugs or the

use of financial terrorism? In following the money, many persons would be affected in ways where they have not been affected before. Persons will now have to account for some of their transactions that they would have hitherto not have had to do. As a consequence, some of the things that we are looking to put in place are to ensure that the collaboration with international agencies continues to remain one of the core functions of this unit, where they seek to ensure that sister and brother FIUs across the globe will find in them, a receptive and informed agency.

In conducting business in Trinidad and Tobago, a number of institutions that we have in the legal framework that we operate in at this time do not give us the kind of capacity that this unit will bring to the table. That is why it sits as a buffer between law enforcement and financial agencies to ensure that we can receive, analyze, collate and transmit data in a way that makes sense as we go forward. The fight against money laundering and financing of terrorism and related crimes continues to be high on the agenda of the Government of Trinidad and Tobago.

I remember, as I said, in previous debates when we had been attacked for not being able to bring persons to justice in this area. Now we are establishing the framework to so do. That is why it is quite important that we continue to pass this piece of legislation, as we build an environment where Trinidad and Tobago can live up to its international obligation. Across the Caribbean, a new season has indeed dawned. When you look at the offshore industry that the Caribbean has become noted for, a number of changes would have to take place now across the length and breadth of the Caribbean, where people will have to look at the mechanisms we established to deal with issues of financial transactions.

In St. Vincent and the Grenadines, the offshore industry has gone through many changes, where they have looked to establish an international financial service authority that would deal with some of the issues that they now face in looking at their offshore industry. Grenada and the Bahamas are doing the same thing. Trinidad and Tobago is now establishing a framework where we can move forward in establishing another piece of the jigsaw puzzle in making Trinidad and Tobago a financial centre.

For a minute, I want to focus on the business community. Part IV of the Bill looks to outline some of the implications that persons who serve on boards must now become aware of. In Part IV, clause 20(2)(b) states:

“the Chief Executive Officer or other officer of a financial institution or listed business and that person knowingly authorized or acquiesced in the omission to provide the additional information requested, that person is guilty of an

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offence and is liable to a fine of five hundred thousand dollars and to imprisonment for five years.”

These are serious offences that have a weight of penalties that will befall any person who is caught in its category. That is why it is quite important now that we alert persons that the Bill is very comprehensive in what it seeks to do and to create a climate, where persons in their transactions ensure that they face very squarely, the information that is requested and required to certify a number of transactions being conducted.

It goes on to say:

“(4) A listed business convicted of an offence under section 10(a), is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for five years, and to a further fine of fifty thousand dollars for each day that the offence continues.”

The climate that is being encouraged by the passage of this legislation is one where businesses are now forced to look at how they conduct their affairs. We have heard many stories in the past of a number of things taking place over the counter. We have heard many stories and the public is full of inferences as to what takes place in one type of business or another. That is why we have to ensure that in passing this legislation, persons are sufficiently aware as to what is required in the conduct of business and the transmission of information as we seek to go about our daily activities in so doing. It was alluded to about a lawyer. You can think about a number of things in the real estate business; the banking sector; art works and a number of things where persons will have to be very conscious as to how they are able to account for the transactions in which these businesses have been engaged.

When you think about this piece of legislation, it is little wonder why Trinidad and Tobago in passing this legislation would now eradicate from the list of non-compliant issues, about 20 issues, as we seek to conform with the international community in setting up this unit.

This unit being established in the Ministry of Finance, unlike in 1997 when it was placed in national security, is now finding a place where it can be effective, in the sense that in the Ministry of Finance we can get the kind of skills such as—I would like to look at what we can do to help create forensic accounting and lawyers who can look at what is required in analyzing the kind of data that would now come across the desk of this unit.

The Ministry of Finance will also have under its purview, because there is a collaborating institution that is established within the ministry or the agencies that come under its purview as the Central Bank, where we can cross-reference data and it is easier to operate, in an environment where there is a centralized agency that deals with matters of a financial nature. That is why we have agreed with the Minister of Finance that this unit should be so placed in the ministry. It is a clear act of confidence in what takes place by the very competent people in the Ministry of Finance.

In fact the Ministry of Finance has a habit and culture of confidentiality, financial information and data. We have been able to conduct transactions in the Ministry of Finance without having the breaches that have been referred to by the Member for Oropouche East. This Government continues to operate with a clear mandate of being very sober and responsible in its public utterances, to ensure that the public is not filled with fear as it interacts with the public sector and officers who represent the Government. There have been those who have tried time and time again to instill fear into much of what we try to do. There is some hidden agenda or sinister approach or sinister programme behind all that we are trying to do. Time and time again we see sprouted at us one conspiracy theory after another and nothing could be further from the truth.

Clearly, as was suggested by Mr. Khan in his response to the questions being asked about the hon. Attorney General, the last tenure in the last government of the now Attorney General, demonstrates that “performance beat ol’ talk” any time, any day. This Government continues to be responsible in what it seeks to do and how it uses the data that come into its purview. Nowhere and at no time can anybody accuse us of using such information in any illegal or illicit way. We have tried very hard, even in the face of the taunting of those who do not support us, not to use information in our purview without being responsible.

6.00 p.m.

Time and again we have been accused of a number of things as the conspiracy theorists continue to suggest—the legislation we bring forward. Clearly, in this legislation, nothing could be further from the truth. Even as was suggested, as I indicated before, the deputy director and the director of this unit shall submit annual reports; shall be held accountable for their behaviour and these would be further spelt out as we seek to establish the regulations and the rules that will govern this unit.

We will not, therefore, leave anything to chance. We will not, in setting up this unit, be irresponsible as to not have the right type of persons with the right qualifications and the relevant experience and expertise to manage this unit. We

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will ensure that persons who come into this unit are adequately tooled to do the job that they are being asked to do.

[MADAM DEPUTY SPEAKER *in the Chair*]

In establishing this unit, the Government will go a long way in setting up a framework to address criminal activity in levels and ways we have not been able to do in the past. As we have put a lot of effort into addressing crime from the ground up, this will address crime from the top down.

Of course, there are those who will say that they have heard that before; that is just another plan from the Government; that we have some ulterior motive for doing this; that these things will not have any effect at all. But, Madam Deputy Speaker, in setting this up, we are setting up a framework where, at the end of the day, it is required to ensure that such persons who are involved in money-laundering activities and financial terrorism of one kind or another could be found out and brought to justice.

Now, Madam Deputy Speaker, at the end of the day, this is a simple piece of legislation with far-reaching consequences. We feel firmly that coming out of the World Bank and the IMF Financial Unit overview, what we have set out is in sync with what they have recommended. There is no clear one-fit-all answer. It is what we feel will be best suited to the circumstance of our country. That is why the reflection in this Bill comes from that sense of what will work for us as we look at what we are required to have today.

Others may disagree, and we say, therefore, that they may want to posit another view. Clearly, in holding to the views of establishing this unit, we have taken into consideration all the exigencies of the report and feel very confident that establishing the unit in the way that it is laid out in this Bill will be to the benefit of Trinidad and Tobago.

Madam Deputy Speaker, when we think in terms of what is happening across Trinidad and Tobago today, all kinds of suggestions have been made towards where we are. Just this morning, I was listening to David Abdullah speak on the Labour Day celebrations coming up shortly. There are very many people who talk about Trinidad and Tobago as if all that happens here is simply one crisis after another. Which country today does not face crises of one kind or another? Are we unique in so doing? We, the Government, have the wherewithal to establish the kinds of agencies, one at a time if needs be, to ensure that we have a climate that will allow Trinidad and Tobago to prosper.

That is what we seek to do in this Bill—to add to the suite of things before us that will restore the kind of confidence that we would like our citizens to have. That is why I am very confident that all the necessary steps will be taken in establishing this unit to have the right calibre of persons, the level of autonomy, the level of accountability and the non-disclosure of information to persons not authorized to so have. We need to use this legislation in a way that allows Trinidad and Tobago to be compliant; not just to fulfil our obligation, but also to ensure that we establish best practice in setting up units such as this.

Madam Deputy Speaker, it is a very true reflection that in Trinidad and Tobago we live in a society where everybody's business seems to be everybody else's. That is why the rules that will be established in this unit will ensure that persons who operate in there as the Act seeks to do will be held to the strictest levels of standards of compliance. That is why when you look at any person other than an FIU officer, who, in the course of his business, obtains information under section 422(1) from the FIU, he commits an offence if he knowingly discloses information to any person. He is liable to receive, on summary conviction, a fine of \$250,000 or imprisonment for three years. It is clearly established that there are significant penalties for the breach of confidential data.

My reassurance, therefore, is to let persons who feel that we are establishing an agency that will not be held to the highest standards, know that their views are unfounded and that they should be replaced with the view that we are holding persons to the highest standards.

When I think of what we are trying to do today, we feel very sure that this is an important part of setting up a framework where we move Trinidad and Tobago forward in establishing the levels of presence and institutions that would allow us to deal with the unfolding development and escalation of different types of criminal activity such as we have not seen before.

We are now developing the kinds of institutions that would allow the relevant persons in Trinidad and Tobago to be trained in a way that would give us expertise to deal with an emerging business and financial community that are exposed to all kinds of instruments in the global scene. That is why it is important that in establishing this unit we assure the national community that we will take all such things into consideration.

Allow me to go back to some of the comments that were made. When we receive suggestions about how to improve this Bill, we receive them thinking very clearly that we need to be very cognizant of what we are trying to accomplish and

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the best method in so doing. We are moving to incorporate all that we are required to do in establishing this unit—the suggestions about staffing and accountability will be addressed as we look at the regulations—but, Madam Deputy Speaker, the Bill as laid before us adequately fleshes out the establishment of an FIU in accordance with the best practice laid out in the IMF and World Bank report.

Madam Deputy Speaker: The speaking time of the hon. Minister has expired.

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

Question put and agreed to.

Hon. K. Swaratsingh: Thank you very much, colleagues. I would not take 30 minutes.

As I look at the Bill, one of the things that came out to me is the challenge that we will have to engage in looking at the business community, in ensuring that they adapt to the changes that they would be required to make as we embrace the measures of this legislation.

In many countries that have established FIUs, we have had to map out clearly the process of change that they have undertaken in establishing new practices and procedures; how you ask and what you ask for in terms of data collection. In fact, in Trinidad and Tobago, we have not been able to establish clearly very many ways of protecting and transmitting data.

Currently, we have two Bills before Parliament: one is the Data Protection Bill and the other is the Electronic Transactions Bill. This emphasizes the importance of passing these Bills once they have been looked at, reviewed and brought back to the House. It is important that we establish a number of things that will allow data to be used in a confidential way. Developing and transitioning economies strive to become reputable members of the global community. One of the ways in which we do that is to establish a clear framework and the ability to ensure that people who do business with us have the assurance that their information will be kept in a confidential way.

Some of the things we have had to look at are—and the business community will be so challenged to do—finding new ways of interfacing, assessing and securing the kinds of data that would be required by this legislation. We will be required to look at some of our behaviours; some of the things we take for granted; some of the things we would have done as a matter of rote and some of

the habits we have developed in conducting business transactions and transmitting data. We will now have a greater level of responsibility to make sure we do not fall victim to this piece of legislation. As a consequence, we would have to revisit some of the ways in which we operate in this country.

Far from having an adverse effect, we are seeking to build a climate of greater levels of care and responsibility in treating person's information with a greater level of responsible engagement, so that we do not allow persons' confidential business to become public.

6.15 p.m.

In fact, we harm the public interest when we do that. When we do such things, we create a further guise that institutions of our country cannot be trusted. That is why, when we look in terms of conducting business transactions, whether it be in the banking sector or any sector, we seek to have a level of being very responsible when treating with persons' information. There are basic practices such as switching off a computer or putting it in safe mode when you are moving from your desk. We do not treat with the types of ongoing activities that would jeopardize people's business and people's information. Those are some of the things that we will have to now seek to engender in the wider community, especially in terms of looking at how we do business transactions to comply with some of the effects of this Bill.

In fact, even as we contemplate now, that is one of the things, in terms of the amendments in legislation, that we have had to look at; how do we engender a more responsible climate in Trinidad and Tobago. The type of *mauvais langue* approach we sometimes have, that casts aspersions and allows persons' data to be used willy-nilly can also be abated, so that we have a greater level of responsibility in treating with persons information.

Countries, therefore, that have established FIUs would have had to go through periods where they would have had to adjust a number of things, in terms of the systems that they operated. A greater level of control and a greater level of public policy interest in decision-making processes will create the confidence that is required in these institutions.

Even as we sometimes have the perception that persons are involved in the kind of activity or another, we would now have a unit where we can ascertain, analyze and transmit the kinds of information that will lead to the uncovering, as it were, of all those who sought and are seeking to get involved in money laundering or any other illicit financial activities. That is why I would like to posit

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the view, therefore, that far from being fearful of this, we should be very confident that this unit will do what it says it is going to do and establish the kind of presence that will give Trinidad and Tobago the necessary skills it requires, not just to be compliant with international obligations, but also the kinds of skills it requires to move forward and develop the type of robust systems where we can, therefore, start to create the framework for international business activities that people can have confidence and conviction in.

We are very conscious that this is a significant challenge that we are undertaking, because we are very conscious that we are building the kind of culture in a unit that, from the very onset, must be able to ensure that the national community, especially the business community and those who seek to do business with us, would have confidence and conviction in. That is why we can assure the national community that we would take the utmost of care in selecting the right kind of persons to staff this unit and that we would take the utmost of care in ensuring that they are well trained and equipped to undertake the functions that this unit will have to be engaged in. When it comes to attracting persons to serve in areas such as this, we find ourselves sometimes not always sure that we can compete with other international agencies, but I give the assurance today that we are determined to get, not just the right person, but the best person that we can find to lead and direct this unit.

I, therefore, have no illusion that while we would have taken several approaches in establishing this unit, we have chosen the administrative type for good reason. We feel that what we require at this time—and indeed page 12 of the IMF World Bank speaks to an FIU that resides as a buffer between the law enforcement agency and the financial institution. We feel that in the shortest possible time, this will have greater traction and conviction from the banking and financial sectors, as we seek to engage them as partners in this activity. That is why we are establishing this unit; not to make persons very much afraid, but rather to make them assured; to assure them that we are striving to develop institutions of Trinidad and Tobago that will take us to 2020 on or before the year 2020.

In fact, while my erstwhile colleague spoke about the disadvantages of this type of approach, the advantages of an administrative-type unit, as laid out in the same report, speaks to the FIU Act as an interface between the financial and other sectors; that financial institutions are more confident about disclosing information, that FIU is neutral, technical and specializes in what it seeks to do. If the FIU is placed in a regulatory agency, it is the neutral interlocutor of the financial institutions; information can be easily exchanged with all types of FIU.

That is why we chose this type of methodology; a framework in establishing the unit and moving it from where it currently resides to the Ministry of Finance, where it will have the relevant data-sharing processes to widen its scope and function in how it receives and analyzes the data that is before it.

In so doing, we are not seeking to reinvent the wheel, but to find a model that suits Trinidad and Tobago, so that we, not only would not be blacklisted, but will have the kind of strength from institutions that we establish ourselves in short order to be an international financial centre with clear rules and clear institutions that are established to make sure that Trinidad and Tobago is developed along strong financial systems and that we would be able to compete and dialogue with the rest of the global community. Trinidad and Tobago, therefore, is well set in bringing forward these pieces of legislation and we continue to work with all our stakeholders, especially as we go forward to see that the changes that will be required are understood, clearly elucidated and incorporated effectively by all those in the financial, banking and other sectors that are relevant and related to them.

I, therefore, would like to commend this Bill to this honourable House and would encourage all Members to support this Bill, because it was the intention of hon. Members opposite when, in 1997, they established these units, to be part of this whole system. Sufficient to say, even though it was started in their time and we are completing it now, they will try to find one reason or another not to support it at this time.

This Bill is in the interest of Trinidad and Tobago, not in the interest only of the Government, but of all the people of Trinidad and Tobago. That is why this Bill is so important and I so commend it to this House. I thank you.

Dr. Tim Gopeesingh (*Caroni East*): Madam Deputy Speaker, there are a number of issues emanating from this Financial Intelligence Unit Bill, in the context of the previous Bill, which was discussed and ended just a while ago, the Proceeds of Crime (Amdt.) Bill and also the Bill to come, the Financial Obligations Regulations. These three pieces of legislation are proposed by the Government to deal more effectively with the question of money laundering, drug trafficking and counteracting financing for international terrorism.

We have difficulties in understanding why this Financial Intelligence Unit Bill comes after the Proceeds of Crime (Amdt.) Bill when the Proceeds of Crime (Amdt.) Bill has a major aspect in it, which is the establishment of the Financial Intelligence Unit. We expected that we would have discussed the Financial Intelligence Unit Bill first and then move on to the Proceeds of Crime (Amdt.) Bill, so that we would be able to understand it a little better.

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When, in committee stage, we discussed certain clauses on the Proceeds of Crime (Amdt.) Bill, we were told that we would have to wait until we hear this Bill and discuss this, so that it will be meaningful. Unfortunately, the Government did not see it proper to explain certain parts of the previous Bill under clause 4, so that we could have gotten a proper understanding. This is where we are at the moment.

My first issue is the question of the constitutionality of what the Government is proposing as necessitating a three-fifths majority. We contend that this necessitates a two-thirds majority, rather than three-fifths, and the previous Bill as well—[*Interruption*] I am being disturbed across there.

Madam Deputy Speaker, this Bill is:

“An Act to establish the Financial Intelligence Unit of Trinidad and Tobago, for the implementation of the anti-money laundering policies of the Financial Action Task Force.”

It indicates in the Preamble:

“Whereas it is enacted inter alia, by subsection (1) of section 13 of the Constitution, that an Act to which that section applies, may expressly declare that it shall have effect though inconsistent with sections 4 and 5 of the Constitution...”

The Bill is acknowledging that it is inconsistent with sections 4 and 5 of the Constitution.

“and if any such Act does so declare, it shall have effect accordingly:”

It goes on to say:

“And whereas it is provided by subsection (2) of section 13 of the Constitution, that an Act to which this section applies, is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:”

6.30 p.m.

Madam Deputy Speaker, this Bill takes into consideration the fact that sections 4 and 5 of the Constitution are being infringed; the right of the individual to the enjoyment of property and the right of the individual to respect for his private life. This Bill deals with the whole question of banking in financial institutions and non-financial institutions and, therefore, in setting up the FIU which will have the authority to go into citizens’ banking accounts and businesses, there will be an infringement on the right of the individual to enjoyment of property and the right of the individual to respect for his private life—the banking accounts and so on.

I want to quote Part IV of the Constitution, “Exceptions for Certain Legislation” and it says in 13(1):

“An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 and, if any such Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.”

We have seen in this country time and time again where almost every institution has been destroyed by this administration. We have seen the Statutory Authorities Service Commission, the Police Service Commission and Teaching Servicing Commission being interfered with by this administration, particularly from the Office of the Prime Minister.

We have seen where individuals had to go to the courts—right up to the Privy Council—to get their right dues. On a number of occasions we have quoted the areas that have been infringed and where an individual’s right had been taken away and they had to go to the Privy Council. So, in that context, section 13(1), which I have discussed, obviously gives effect to the situation that this Bill must not be passed by a three-fifths majority, but by a two-thirds majority.

In this country, we do not have proper respect for the rights and freedoms of individuals and, as such, this Government, by virtue of bringing this Bill, is infringing on an individual right under sections 4 and 5 of the Constitution, and it therefore needs a two-thirds majority rather than a three-fifths majority.

In my previous discussion on the Proceeds of Crime (Amdt.) Bill, I gave many illustrations where the rights of individuals have been taken away, and the institutions that have been interfered with, and there is no need to repeat them. We see it with one of the more constitutionally independent institutions which is the JLSC. The JLSC is the commission that deals with the appointment of certain senior positions in this country, and in the context of this Bill, the Director of Public Prosecutions (DPP) and the Deputy Director of Public Prosecutions (DDPP) are a very important part of the JLSC. We have seen where the Prime Minister has vetoed the appointments of the DPP and even the DDPP and he has had to revert from his original policy, and then appoint the DDPP, but only to act.

We on this side of the House have absolutely no confidence in what this Government is going to do with this FIU, bearing in mind what had occurred, as far as the intrusion and infringement of independent constitutional institutions and public bodies. We are also waiting for a Solicitor General to be appointed, and the

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Prime Minister has vetoed continuously the appointment of the Solicitor General. We have been waiting on the appointment of a Chief Parliamentary Counsel for years, and we are still waiting for that appointment as well.

The other point, as far as the constitutional aspect of this issue is concerned, is that you are going to create a body that is going to be looking at financial institutions and non-banking institutions and a number of other businesses. Many banks in Trinidad and Tobago have been removed from the Freedom of Information Act, and FCB has at least five or six banks that have been removed from the Freedom of Information Act. So, where are we going in terms of the FIU trying to get information from these banks that have been removed from the Freedom of Information Act?

In addition, the Central Bank has to work in conjunction with the FIU, and the Central Bank has also been removed from the Freedom of Information Act. What information is going to be available for the FIU, as a result of the removal of these banks and also the Central Bank from the Freedom of Information Act?

I want to read what the Governor of the Central Bank had to say on money laundering and terrorist financing when he gave his opening remarks at the Anti-money Laundering and Financial Terrorism Programme hosted by the Toronto Centre, the World Bank and the Central Bank of Trinidad and Tobago on June 02, 2008. He said:

“I am very pleased that this Workshop is being put on because we in the Caribbean do not see money laundering and terrorist financing as major challenges.”

The Central Bank Governor has admitted that the Caribbean does not see money laundering and terrorist financing as major challenges when, in fact, it is so. How can the Governor of the Central Bank make that statement when we know that money laundering is related to drug trafficking, and drug trafficking is a major problem within the Caribbean? It continues:

“Money laundering is a crime, and this is so because, we the Regulators, have not raised the level of awareness sufficiently.”

The Governor of the Central Bank is admitting, as the regulator of financial and non-financial institutions, they have not raised the level of awareness sufficiently, and this is one of the reasons there has been no prosecution and no arrest for money laundering within the Caribbean over the last eight or nine years under this regime. There is an Act that could have been used to arrest people, but they did not do it. So, all this thing about bringing three pieces of legislation to catch

culprits for money laundering and drug trafficking is really hypocritical, because when they had the original Act, they did not do anything about it, and the Governor of the Central Bank alluded to the fact that they did not raise the level of awareness sufficiently.

He went on to say:

“Money laundering and terrorist financing can carry a number of adverse macro-economic consequences, particularly for small economies like ours. These normally include in-explicable increases in the demand for goods and services (like real estate)...”

Throughout Trinidad and Tobago and the wider Caribbean, we have seen real estate being bought readily. The price of real estate went up astronomically over the last few years, and that illustrates conclusively that there has been money laundering in real estate throughout the Caribbean and in Trinidad and Tobago. It continues:

“...greater volatility in international capital flows and unusual pressures on foreign exchange markets and exchange rates...”

Madam Deputy Speaker, today the exchange rate in Trinidad and Tobago is one of the highest. It is US \$6.34. There has been a push on the exchange rate, because it has become difficult to get US money in Trinidad and Tobago. Why has it become difficult? The money launderers, who are working feverishly and working well throughout the Caribbean and Trinidad and Tobago, are getting the US dollars to send abroad, thereby ensuring that there is a scarcity of US dollars. So, it is a stark reality in Trinidad and Tobago that there is and there has been money laundering going on and yet nothing has been done. To bring these three pieces of legislation to say that you are going to do something about it is really not going to do anything.

This piece of legislation is based on the recommendation of CFATF which the Minister of National Security spoke about. CFATF has identified a number of deficiencies. The Minister of National Security indicated that CFATF was the one that made the recommendations so that we could bring about this Bill. CFATF said that there were a number of serious deficiencies within the Caribbean and in Trinidad and Tobago. The first is, at present the FIU resides in the Counter Drug Crime Task Force, and the proposed legislation will provide the unit with the powers needed to receive and share information. This is the first time this country is hearing about a Counter Drug Crime Task Force. Where is that located? In which ministry this is located? Have they been doing any work? Was there a necessity to move it from the Counter Drug Crime Task Force to the FIU?

Madam Deputy Speaker, if I had not read this article, I would not have known about the unit that is looking after drug trafficking and money laundering. This is the first time that we are seeing something called a Counter Drug Crime Task Force. Is it located in SAUTT? Is it located under the Ministry of National Security? Where is it located and who is responsible for it? We do not have any idea.

My colleague, the Member of Parliament for Oropouche East, spoke tremendously well on the whole question of bringing together this FIU. Who are the people you would be bringing?

Who are the people you are going to bring? Where are you getting them from? How credible are they going to be? What is their integrity? How do you know whether they are not going to be under political pressure? My colleague dealt with that more than adequately.

6.45 p.m.

The question remains, when the Financial Intelligence Unit get their information and they have suspicious activities that they have discovered, to whom do they take those issues? Is it the Minister of Finance or is it the Attorney General? Is it through the Minister of Finance to the Attorney General? This Bill does not speak about it; it does not speak about the reporting hierarchy.

When the Financial Intelligence Unit gets its information and does its work and there is a suspicious activity, where does this unit or the director take its findings? We understand it is going to go to the Attorney General because the Attorney General is the one—if you are looking for retrieving properties from abroad—who has to work with the international organization in other countries to deal with this issue of gaining back properties that have been obtained from money laundering and drug trafficking. This Bill is unclear as to where we are going and the persons to whom this Financial Intelligence Unit has to report.

My colleague from St. Joseph indicated that they are going to look for people of integrity and capability to be part of this Financial Intelligence Unit, but we have seen that you cannot get people to be on the Integrity Commission, which is one of the highest—

Mr. Imbert: I thank the Member for giving way to look at clause 14, this is just to deal with a point that you just raised:

"After the FIU has concluded its analysis or evaluation of a suspicious transaction or activity report, and where the Director is of the view that the circumstances warrant investigation, a report shall be submitted to the relevant law enforcement authority..."

So, the reports go to a law enforcement authority, not to any Minister or anything like that.

Dr. T. Gopeesingh: When you say the law enforcement authority, is there such a law enforcement authority at the moment?

Mr. Imbert: The DPP.

Dr. T. Gopeesingh: That is the one you are speaking about, the DPP. And where is the Attorney General in this issue? [*Crosstalk*] In terms of confiscation of property and so on, it has to go to the Attorney General, because the Attorney General will obviously have to be the person responsible, in case there is money laundering and property abroad. In the Bill, it says that the Attorney General will have to negotiate with the international bodies as well. [*Interruption*] I cannot find it for you at the moment, but in my reading, I picked that up.

In any case, the Proceeds of Crime Act and the Financial Institutions Unit Bill, both are linked together, because you alluded to that in your original discussions when we were bringing all these three pieces of legislation together. So, one is intertwined with the other and therefore, these three pieces of legislation fit amongst themselves, the financial obligations regulations together with these two.

The Governor of the Central Bank is asking this because he is the one supervising the financial institutions, banks and non-banking institutions, and he has indicated that it will be moved from the Counter Drug Crime Task Force to the Financial Intelligence Unit. The second observation he made of this CFATF report is that there is a shortage of resources allocated to anti-money laundering activities. Many countries within the region have very limited financial and human resources and the allocation of dedicated human resources to anti-money laundering is a challenge.

This Government brings a number of pieces of legislation, hoping that they would be able to deal with certain situations, but they know fully well that they are incapable of putting the type of resources that are necessary for effecting and implementing the pieces of legislation. So, the Central Bank Governor has alluded to the fact that there is a shortage of resources. How confident is the Government in terms of ensuring that the resources are going to be available for effecting prosecution and getting information on money laundering and drug trafficking, when the Central Bank Governor had already stated that there is a shortage of resources?

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The third point. He said the CFATF report suggests that in most of our countries, anti-money laundering and financing of terrorism supervision of designated, non-financial businesses is virtually non-existent. No matter what these three pieces of legislation, how they come and whether they are implemented or not, the supervision is non-existent at the moment. You are bringing a Financial Intelligence Unit to be able to do work; to see whether they can get information and they do not have the type of supervision that is necessary from even the Central Bank.

I want to bring to the attention of this House the lack of ability of even the Central Bank to do supervision of the banking sector and the non-banking institutions. So, I do not see how the Financial Intelligence Unit will be able to do anything better than what the Central Bank has been doing. I want to quote from the Central Bank Annual Report 2007, which speaks about the financial system surveillance by the Central Bank.

"Supervision of Licensed Financial Institutions and Pension Plans

Thirty-one on-site examinations were completed during the year - ten licensed financial institutions, sixteen insurance companies and five pension plans."

This is what the Central Bank has done. You know how many of these insurance companies there are in Trinidad? They said here, 10 licensed financial institutions; 16 insurance companies and five pension plans.

Madam Deputy Speaker, as far as the Central Bank Report on insurance and pensions, you have in 2005, 2,140 salesmen, agents, brokers, adjusters; 2006, 2,400; self-administered pension fund plans, 92; insured pension fund plans, 105; and pension fund plans to be wound up—that is in 2006—256, and the Central Bank has only been able to supervise five pension plans.

So, how Central Bank knows that they have to have the capacity for supervising and monitoring these institutions, and they have just monitored five pension plans in 2006 out of 256; 1/50, which is 2 per cent. How can anybody have confidence in the Central Bank and Central Bank is supposed to be the main authority for looking into financial institutions and so on? There are over 45 major insurance companies and they have only gone in to do 16 insurance companies. So, you see why there was a problem with Clico.

This Financial Intelligence Unit, which is supposed to be looking into supervising and analyzing information from the banking sector and non-banking institutions, obviously will not be able to do it. If Central Bank has not been able

to do it, the Financial Intelligence Unit will not be able to do it, because they do not have the capability and the capacity.

The fourth point from the Governor of the Central Bank. He says Caribbean jurisdictions lack an effective operational framework. In such a framework, countries are required to maintain statistics not only on the number of AML, CFT examinations, but also on prosecutions, convictions and the value of assets forfeited. Statistics to support the level of international cooperation and sharing of information must always be kept.

Madam Deputy Speaker, there are no statistics in Trinidad and Tobago, as far as money laundering is concerned, prosecutions, convictions; there is no asset that has been forfeited and there has been no statistics that are readily available. So, on what basis the Government is coming to bring an anti-money laundering and anti-drug trafficking Act when they have no statistics upon which they would base their information to make a judgment on it, and whether it is necessary.

This is what the Central Bank Governor has been saying himself. The introduction of a Financial Intelligence Unit will bring no benefit to Trinidad and Tobago as far as money laundering. What is needed is the will and determination of the Government to be able to use their existing legislation to do what it is supposed to do, but they are not going to do it, because their boys are involved.

One more point I want to make before going into the other aspects of this, is the question of the Financial Intelligence Unit. I raised the question that this Financial Intelligence Unit is a temporary authority, and the Minister of National Security, when he introduced the Proceeds of Crime (Amdt.) Bill indicated, and I quote from him:

"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."

Here it is when we raised the point about the FIU being only temporary and that a supervisory authority is the ultimate that has to be introduced, the Minister of Finance gloated over it and indicated that it was not temporary, trying to mislead the House. The Minister of National Security indicated that it is temporary, but here it is the Minister of Finance is saying that it is not temporary, and it is not a stopgap measure to go into the supervisory authority later on.

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The Minister of Finance is the person who has to be working with the Financial Intelligence Unit and if we do not have confidence in the Minister of Finance for a number of reasons; one which has been exhibited this afternoon and the others have been brought by our colleagues because of the no confidence that they have in her conduct as Finance Minister, particularly with what went on with the Clico fiasco—

We have on one hand, lack of confidence in the Finance Minister; we have on the other hand, lack of confidence in the Minister of National Security, whose resignation should really have been forthcoming many years ago, and we have no confidence now in the present Attorney General. [*Desk thumping*]

7.00 p.m.

Madam Deputy Speaker, I want to respond to what my colleague from St. Joseph indicated, speaking about the integrity of the Attorney General. He was speaking about Mr. Israel Khan, indicating that the Attorney General is a man of tremendous integrity. The first thing we want to note is that my good friend, Mr. Israel Khan, was brought on as counsel in the Monos Island drug bust, illegally, when the DPP already appointed two attorneys on that Monos Island drug bust.

The Attorney General went on to bring Mr. Khan, illegally, in the prosecution of that. Why? Why did he do this? Did he want to protect somebody? Why was it necessary for the Attorney General to interfere in something that the Director of Public Prosecutions had already had his counsels? Who were they trying to protect? That was \$750-plus million of cocaine, but you caught five, six or seven small fries but the big fry, we do not know. Some warehouse was burnt down on the Churchill Roosevelt Highway the day after. So, was the Attorney General introducing Mr. Israel Khan into the matter so that certain individuals would have been protected? These are the questions that we have to ask.

Dr. Moonilal: That is a legitimate question.

Dr. T. Gopeesingh: That is a very legitimate question as my colleague said.

So, when my colleague from St. Joseph speaks about the integrity of the Attorney General, why is the whole country speaking negatively about the Attorney General at the moment? Why are all the newspapers saying that they do not have confidence in him?

Madam Deputy Speaker, in your absence when the Speaker was there my colleague raised a number of issues about the Attorney General and I just want to respond on that issue. I just want to quote from some articles that are in the public domain, *Sunday Express*, May 31, 2009; “Letters show Jeremie tried to push

former DPP to charge Panday, Duprey; AG's Dark Cloud". It was an exclusive story by Camini Marajh. The Attorney General's dark cloud. The Prime Minister, AG resigned over Clico; heat for Jeremie.

We are discussing this Financial Institutions Act and a lot of this information that is going to be derived in terms of money laundering and drug trafficking will eventually reach the Attorney General who will have to deal with it in terms of confiscation of property internationally and who will have to go internationally and discuss the question of retrieving properties abroad, and that is the role of the Attorney General, but we do not have confidence in the Attorney General. We do not have confidence in the Minister of Finance, we do not have any confidence in the Ministry of National Security and to verify why we have lost confidence and have no confidence in the Attorney General, I just want to quote from *Sunday Express*, May 31, 2009, a story written by Camini Marajh and it quotes Henderson as saying—this being very important, "I am not subject to your directions." The DPP is telling the Attorney General:

"I am not subject to your directions. Your continued efforts to have me initiate charges against certain persons are highly improper and should they continue, can imperil the successful prosecution of any charge initiated in the matters under investigation."

This was stated by Mr. Geoffrey Henderson as the DPP, saying to the Attorney General, "I am not subject to your directions", and the DPP is telling the Attorney General, you have no right to interfere with my business. How can we have confidence in an Attorney General having to deal with a Financial Intelligence Unit? [*Desk thumping*] Hear what the Attorney General at that time said, December 18, 2006, he writes to Mr. Geoffrey Henderson:

"Dear Director

I have appointed Mr. Khan S.C. to prosecute on behalf of the State in the Monos Island drug bust.

"Please desist from pointing out to me matters which with respect are not only wrong in law but quite frankly out of your place."

He is telling the Director of Public Prosecutions, who has to appoint attorneys in the matter, that he is out of place. Do you know how the DPP responds? December 11, 2006, the Hon. John Jeremie, he said:

"I shall be guided by the law and by the facts which persuade me that there is a proper basis upon which to prosecute...I am not subject to your directions.

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Your continued efforts to have me initiate charges against certain persons are highly improper...”

So, there is the interference by the Attorney General—

Dr. Browne: Alleged.

Dr. T. Gopeesingh: Alleged interference by the Attorney General.

Dr. Moonilal: He interfered. What alleged you are talking about?

Dr. T. Gopeesingh: It is written here. It is no alleged. It is signed by Mr. Geoffrey Henderson, the DPP.

Miss Panday: Alleged what, please Amery!

Dr. T. Gopeesingh: Madam Deputy Speaker, this is the letter that has been written [*Holds up document*] and it has been signed and it is just reported on the newspaper. [*Crosstalk*] Another article, Carla Brown-Antoine. This is the *Daily Express*, June 03, in which the Chief Justice says:

“The judgment gives useful guidance of the separate roles of the Attorney General's Office and the DPP's Office”—and Justice had said—“giving the DPP a separate constitutional role is to insulate the prosecutorial process from political interference.” [*Crosstalk*] Know your boundaries.

Chief Justice Archie was telling the Attorney General, “Know your boundaries.” [*Interruption*] The DPP is a separate constitutional role insulated from prosecutorial process from political interference. We have no confidence that the presence of the said Attorney General here, who will be involved in the Financial Intelligence Unit and the Proceeds of Crime Act, will not be interfering to prosecute people who are opposed to the Government. We have no confidence in that at all. He will be and he has been brought back just for that!

Madam Deputy Speaker, when Dr. Rowley, a Member of this House and Member for Diego Martin West, said, “Jeremie almost set me up.” Dixie-Ann Dixon, Wednesday, June 03, 2009, and I quote:

“Sacked Government Minister, Dr. Keith Rowley says if he had taken advice of John Jeremie and disregarded an Integrity Commission Report it could have ended his political career. Dr. Rowley said he received a phone call from the then Attorney General, John Jeremie, the day the *Guardian* broke the story, December 16, 2006, which stated that he was the subject of a report that has been sent to both the Director of Public Prosecutions and the Commissioner of Police by the Integrity Commission.”

How did the Attorney General get a copy of the Integrity Commission report? That should have gone to the DPP. So, Dr. Rowley was asking, how did the Attorney General interfere in this Integrity Commission Report? How did it reach him? The Diego Martin West MP said Jeremie called him and told him certain things and he quotes:

“What he told me caused me to come to the conclusion that the Integrity Commission was compromised. I came to the conclusion that I was being harmed by the actions of the Integrity Commission that were in breach of the law and the Constitution and there were persons in the Government who were acting to my detriment.”

Dr. Rowley added:

“But what was really troubling was that Jeremie sought to comfort me that I should disregard the story.”

Imagine the Attorney General, a Member of his own Cabinet, in his own Government and trying to console Dr. Rowley, this is what Dr. Rowley said:

“What was really troubling was that Jeremie sought to comfort me, that I should disregard the story.”

And Jeremie told him and I quote:

“The story was based on a file which had nothing in it and the file was harmless and to ignore what was in the *Guardian*.”

He said:

“Jeremie admitted that he had seen the file which was made available to him by elements of the commission.”

The Attorney General has no right and role to receive any report from the Integrity Commission.

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

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

Question put and agreed to.

Dr. T. Gopeesingh: Thank you, Madam Deputy Speaker. Dr. Rowley said:

“I was flabbergasted. It was on the basis of this conversation that led me to take legal advice and action against the Integrity Commission in January

2007. The court forced the Commission to make available to me which was required by law and the Constitution the right to respond to any allegations that they were making.”

So, here it is, the Attorney General getting information from the Integrity Commission which he is not supposed to do and trying to fool one of his Cabinet colleagues and pretending that nothing is wrong, that is the Attorney General that this country is going to have at this moment, that is being foisted upon this country at the moment. Totally unsatisfactory! Totally unacceptable, and then the Attorney General defends his position, he is saying that when the DPP wrote these letters the Attorney General said, Henderson is my good friend, Well, if I have a friend like that, I feel sorry for myself. How can I have a friend like that?

Dr. Moonilal: Who needs enemies?

Dr. T. Gopeesingh: Who needs any enemies? It is just to show that you have interference by the Attorney General and it has been well documented for a number of years, during his three, four years as Attorney General, not respecting the separation of powers and using the prosecutorial arm of the State, which he is not supposed to use and with which he is not supposed to interfere. His role is basically an administrative role in terms of getting funding for the Judiciary and for the DPP, but not to be involved in any of these matters.

When Dr. Rowley brought up these matters and he said, “Well, the Integrity Commission gave the Attorney General the file on me,” that was in the *Newsday*, Wednesday, June 03, 2009 the Attorney General said, “I never saw any report.” He was speaking an untruth and said he never saw any report when he had spoken to Dr. Rowley about the report. [*Interruption*] How can this country have confidence in an Attorney General when he says, “I never saw the report”, and one of his Cabinet colleagues is telling him that he saw the report and he read parts of the report to him and tried to fool his colleagues in Parliament. On Wednesday, June 03, 2009, again, the Attorney General, Jeremie headlined by Ria Taitt, “I did not say Dr. Rowley is lying”.

Dr. Moonilal: He cannot say that!

Dr. T. Gopeesingh: He cannot say that! Dr. Rowley was not lying.

Dr. Moonilal: He is lying! The question is, what did the Attorney General call him for, what was the conversation and why did he have the files from the Integrity Commission? How can this country have confidence in an Attorney General like that? We have no confidence in that—

Hon. Jeremie: Madam Deputy Speaker, would you give way? Would you give way?

Dr. Moonilal: No, what is the point of order? No, no, you cannot stand up. Sit down, sit down? [*Continuous crosstalk*]

Miss Panday: No, do not give him way.

Dr. T. Gopeesingh: Jeremie, I never saw any report. I have seen the file and it is an innocuous file and they had nothing on you. He told Dr. Rowley that.

Mr. S. Panday: On December 16 and on December 20 he said he never saw the file!

Dr. T. Gopeesingh: Yes.

Mr. S. Panday: Lie!

Dr. T. Gopeesingh: I have never seen any Integrity Commission report was how Jeremie fired back to an allegation made by Dr. Rowley, who claimed that in December 2006 Jeremie said he was given an Integrity Commission report on him by Deane.

So, you see the collusion. Gordon Deane was the person who let out the information on Mr. Panday and tried to get Mr. Panday charged. Gordon Deane with an association with the Attorney General and the Attorney General just want political persecution to hound-down his enemies and go after his enemies. [*Desk thumping*] And he comes back as Attorney General, and do you know what he says as Attorney General. He said he is not looking for friends, but the new Attorney General pledges attack on corruption. Corruption by whom and on whom? He is going to go for corruption which he will fabricate on Opposition people and people who are opposed to the People's National Movement and prosecute them for the Prime Minister. [*Desk thumping*] He will want to protect his own boys. He will want to protect the UDeCott people, Calder Hart. He will want to protect those who are before the Integrity Commission, but go after political persecution against those in opposition to the Government.

7.15 p.m.

We do not have any confidence in this Attorney General and [*Desk thumping*] he should do the honourable thing and resign. You are not looking for friends? We do not want to be your friend.

Mr. Hunt: Mr. Speaker, on a point of order—[*Inaudible*]

Mr. S. Panday: "Go and put on your pumpum shorts."

Madam Deputy Speaker: Hon. Member, save and except one thing that you have said.

Dr. T. Gopeesingh: I will withdraw.

Madam Deputy Speaker: You have said that the Attorney General is going to fabricate things. So far you are going okay. Just that one I think you should withdraw.

Dr. T. Gopeesingh: Thank you, Madam Deputy Speaker for that guidance. I just want to quote an article on May 31, 2009 from the *Sunday Guardian* by a retired diplomat, Reginald Dumas, and written by Peter Balroop.

"Retired diplomatic Reginald Dumas wants John Jeremie to know that the majority of people in the legal fraternity, and outside believe he has giant questions marks over his head.

But he also believes that Prime Minister Patrick Manning has called Jeremie back into service of the Cabinet because he wants a man who can carry out instructions to the letter.

'Jeremie fits the bill,' said Dumas. 'A lot of people believe Mr. Jeremie will carry out Mr. Manning's instructions'."

This is what is being foisted and hoisted upon this country, an Attorney General who will do the bidding of the Prime Minister. Totally unacceptable! [*Desk thumping*]

Mr. Dumas says:

"Mr. Manning feels Mr. Jeremie would carry out his bidding without objection and from what I understand, Ms. Annette-George is not that kind of person." [*Interruption*]

Mr. S. Panday: She has class.

Mr. Bharath: A decent woman.

Dr. T. Gopeesingh: The former Attorney General is a lady of strong and impeccable character and we on this side believe that—. I quote from the *Trinidad Guardian*, Thursday, May 28, 2009: "Friends say Bridgid distraught. AG forced out".

Hon. Member: Oh, oh.

Mr. Bharath: Shame!

Mr. S. Panday: Poor thing.

Dr. T. Gopeesingh: The resignation of Annisette-George, Thursday, May 28, 2009, "AG did not toe the line". The resignation of Annisette-George, she did not toe the line.

It is our understanding that Bridgid Annisette-George was asked to be part of the prosecutorial action against one of her friends, who, we understand, has been close with her husband and herself. It is not related to Clico, it is not related to Dr. Rowley in itself alone, but it is related to someone else, someone with whom she has been—as people are prone to be, friends with other people—and she and her husband have been friends with a particular individual. We believe that the person that the conflict of interest arises about is Mr. Monteil. That is where the conflict of interest arises, because I believe that she has been asked to do a hatchet job on Mr. Monteil and the conflict of interest is there. Watch this. This is going to happen in this country. Mr. Monteil is going to be the sacrificial lamb of the People's National Movement. He is going to be inhumane, cruel, cold; they will chew him and spit him out, for their own people, for their own interest. But I want to warn my colleagues across there, that once you cross the path of the Prime Minister, you will be dealt with in the same way.

Mr. Monteil was the former finance person of the People's National Movement—treasurer—and the conflict of interest that arose with Bridgid Annisette-George, we are told, is that she was asked to do some work on Mr. Monteil and she said, "No, I am not going to do it". We do not know about Dr. Rowley's aspect of it. So this Attorney General who is trying to succeed somebody who has a lot of character— she said, "I cannot do that. I am not going to do your bidding, Prime Minister." Therefore, we have to watch what is going on. They are going to use one of their own boys as a sacrificial lamb to ensure that the main boy, the back boy in UDeCott, is not prosecuted and so many other people will not be prosecuted. [*Desk thumping*] They will say, you see, we are arresting and charging one of our own men. Who have they brought to do it? The present Attorney General. Who they wanted to do it refuse to do it, and that is why she is out.

This present Attorney General has been accused—I am not saying—on a number of occasions of criminalizing the Office of the Attorney General. [*Desk thumping*] We see it in the Mustill Report; we see it in the conspiracy to politically prosecute Mr. Panday; and you will see that it is going to come for Mr. Duprey. Clause 4(b)(i) of this Bill that was passed a while ago this evening, is designed so that they can go after Clico and Mr. Duprey for his assets outside of Trinidad and Tobago. They will want to charge him for money laundering and forfeit all his properties that he has outside of

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Trinidad and Tobago, and they will want to go after Mr. Harry Harnarine as well for properties that he may have abroad. This is destined to go after the people who have opposed the People's National Movement.

I made a statement a while ago; the Attorney General knows his friendship with a particular person from the Attorney General's Department, Mr. Norton Jack. There were four persons who were shortlisted by the Judicial and Legal Service Commission to take up the role of Director of Public Prosecutions. They recommended Carla Brown-Antoine, the second was Roger Gaspard; and Mr. Norton Jack, and somebody else were nominated.

When Mr. Panday's matter was going on in the courts, Mr. Norton Jack was taking notes on behalf of the Attorney General. There is a close link between Mr. Norton Jack and the Attorney General. I want this Government to come out and in factually say that Mr. Norton Jack has not been asked to put in his nomination for the Director of Public Prosecutions. There is a close link between the present Attorney General and that individual, and that combination would be deadly against political opponents of the People's National Movement. [*Desk thumping*] You watch it, Madam Deputy Speaker.

Madam Deputy Speaker, the Attorney General said that he is ready for the challenge and when we raised the matter, my colleague, the Member for Fyzabad—

Madam Deputy Speaker: Hon. Member, I just want to remind you— I understand you are responding to the Member for St. Joseph, but you still need to find a way to make a lot of what you are saying relevant to the Bill. I have given you some leeway, but I think it is important to so remind you.

Dr. T. Gopeesingh: All right. Madam Deputy Speaker, I am guided by you and I think I have made my points on this issue. We wait to see whether there is going to be a close link between the Attorney General and the intended Director of Public Prosecutions who we are told and we understand might be Mr. Norton Jack. They worked together in the past and we will see them working again for their own gains, for their own reasons, not to the benefit of the people of Trinidad and Tobago.

This Financial Intelligence Unit Bill has a number of businesses listed in it. Most of the money laundering that is occurring in Trinidad and Tobago is not from the drug traffickers, the gun smugglers and so on, but money derived from state enterprises and special purpose companies. [*Desk thumping*] That is where the money is being derived and most of the money laundering is going on now. We want to recommend that state enterprises and special purpose companies be incorporated in the list of businesses that ought to be investigated [*Desk thumping*] for money laundering.

Hon. Member: It has to be incorporated under real estate.

Dr. T. Gopeesingh: Yes, under real estate. I have here a 2008 report from the Office of the Auditor General, and the Office of the Auditor General speaks about loans or credit guaranteed by the Government of the Republic of Trinidad and Tobago: maximum guaranteed, \$17 billion and actual contingent liability, \$12 billion. And in those companies which have been guaranteed money: Taurus Services Limited, \$2.7 billion; National MTS \$179 million; T&TEC, \$1.393 billion—and the limit of the guarantee is no limit—WASA, \$3.638 billion; Airports Authority \$1.4 billion; Housing Development Corporation, \$2 billion.

We are speaking about billions and billions of dollars in these state enterprises and special purpose companies and we have seen the cost overruns in a number of them. I mentioned the other day that it went beyond \$2 billion. This is where the money laundering is coming from. So if you established a Financial Institutions Unit, you have to have a Financial Intelligence Unit looking into these state enterprises and the special purpose companies.

Madam Deputy Speaker, BWIA was restructured at a cost of \$1.5 billion to go to Caribbean Airlines. They are supposed to bring a report to Parliament on a yearly basis. Two years now and we have no reports of BWIA reporting to Parliament, but they had \$1.5 billion for restructuring. It is our understanding that BWIA is already a done deal, that Air Caribbean has now decided to go with Air Jamaica, which has a loss of over \$300 million. Air Caribbean has now gone into a deal with Air Jamaica, taking \$1.5 billion of taxpayers' money, much of which has been laundered internationally and nobody has decided to look into it. The main players in the BWIA issue are some of the main players in the Securities and Exchange Commission.

So here it is, you are taking \$1.5 billion of taxpayers' money and going with Air Jamaica, which is a losing thing, the Jamaican Government has decided to stand the losses—*[Interruption]*

Mr. Imbert: Madam Deputy Speaker, Standing Order 36(1), relevance.

Madam Deputy Speaker: Yes, hon. Member, I know— *[Interruption]* Hon. Member for Princes Town North, please. I understand that the Member is asking that certain organizations or institutions be placed and I think he is quite in order, but he is now going on to link Caribbean Airlines and Air Jamaica. All I am saying, please do not carry that too far. You are stretching the point a bit.

Mr. S. Panday: Let them money launder.

Dr. T. Gopeesingh: Thank you, Madam Deputy Speaker. The question we are asking, what is the reason for this special purpose company or state enterprise which is supposed to have \$1.5 billion for restructuring to Caribbean Airlines, going in with a losing airline? The question has to be asked, is money laundering going to be taking place as a result? [*Desk thumping*] It seems so. Not only Caribbean Airlines, but all of these companies which have been reported on the Auditor General's statement and this is the reason why we, as the alternative government, are asking that these state enterprises and special purpose companies be included as a list of businesses under the Financial Institutions Act.

7.30 p.m.

Madam Deputy Speaker, I want to make a point about the professionals who are included in this. There are a number of accountants and legal professionals who will be at the mercy of the FIU; a number of professionals who have their integrity at stake and who have had to conduct their client business in private and with confidentiality. Accountants, who conduct their business with confidentiality, are now going to be subjected to the whims and fancies of the FIU, when we do not know who is going to be appointed and what is their integrity and credibility.

When I spoke about the need for a two-thirds majority on this Bill, rather than a three-fifths majority, this is one clear example where persons' rights to property are going to be infringed. Professional lives now mean nothing and are going to be meaningless. So if any lawyer has an established practice, the FIU could go in there and say, "You are suspected of having illicit activities and we want to see all your books," so everything about every client, from the accounting firm and the legal firm would go to naught.

When we ask where a number of offences taking place in Trinidad and Tobago are incorporated in the Proceeds of Crime Act and in the Financial Institutions Bill, the hon. Member for Diego Martin North/East indicated that they are indictable offences.

[MR. SPEAKER *in the Chair*]

Mr. Speaker, there is no area within the Proceeds of Crime Act nor the Financial Intelligence Unit Bill which really deals with anything about trafficking in human beings, sexual exploitation, illicit arms for trafficking, environmental crime or insider trading.

Insider trading is one of the main areas for money laundering in this country. The stock exchange has been one of the areas where a lot of money has been laundered in the purchase of shares on the stock market. It is \$50 billion on the stock market outside there, and this is a substantive part of the money laundering.

But this Government has never seen it fit to bring any insider trading Bill dealing with the stock exchange. They have never thought about bringing insider trading, as far as the stock exchange is concerned.

We saw an example of it with Royal Bank of Canada, RBTT. When it was decided that the Royal Bank of Canada was going to buy over a significant part of the shares of RBTT, we understand that senior members of RBTT asked their families and themselves to buy shares at a certain value, when they knew that those shares were going to be bought at a higher value; so they made millions. One person made almost \$18 million to \$20 million on the purchase of these shares, with insider information. Why is this Government reluctant to bring insider trading legislation? They are protecting their own and allowing money laundering to take place, because they are being helped and financed, at election times, by the money launderers and drug traffickers. This is why they will not seek to bring any piece of legislation.

The Royal Bank of Canada bought out all the shares of RBTT, and many persons became very rich overnight. Is that not money laundering? Where has the money gone?

Mr. Speaker, the US Department of State 2009, INCSR, Major Money Laundering Countries, has named Trinidad and Tobago as one of the major money laundering countries—the INCSR, Bureau of International Narcotics and Law Enforcement Affairs. They have three areas:

“‘Jurisdictions of Primary Concern’ are those that are identified pursuant to INCSR reporting requirements, as ‘major money laundering country...’”

Trinidad and Tobago is not a country of “Jurisdiction of Primary Concern”, but a jurisdiction of concern. They have other jurisdictions monitored.

The reasons Trinidad and Tobago has been put into that category are because of its:

- Failure to criminalize money laundering.
- Lack of effective monitoring of cross-border currency movement.
- No reporting requirements for large transactions.
- No requirement to maintain financial records over a specific period of time.”—this Government has no records about any of those issues—
- “Well-established nonbank financial systems, especially where regulation, supervision, and monitoring are absent.”

I made mention of the fact that Central Bank could not monitor the insurance companies and they monitor 2 per cent of the pension funds. How can we talk about supervision?

It also spoke of:

“Lack of or weak bank regulatory controls...where the monetary or bank supervisory authority is understaffed, under-skilled or uncommitted.”

The monetary supervisory authority is the Central Bank; that is the reason money laundering takes place at will and goes on. This is why the United States Department of State has put Trinidad and Tobago as one of the major money laundering countries.

As far as guns, crime, drug trafficking and drug smuggling are concerned, a case study was done in Trinidad and Tobago in 2004. We experienced 160 firearm murders in 2004; 450 firearm woundings and 1,500 non-injury firearm incidents. A major factor contributing to the surge of gun-related criminality in the region is the trafficking of narcotics, which has facilitated the availability of firearms. The firearms required for protection of the contraband during transportation are smuggled along with the drugs. The Caricom Regional Task Force on Crime and Security recently commissioned a report on the Proliferation of Small Arms and Light Weapons in the Caribbean, Caricom 2002.

The resulting report identified three levels of small arms and light weapons; they call it “SALW Proliferation in the Region”. Countries with established high levels and patterns of armed crime, Jamaica; countries with emerging high levels of armed and organized criminality, Guyana and Trinidad and Tobago.

It goes on to speak about how many firearms were used. It showed a graph between 2000—2003, and you see the number of deaths by firearms have increased considerably, from 2001, 2002, 2003. Murders committed in Trinidad and Tobago using a firearm, from 2001—2006; 2001, number of murders committed with firearms, 82, out of 154 murders, 54 per cent; 2002, 102 murders committed with firearms out of 172 murders, 59 per cent. I go on to 2005, 273, number of murders committed with firearms; total number of murders 386, 71 per cent.

So 71 per cent of the murders that are committed in Trinidad and Tobago, as a result of drugs, are with guns, and guns are associated with drug trafficking. This has been going on for eight or nine years. Guns have been coming into the country, therefore, drug smuggling and drug trafficking have been going on. This Government has not caught one person with that.

This goes on to show the nebulous effect the FIU Bill, the Financial Obligations Regulations and the Proceeds of Crime Bill will have. This will have no effect on money laundering and drug trafficking. We are sure about that, because, one, we have no confidence in how the FIU will be set up, who they will be reporting to. If they are reporting, they are going to the Attorney General; and we know what will happen when they report to the Attorney General.

They have no supervisory capacity and capability; therefore they will have no ability to analyze things.

Mr. Speaker, I want to quote from Mr. Obama, in concluding.

Mr. S. Panday: "Dey say dey cannot put nothing in your hands!"

Dr. T. Gopeesingh: He said:

"Those of us who manage the public dollars will be held to account... do our business in the light of day, because only then can we restore the vital trust between a people and our government."

He went on to say:

"To those who cling to power through corruption and deceit..."—that is President Obama speaking—"and the silencing of dissent, know that you are on the wrong side of history; but we will extend a hand if you are willing to unclench your fist."

Mr. Speaker, ungrateful to the trust that the people bestowed upon this Government, they are unmindful of the sacrifices that people and generations made, with their wild, reckless, unchecked, unaccounted for, non-transparent, non-accountable spending, lacking probity. Gathering clouds are hovering over Trinidad and Tobago, and the prospects of raging prosperity stalls. As a man in high office and a government, they seem to lack the skill and vision to harbour the prosperity that once existed, now a waste.

It is difficult for us to support this Financial Institutions Unit Bill, as it is given to us today.

Thank you.

The Minister of Community Development, Culture and Gender Affairs (Hon. Marlene Mc Donald): Mr. Speaker, I rise to participate in this debate and support the Financial Intelligence Unit of Trinidad and Tobago Bill.

I need to take time out to look at the comments. I have listened to the comments here this evening, and I want to take a little time out with the comments from the Member for Oropouche East, my colleague.

Of course, in his usual way, sensationalism—

Mr. S. Panday: Eloquent! [*Laughter*] [*Crosstalk*]

Hon. M. Mc Donald:—the Member read from a report, "The Financial Intelligence Unit, an Overview", from the International Monetary Fund (IMF), page 11. If one sat and listened, the national community outside would really believe the disadvantages which he spoke about, with respect to the administrative type of FIU.

When you look at the document, there are advantages as well as disadvantages. The Member for Oropouche East decided to focus only on the disadvantages. There are five advantages, and just three disadvantages.

He should have given the national community an opportunity to hear both sides, not just the disadvantages. Tell us what the advantages are and then you could proffer your own opinion. [*Crosstalk*]

The Member made heavy weather about the report from the FIU being laid in Parliament, that the Director probably would be acting on his own accord, and asked when it would be laid in Parliament, et cetera. But with just a simple reading—it is very short Bill—we see in 17(1):

"The Director shall submit an annual report to the Minister on the performance of the FIU, including statistics on suspicious...activities, reports, the results of any analyses of these reports; trends..."—et cetera, would be brought to the attention of the Minister.

It also says:

"The Minister shall, within two months of receipt of a report from the Director under subsection (1), lay the report in Parliament."

Where did the Member for Oropouche East get this notion that there was no provision for laying the annual reports? He showed us reports from the Bahamas, and whatnot. I thought he was really good, but we have it right here in the Bill.

Concerning the other point about investigations and when an investigation would be reported, it is also very clear. I do not want to go through all the sections, because I thought that the Finance Minister did quite a good job when we were last here. We need to sit and read this properly, before we misguide the national community.

What you have done, Member for Oropouche East, was to take bits and pieces of the legislation and sensationalize it. I do not think that the national community

has a sense of exactly what this FIU is about, what is the rationale for setting it up. Tell us, educate us. When we come to Parliament that is what we come for. I am on the learning curve, and I would like to hear, not only our views, but the views of the opposite side. You keep misguiding the national community, but I am telling you: you will not misguide this side. [*Desk thumping*]

7.45 p.m.

We go to the Member for Caroni East. I got lost somewhere along the line because there was this scathing attack on the Attorney General, and this was a debate on the Attorney General. We came here to discuss the Financial Intelligence Unit of Trinidad and Tobago Bill, 2009 and for some time I thought it was just the Attorney General we were talking about and I was happy when the Deputy Speaker said, at least find some way to tie what you are saying to the Bill.

I was a little disappointed in the Member for Caroni East because I always like to listen to his lively debates. [*Laughter*] [*Crosstalk*] But the point about it is to be quite honest I do not think that both Members for Oropouche East and Caroni East really had many problems with this Bill.

Dr. Moonilal: Thank you very much. Mr. Speaker, I really do not want to intervene too long with the Member for Port of Spain South, but could I just clarify because I am agreeing with her, and to state for the record that when I raised the issue of the report in the Parliament I acknowledged the section in the Bill. My difficulty and the Opposition's difficulty is that we are recommending an independent unit outside of the Ministry of Finance where the unit itself will send a report to the Parliament without sending to the Minister and without the two-month phase. So I did read that, and I agree with you.

The other item is that the Minister in her statement: one of the learning curve items is when you gave way, you cannot stop the person. Mr. Speaker, this is the last point I am making; the Minister did raise the advantages all I sought to do was to raise the few disadvantages.

Thank you.

Hon. M. Mc Donald: Just my last point before I move into the Bill itself. The PNM will teach you all how to have a family day. "Your family day could only hold in a backyard, we have to go out; we big, we large."

Hon. Member: Which one of the family?

Hon. M. Mc Donald: Pardon me?

Mr. Speaker: I beg your pardon. You cannot intervene while the Member is speaking. Please continue.

Hon. M. Mc Donald: Mr. Speaker, I think it behooves me to bring some sort of sanity back to the debate, and bring the House back to exactly why we are here because somewhere along the line I lost my way. So, I would like to take some time and bring the House back to why we are here this evening.

Mr. Speaker, the FIU is one of three pieces of legislation drafted to institute a comprehensive regime to deter and detect all forms of money laundering. And these three pieces of legislation are: the Proceeds of Crime Act, the Financial Obligation Regulations and the Financial Intelligence Unit Bill. All will work in tandem with each other.

Mr. Speaker, the main purposes of this Bill is to ensure the enforceability of provisions of the Proceeds of Crime (Amdt.) Bill, 2009 and the Related Financial Obligation Regulations, yet to be brought to Parliament.

The second objective is to establish by statute, a department in the Ministry of Finance to be called the Financial Intelligence Unit with the primary responsibility for ensuring compliance by Trinidad and Tobago with the recommendations as stated by the Financial Action Task Force (FATF), to empower the unit and by extension its director, to conduct the degree of oversight over financial institutions identified in the Proceeds of Crime Act, 2000 and to provide for its local and international functions and provisions.

We understand on this side that money laundering invariably involves cross-border types of activities and the FIU must be given the authority to undertake certain international functions on behalf of Trinidad and Tobago.

Mr. Speaker, by way of background, the Member for Oropouche East did say that when they were in office that an FIU was created administratively in 1997 and that is true. That unit is located in the Ministry of National Security, however, the administrative arrangements were never put in place. This unit was never given the legal framework within which to function. So, as usual, they start things, activities, and they are left undone. This side is now in a position to go in there, assess, and we are now trying to put a legal framework in place to have this unit working. As we go through this debate we will understand why this unit is needed.

As we were saying, there is no legal framework established to receive, analyze and disseminate suspicious transaction reports and other information. The task force cannot access directly or indirectly financial and law enforcement

information, neither can this task force serve as Trinidad and Tobago's advisory authority for monitoring and enforcing the anti-money laundering and counter terrorist financial regime provided for under the Proceeds of Crime Act.

In essence, it is essential that a body be formally established within a proper legal framework, and this unit be established in the Ministry of Finance. The ministry has the capabilities and the structure in order to deal with such a unit.

Mr. Speaker, this House would have heard from the Minister of National Security about two weeks ago when he gave a comprehensive explanation when he presented the Proceeds of Crime (Amdt.) Bill, 2009 and just by way of a reminder, Trinidad is a signatory—we do not operate in a void—to the United Nations Convention against Transnational Organized Crime. Article 7 of that convention calls upon all states to:

“(a) ...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;”

Mr. Speaker, another international initiative which was developed in response to the money laundering problems, was the operations of the Financial Action Task Force (FATF) and that is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing.

In 2003, the FATF reviewed and revised its recommendations—

PROCEDURAL MOTION

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, in accordance with Standing Order No. 10(4), I beg to move that this House continues sitting until the conclusion of this debate.

Question put and agreed to.

FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO BILL

Hon. M. Mc Donald: Mr. Speaker, these recommendations which have been revised in 2003 cover all the measures that national systems should have in place within their criminal justice and regulatory systems.

Mr. Speaker, these recommendations have been recognized by the World Bank as well as the IMF as the international standards for combating money

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laundering and the financing of terrorism. The framework for the FIU Bill originates from the Financial Action Task Force, recommendation 26 which, in part, reads as follows:

“Countries should establish a FIU that serves as a national centre for the receiving (and, as permitted, requesting), analysis and dissemination of STR” Suspicious Transaction Reports “and other information regarding potential money laundering or terrorist financing. The FIU should have access,...to the financial, administrative and law enforcement information that it requires to properly undertake its functions...”

Mr. Speaker, even though Trinidad and Tobago is not a member of the Financial Action Task Force, we are required to implement the recommendations by virtue of our membership in the Caribbean Financial Action Task Force and this task force, the CFATF is an associate member of the 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 recommendation to effectively implement these measures.

Mr. Speaker, it is against this background that we seek to have now the necessary legal framework to be put in place in order to support the Proceeds of Crime (Amdt.) Bill, 2009.

Mr. Speaker, Trinidad and Tobago is poised to achieve developed country status on or before the year 2020. This means that our system of governance and all the supporting legal framework must be established now. Additionally, Trinidad and Tobago will assume the status of the region’s leading economic power, the preferred destination for foreign investment and the establishment of the International Financial Centre to serve as capital market for regional governments and corporate firms. This means that there is a great need and a sense of urgency that we do all within our powers to protect this country’s financial market from abuse through money laundering and to increase and strengthen our legal capabilities in the area of detection, investigation and prosecution of individuals and groups who perpetrate these types of activities.

Mr. Speaker, after all that has been said, this Bill is seeking to create a structure which would play a pivotal role in the enforcement of the clauses in the Proceeds of Crime (Amdt.) Bill. There is heavy weather about the type of people who will be staffed in this department, who is the director and how they are going to be recruited. But this department will be staffed by persons with the right mix of skills and competencies to implement all the requirements of the CFATF.

Mr. Speaker, permit me to remind this honourable House that one of the essential criteria under the CFATF is the ability of the assessed countries to demonstrate their anti money laundering performance on the basis of empirical evidence such as statistical reports and effective legislative and institutional framework which would guarantee Trinidad and Tobago's capacity to satisfy our global requirements.

8.00 p.m.

I dare say that there is little sense or no sense at all, in setting up an important unit as the FIU and the staffing of same to be done in a haphazard manner. The FIU needs to be staffed with persons demonstrating the highest levels of integrity, of competence, qualifications, skills and experience. Added to this, persons would be drawn from the widest pool of eligible personnel from both within and outside the public service.

This approach provides the opportunity to secure the right fit and mix of staff for the unit which is critical and, hence certain terms and conditions are attached to the hiring of the Director as well as the Deputy Director. It is important that Government be given a degree of flexibility not only in the choice of the personnel, but in the package of the terms and conditions intended to be offered to these staff members. That would be the Director and the Deputy Director.

What our Government is ensuring here is quality as well as productivity on the part of the new staff in light of the type of technical work to be undertaken. An examination of the clauses in this Bill which the Finance Minister had done on the last occasion, all reflect Government's objective in making the pursuit of criminal property a principal part of Government's crime reduction policy. These measures, when implemented, will place an emphasis on restorative justice and recovery from the proceeds of crime.

I wish to commend the Finance Minister for piloting this important piece of legislation and in closing I wish to hasten to support this piece of legislation. I thank you. [*Desk thumping*]

Mr. Chandresh Sharma (Fyzabad): Mr. Speaker, I am very happy to note the happiness expressed by my colleagues opposite in seeing this participation. I want to establish something before I get into what I have to say, and that is, Members on the Opposition Benches, and I speak for both the front bench and the back bench, we are here only to discharge our duties. There are absolutely no personalities involved. We love the Members opposite like brothers and sisters, because that is what they are. We are all Members of this House. I have noticed

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the tendency by some Members opposite to sometimes seem to suggest that we are involved in personalities; we are not. We are very concerned with the conduct of Ministers. We want them to do well. Members opposite are Members of the Government and the Opposition is part of the Government by extension, based on the Constitution that we are guided by.

On the last day, for instance, when we raised matters as they related to the Minister of Finance, it had nothing to do with the Minister of Finance in her personal capacity, and we dealt with that and I will not revisit it. Today, the last speaker, a charming lady, whose curves you cannot miss, made the point—

Hon. Members: No, no! [*Interruption*]

Mr. C. Sharma: The Minister was saying she was on some curves. [*Interruption*] The Minister presented in the House that she was on a learning curve and I am saying that we identify those curves.

But the point I am making is that when we speak on this side about the Attorney General, we are not dealing with the Attorney General in his personal capacity; we are concerned about the office he holds. The Member for St. Joseph—you see, one of the difficulties is that sometimes there may be disagreements among Members, but we have to be very careful we do not get personal with it, nor do we take sides because it will come back to haunt us.

I was a bit disappointed this evening to hear the Member for St. Joseph, a former man of the cloth, saying that he read in the newspaper—and he read the article by Senior Counsel, Israel Khan, in favour of the Attorney General. I think he did himself a disservice because he referred to a newspaper article that appeared, I think, on May 28, 2009. Today is the third day of June and in this article that appear in the *Newsday* today, it states at page 1: “Rowley: Integrity Commission gave AG file on me

Jeremie: I never saw any report”

I want to read a little of that article to make the point that we must care for each other; we must demonstrate love for each other and we must not become convenient friends; we must not want to treat with people when they are useful to us, and I tell the Member for St. Joseph to be extremely careful. The article states:

“Attorney General John Jeremie yesterday denied ever being handed a secret Integrity Commission report on Diego Martin West MP, Dr. Keith Rowley by former chairman Gordon Deane during the period when the report was rushed to the office of the Director of Public Prosecutions (DPP).

‘I have never seen any Integrity Commission report,’ was how Jeremie fired back to an allegation made by Rowley, who claimed that in December 2006 Jeremie said he was given an Integrity Commission report on him by Deane.”

Now, you would recall a report of similar kind was given to the media or people in the public on Basdeo Panday, Member for Couva North who is Leader of the Opposition, but we will talk about that another day.

“The report, which revolved around the Landate affair, was referred to the Office of the Director of Public Prosecutions, according to a newspaper report published on December 17, 2006.”

Did the Member for St. Joseph not see this newspaper?

“Rowley told Newsday yesterday that after news of the referral hit the press Jeremie phoned him at about 3 pm on December 17 and told him, ‘They ain’t have nothing on you,’”

It reminds us of Sen. Jerry Narace who said, “We protect our members.”

Mr. Speaker: If you are responding to the Member for St. Joseph, I think he confined himself to what Mr. Israel Khan had to say about the AG. He did not go outside of that. So if you want to confine yourself to that, it is in order.

Mr. C. Sharma: I am guided. Thank you very much. Perhaps I will not continue. The point has been made. I wanted to make the first point that whilst we are Members of this House there must be an enormous duty to each other.

Hon. Jeremie: Mr. Speaker, I do not know if the Member would give way.

Mr. C. Sharma: Sure, certainly.

Hon. Jeremie: Before you intervened, he made certain statements which I would like to respond to, with your leave.

Mr. C. Sharma: Certainly. You have not yet spoken, so when you speak—

Hon. Jeremie: I do not intend to speak—

Mr. C. Sharma: Just note it. I will come back to it; I will give you time—

Hon. Jeremie: Listen to me. I do not intend to speak.

Mr. C. Sharma: No, I have to listen to the Speaker; I cannot listen to you.

Mr. Speaker: He is asking you to give way. If you are prepared to give way—

Mr. C. Sharma: Not at this time. If he wants to refer to this, read the newspaper article and he may not need to, because this article appeared in the newspapers and it also has responses of the Member. The point is—and since the Attorney General got up—today we are talking about this FIU and one of the key areas of the FIU talks about confidence. If you look at the history of the PNM, they seem to take advantage of all the institutions. Because if you go back to what the Member for St. Joseph said about a person outside of this House, who may or may not be seeking his personal benefit, against what a Member of this House has—a former senior Cabinet Minister, a deputy political leader of the organization to which he belongs, then he is believing something conveniently.

Is he also saying that what the Member for Diego Martin West says, according to this newspaper article, he does not believe? Or is it convenient to treat with the Attorney General? There is no need to buy that kind of friendship.

Mr. Imbert: Mr. Speaker, 36(1); we are dealing with the FIU.

Mr. C. Sharma: What is your point?

Mr. Imbert: Irrelevance.

Mr. Speaker: Yes, the point is relevance. Come back to the Bill before us.

Mr. C. Sharma: You see, the Member for St. Joseph was allowed to read the entire article and he was relevant; I made reference to a similar article and I become irrelevant based on Standing Order 36(1). But let us proceed.

Mr. Speaker: No, please. My understanding of it was the Member for St. Joseph referred to statements made by Senior Counsel Khan concerning the Attorney General and I allowed that, but I think you are going outside in responding to what the Minister of Information has said, and to that extent you are straying a bit.

Mr. C. Sharma: Thank you, Mr. Speaker. The second matter that was raised, the Member for St. Joseph indicated that there were no provisions in law to treat with persons who are involved in money laundering, et cetera. But he went on to say that the Attorney General was able, based on the article written by Israel Khan, to do certain things and he referred to what those certain things were. The same law that allowed the Attorney General to do what he said obtains today. That law has not changed. So it is again very convenient.

So here is a Member of Government really having nothing to say and relying on information that is not relevant. For instance, the Financial Intelligence Unit of

Trinidad and Tobago is a division of the Counter Drug Crime Task Force and its functions:

- Conduct criminal investigation....
That is the first thing. So it has that power.
- Conduct money laundering investigations;
It has that power.
- Receives and carry out investigations of Suspicious Activity Reports;
I want to deal with each one in a minute.
- Deals with...Proceeds of Crime Act, 2000;
- Ensures the implementation of compliance programmes by financial institutions.

So is the Government saying to date, over the last few years, it has not had the ability to conduct criminal investigations? Is this what the Government is saying to the national community? It did not have the ability to conduct money laundering investigations? The answer is yes. It had ability to receive and carry out investigation of suspicious activity reports, and these oftentimes originate from the bank and the banks have a legal requirement so to do.

On the last day the Member for Diego Martin East reminded us that deposits over \$60,000 commanded that kind of attention. Under the Proceeds of Crime Act, 2000, there are provisions as well:

“The FIU maintains comprehensive statistics on the effectiveness and efficiency of its systems...”

I forgot to welcome the Attorney General to this House. Having just resumed office, I thought the first thing the Attorney General would have done guided was the Government, because he is responsible for legislation; he would have told the Government that it is wrong in bringing this FIU today after the Proceeds of Crime (Amdt.) Bill. They made reference, and during the committee stage I asked the chairman and the Leader of the Government Business, to adjourn it to after. What they attempted to do, they were making reference to the FIU when it did not exist. How can they make reference to a law that does not exist?

So the Government really does not know its legislative agenda, and I look at the Member for Diego Martin Central and he looks lost and I can understand; he

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is new; he does not understand. It is like, you know, printing a wedding card; you are going to get married and you do not know the date of the marriage. I mean, this is how foolish this Government comes over. Here the international community is looking on and saying: "What is really happening?"

The Financial Intelligence Unit, as I indicated, is in receipt of all suspicious activity reports from banks and other financial institutions. Is the Government saying to date it has had no such reports? If it has such reports, what has it done with it? It is to look at those Suspicious Activity Reports and confirm or determine the nature of the suspicion. It has not reported to this House what has transpired.

It is further required to investigate those reports and to take action. To date, not a single action has been taken. Now, to conduct the financial investigations, they have available to them the legislative tools in the form of production and restraint orders, maintaining of relevant databases.

8.15 p.m.

When you look at the formation of the Financial Institutions Unit (FIU) in terms of the officers, the Parliament must be told how they will arrive at those officers. Most of the officers who would be engaged would be coming from the public service. You will have members of customs, immigration and police, et cetera. Who will be in charge of it, at what rank and salary range? You would have difficulty if you put somebody in range 54 in charge of it and there is somebody in range 62 on that team. Range 54 cannot give instructions to range 62. The public service does not allow it. Those things need to be answered. The Member for Oropouche East enquired into that.

This FIU came about since 1997, and the Government has starved it of funds simply because it came under the UNC. Today because the international agencies are putting pressure they have come to seek the assistance of the House. It was since 1997, 12 years ago. From 2000, the enactment of the Proceeds of Crime Bill provided for the receipt of suspicious activity reports. I was making the point and I come back to it.

Today we were asked to treat with the proceeds of crime and the Bill made reference to the FIU. The question I beg is: How did that become possible today? Can you pass a law based on a law that does not exist? That is what the Government asked us today. This Government is not fit for governance. They do not understand. The national community always says this about the PNM, "They know power; they have power, but they do not seem to have intelligence to manage the country, a simple thing like this." The PNM does not seem to possess

a clear legislative agenda when it comes to crime. A good example is that of the children legislation. Even when children were murdered in this country, the legislation was kept back. Of course, the UNC government had already passed these critical pieces of legislation in 2000 to protect the children from those who would harm them. Yet, up to 2008, the Government has not taken action.

Today we are asked to pass the FIU, but there is the Special Anti-Crime Unit of Trinidad and Tobago (SAUTT) that is illegal. It has similar powers and the Government has not brought SAUTT legislation to Parliament. Again, SAUTT is doing illegal work and being funded enormously. Officers of that unit are being paid two and three times higher than the regular police officers. Why is that so? That is the question that has to be answered. SAUTT is doing work of the PNM similar to the Mongoose Gang of Grenada.

The fact that it is illegal it has been drawn to your attention and to date you have not brought legislation. For a while, we have asked that you bring that SAUTT legislation. We know that SAUTT deals with major crimes that affect the average citizen.

The FIU deals with white collar crimes which affect the rich and powerful. It appears that the Government is prepared to put priority to legislation when it comes to a specific group in the society, at the expense of the majority of the average citizens. This Government has always been a government for the rich and powerful, not the masses of the country. A good example is to look around and see the goods and services that the masses in this country require cannot be obtained. Today, 75 per cent of the country is without water and so many people are unable to purchase food.

It begs the question: What is the Government's priority? They spent billions of dollars on a summit. The Minister argued that we could hold 6,000 summits again. In November, there would be a large sum of expenditure again. How does the country benefit? The Government has a tendency to bring legislation that does not benefit the national community. We have been told that there has been a confirmed case of swine flu. You would have thought that there would have been some kind of reaction from the Government to alert the national community. That is not happening. When you compare what the FIU is asking for—the police service is crying out for resources. How many police stations are without motor vehicles?

Mr. Parsanlal: Do you mind giving way? It is unfortunate that the Member will speak of swine flu and say that the Government has not done anything. We have one possible case and the Ministry of Health has already issued a press

release and done everything necessary to ensure that this case is contained. I wish you would provide the correct information.

Mr. C. Sharma: I am sorry I gave you time to say nothing. In May 2007, the mission that is looking at FIUs globally came to Trinidad. This was one of the findings. The mission noted a lack of staff that was full-time allotted to the FIU and which is needed in order to guarantee sufficient work to be done, as it relates to the SAR. The FIU consisted of only five police officers and, in addition, was not publishing publicly periodical reports that include statistics, recent money laundering trends, techniques and information regarding FIU activities. You see where the Government has no interest in treating with the FIU. They come today to satisfy the international requirement. The mission is recommending expansion of this unit with a minimum of one forensic accountant and a person to do in-depth work. This was in May 2007. To date this has not changed.

Why is the Government creating a new organization rather than fixing the original one? This original body was under the police service. The FIU is about investigation. The police service is under the Ministry of National Security which has the manpower, intelligence and resources. This new body is to go under the Ministry of Finance and we have seen the conduct of the Ministry of Finance in recent times. The Ministry of Finance is about financial issues policy, largely. The police service has investigating powers. You are moving it from the Ministry of National Security to the Ministry of Finance and it begs the question: Why? It is for it not to work because they want to protect their friends and family. The Government has no interest in the national community. Why is this being done? Why is a body that deals with criminal activity being transferred to the Ministry of Finance? Even though we know the Minister of Finance cannot do his job, the officers who are there are qualified so to do.

Now, much power will be invested in the FIU and we have seen what the Minister did on the last occasion when presented with an opportunity. What about the police officers currently staffing the FIU? Are they going to be dismissed from the police service and hired on contract by the Ministry of Finance? What about their pensions and other benefits or will they be seconded to the Ministry of Finance? The Government has not told us anything. On a previous occasion they were quick to issue a radio licence to save the jobs of five persons. The Government is seeking to staff an entire specialized organization when we cannot find a commissioner of police; a DPP, a Solicitor General and the list goes on.

How does the Government intend to make this FIU work? In recent times, there have been enormous reports on corruption. All we have seen is that the

Government continues to turn a blind eye to serious allegations of corruption in their administration and maintain a partnership with the criminal element. They can never be serious about stopping crime. The country has to be guided by what the Government does. When the people see that the Government is engaging criminal gangs and funding them with taxpayers' money, how can they expect the FIU to work?

This Bill talks about terrorist financing; proceeds of crime and FIUs, as well. In the local qualification gangs that are involved with similar activities are financed by the Government. You would have read in the daily newspapers a few days ago of a ruling by the Privy Council and their comments. They indicated that the intervention of the Prime Minister and a particular group was illegal and very frightening. How do we expect the spiritual and moral values that the Government wants us to identify with to deal with this corruption— It does not exist.

In the FIU Bill there is no definition of “suspicious activities”. It is open and there is potential for abuse. That is the fear that the citizens of this country have. The best example that comes to my mind is the misuse of the Anti Terrorism Act when the Government detained one, Inshan Ishmael for printing a pamphlet. We will recall that he was kept in prison for some hours.

I looked at clause 16 of this Act which talks about advertisements in one daily newspaper. We recommend that this goes in all the daily newspapers. Very often, the ministry presents its propaganda with the faces of Ministers on three and four newspapers, the dailies and weeklies. Here is information that will benefit the national community and they are talking about one newspaper. In the annual report, there is no penalty for failure to comply. There is no way to compel compliance; no recourse if it is not done. A good example of a similar failure is the Ministry of National Security failing to produce their annual report to Parliament. Government has no interest in accountability and transparency. Failure to answer questions is a good example. The national community is crying out today. When the Opposition files questions in Parliament it is on behalf of the people.

Clause 20 refers to the imprisonment for five years of a listed business. Mr. Speaker, I wanted to ask you, can you explain, but I know that I cannot. Is a listed business a person or an individual? Can a listed business be imprisoned? The Government does not go through its homework or brings any piece of legislation here without thinking it through.

Clauses 21 and 23 penalize an FIU officer for disclosing information. Earlier, I made reference to an article that appeared in today's newspaper. Assuming that that

article is correct, did Gordon Deane leak information on then minister Dr. Keith Rowley to the Attorney General or anybody else?

Hon. Jeremie: Mr. Speaker. Would you give way so that I can correct what you just said?

Mr. C. Sharma: I am asking a question. Are you going to answer the question?

Hon. Jeremie: Of course. Mr. Speaker, I have heard the Member for Oropouche East; the Member for Caroni East; the Member for Fyzabad and various others talk this afternoon about my relationship with Gordon Deane and some conversation that I was supposed to have had with the Member for Diego Martin West. I want to put on record that I believe Mr. Deane has given great service to this country. He is someone that I know. He is not a PNM. He is one of those persons in this society who generally has no party affiliation. That is my understanding of it. He was doing his best as chairman of the Integrity Commission and as chairman, he certainly would not have passed any file to John Jeremie as Attorney General and he did not do so.

If you live in fairy tale world and Mr. Deane had given me the file, I would then have been forced to pass that file to the Director of Public Prosecutions who is an honourable man and would not have received that file from me, because the law does not permit it. All that I have to say for umpteenth time, and I will repeat it as often as I can, is that that story has no legs and nowhere to go. I am not saying that Dr. Rowley is lying. He is a colleague of mine. I am saying that he has misunderstood.

8.30 p.m.

Mr. C. Sharma: I must congratulate the Attorney General. He has established he got the file; the question is from whom? Is he saying that Gordon Deane did great service to this country by causing a private and confidential file on the Member for Diego Martin West to get into his hands, whether by his driver or his messenger? The Attorney General should never have gotten that file.

Mr. Speaker: I do not think he said that. He said quite the opposite to what you are saying.

Hon. Member, move on because you are becoming irrelevant!

Mr. C. Sharma: Mr. Speaker, I need to make sure that I represent my constituents to the best of my ability. The article says, I am reading from today's *Newsday*, since the Attorney jumped up:

“He (Jeremie) said Gordon Deane was leaving...”

Mr. Speaker: I do not want to have to call the attention of the House to the fact that you are being irrelevant, so get back to the Bill.

Mr. C. Sharma: I am establishing that the FIU is a unit to be established that requires the support of Members of Parliament. My constituents have asked me to obtain from the Government that the guarantee of confidentiality will remain so. They have based it on an article that they have asked me to refer to. It says that:

“He (Jeremie) said Gordon Deane was leaving the Integrity Commission and that Gordon Deane gave him the file because he, Gordon Deane, did not want anybody to use the file against me.”

Mr. Imbert: Mr. Speaker, point of order—Standing Order 36(1). [*Crosstalk*]

Mr. Speaker: Order please! Member for Fyzabad, a Member is raising a point of order. You need to take your seat. The Member has raised a point of order, Standing Order 36(1)—relevance. You are straying and I am trying to encourage you to come back to the Bill. Please come back to the Bill. [*Interruption*] Order!

Mr. C. Sharma: Mr. Speaker, to understand the position, am I not to refer to anything the Attorney General just said?

Mr. Speaker: He was responding to you and that is the end of the matter. You need to move on. Get back to the Bill before us. [*Interruption*]

Mr. C. Sharma: I was making the point on clauses 21 and 23, which penalize an FIU officer—

Mr. S. Panday: [*Interruption*]

Mr. Speaker: Member for Princes Town North, you have not spoken on this Bill yet, have you?

Mr. S. Panday: I will speak next.

Mr. Speaker: You can do that, but do not speak on the Bill sitting down.

Mr. C. Sharma: I was making the point that clauses 21 and 23 penalize an FIU officer for disclosing information. This penalty, as it refers to the FIU, also refers and pertains to the Integrity Commission. I am asking that the Integrity Commission, the DPP and whoever else is responsible for the Integrity Commission to penalize any officer who may have disclosed information on Dr. Keith Rowley, Mr. Basdeo Panday and any other person.

If the FIU provides for that—it includes suspension pending outcome of investigation and dismissal upon conviction—of course in the public court Gordon Deane has been charged for releasing the confidential file; and not on one occasion apparently.

Mr. Speaker: Hon. Member, you are testing my patience. Clauses 21 and 23 have nothing to do with Gordon Deane, you know.

Mr. C. Sharma: The other point I want to raise is that under the Proceeds of Crime Act, it provides for investigation; it allows where a person appears before a magistrate, that the person convicted may have benefited or realized property, it also makes allowance for the Variation Order to increase the amount of property where the amount the person is ordered to pay is less than the amount assessed to be the value of his proceeds of a specific offence.

Section 18 of this Act provides for provisional measures detailing the circumstances in which the charge orders have been made. To argue that there are no provisions now is wrong. In addition, the FIU is not a Member of the Egmont Group and does not have legal authority to receive the STR and suspicious money laundering activities. Whereas, section 55 of the Proceeds of Crime Act, which was amended in 2000, made provisions for the appointment of a designated authority responsible for recovering all STRs submitted by financial institutions, to date, in all the presentations by members of the Government, they have not indicated what has happened—the designated authority as natural persons now in the immediate command. The FIU itself does not have the authority to obtain directly additional information from reporting bodies. The authority can only be exercised under section 32 of the Proceeds of Crime Act. That is the point I was making earlier; that the Government should have brought this FIU before the Proceeds of Crime Act.

It gives the police officers the ability to apply to a judge for an order compelling the production of financial information from reporting parties during the investigation of drug trafficking and money laundering offences. Over the period, the Government has not seen it fit to bring the legal framework authorizing the FIU to treat with financial information to domestic authorities for investigation or action. In fact, the mission that was here in 2007 noted that it was in practice, particularly with the Organized Crime and Narcotics Unit. The evaluation team, however, remained concerned with this situation and urges the authorities of Trinidad and Tobago to introduce enforceable and adequate legislation in order to strengthen the structure of the FIU and to address existing legal shortcomings in its powers. Since 2007, the mission came and Government has not treated with it at all.

Additionally, the mission noted the lack of staff full time that was allotted to the FIU, and which is needed in order to guarantee sufficient in-depth work of incoming STRs. The FIU consisted, as I indicated, of five police officers and very little has changed. The mission recommended expansion of this unit with additional officers. The mission, having come here in 2007, also remains concerned with the limited human resources available to the DPP's office.

Mr. Speaker, you realize that the mission had to be very careful in its submission, but it is also concerned about what appeared in the *Express* even though the report did not suggest that. I understand that they were very concerned by what appeared to be the interference in the DPP's Office by the then Attorney General. They noted that the DPP is constitutionally responsible for all crime in Trinidad and Tobago. Lately we have seen letters between the DPP's Office and the Attorney General's Office that seem to suggest differently. This is a very dangerous way to travel. It provides advisory services on matters of a criminal nature to all government departments and agencies and not the other way around. It is also responsible for the prosecution of money laundering offences, corruption and criminal proceeds.

The assessment team again remains concerned with the information it receives from the court that a number of magistrates are overworked. The Opposition has drawn this to the attention of the House a million times. We have made certain recommendations and, again, the Government does not treat with it. It seems that the Government wants to win the world record for the most matters in court not treated with. They do not have a desire to treat with the issues that affect the national community.

They made a recommendation which we have made—more courts and magistrates are felt to be needed. Several persons have been convicted in the Magistrates' Courts for drug trafficking during the past few years, but no order of forfeiture is being followed. The Proceeds of Crime Act, according to the magistrates' report, appears sufficient but enforcement is seen to be the major problem. Statistics consulted by the assessment team confirmed that the provisions under the Proceeds of Crime Act are not widely used or implemented. So even when we bring laws here, the Government does not treat with it. This is a lawless Government which cultivates lawlessness.

The team observed that the Trinidad and Tobago Police Service is responsible for investigating all offences in accordance with the Police Service Act, Cha. 15:01 and regulations. They are principally responsible for investigating drug trafficking offences from which criminal proceeds are most likely to be generated.

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The Customs and Excise Division plays a significant role in monitoring trans-border cash flows and to date this Government has not told us what the findings have been.

The Proceeds of Crime Act gives a customs officer similar powers to that of police officers in relation to money laundering and forfeiture of proceeds of crime. However, no statistics are available to date. What is the Government really doing? How does it intend to obtain the support of the Opposition when it does not bring any information? They mix up the legislation. The few Ministers who talk are really on public relations, just killing time, have nothing to say and do not relate the argument to what is happening.

We have been told that the Central Bank has powers as well, in terms of reporting procedures, which banks should follow. When the banks provide that information, as they are required to do—I have the form here that asks for the information, which I would share with Members—we would want to know how many forms were filed and how did the Government treat with them. For instance, section 56 of the Proceeds of Crime Act, 2000 states that the Minister of Finance may issue regulations prescribing customer identification obligations, customer due diligence and record-keeping requirements.

The mission in 2007 indicated that the regulations referred to financial obligations regulations and were not yet in force. So the Government has the power. Why are they not exercising it? We have always argued that the Government is not a government of the people; it is a government of the few.

With regard to customer information and record-keeping measures for financial institutions in Trinidad and Tobago, the absence of legally enforceable KYC and CDD and more detailed record-keeping measures was one of the major concerns of the mission during its on-site visit to Trinidad and Tobago and consequently the authority of this country, meaning the Government, is urged to put the necessary regulations in place to adequately deal with this matter.

Here you have a mission coming, does the Government talk about this? Under the Panday administration, we dealt with these matters. Why is this Government so lazy in office?

The Central Bank indicated, since 2004, guidelines for the financial institutions it supervises and these guidelines are informed by the Proceeds of Crime Act, 2000 and the FATF. The Member for Diego Martin North/East earlier referred to the 40 + 8 recommendations and I was making the point that it was premature. He was referring to a law that was not yet passed to pass another law.

8.45 p.m.

“However, these guidelines are not legally enforceable. The Mission received information through interviews with CBTT and some financial institutions under CBTT supervision however, that even though these Guidelines may not be legally enforceable, still they were being adhered to by the supervised financial institutions and were being enforced by CBTT through on site visits. The supervised financial institutions are obligated to establish internal procedures and policies to prevent money laundering and terrorist financing.”

Under the UNC administration we treated with these matters. All the Government had to do was have continuity and follow up.

“These internal procedures should include inter alia CDD record retention...the detection of unusual and suspicious transactions,...”

Do you want to say that to date the Government has not found any unusual and suspicious transactions?

“prohibition to keep anonymous accounts and the reporting obligation.”

Again, the Government has not told us a single thing.

“These financial institutions are also obligated to designate AML/CFT compliance officers. On-site visit statistics of the CBTT has not indicated any administrative sanction to any of the supervised financial institutions based on non compliance with...”—the same measures—“imposed by the CBTT Guidelines”

It is clear that the Government has no interest in proper legislation and treating with money laundering in this country. They have no interest in dealing with the proceeds of crime.

“Money or value transfers are not regulated in Trinidad and Tobago.”

Nothing is preventing the Government from bringing the laws to treat with it.

“However, as indicated earlier, the FIU has received over the period of 2001 to 2004 significant amounts of SAR’s from...money transfer company,...”

It means to say that the Government was receiving information and protecting someone by not taking action. In its reply, we hope the Government can tell us how much it received and what they did with it.

“There are legislative measures in place to ensure that the ‘Designated Authority’ (which functions within the FIU) and the CBTT have access on a timely basis to financial and administrative information. However, the

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Mission recommends Trinidad and Tobago authorities to enhance the supervisory powers of the Securities and Exchange Commission and to regulate relevant powers for the Credit Unit Supervisory Unit. POCA 2000 gives the Designated Authority access to premises of the financial institution to inspect any business transaction record or client information records kept by the institution and ask any relevant questions and make any notes or take any copies of such records.”

The Government stood and said that they did not have that power. They were misleading us.

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

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

Question put and agreed to.

Mr. C. Sharma: Thank you, Mr. Speaker. Let me thank the Member for Oropouche East. I think his elevation to the seat of Chief Whip may have a little—[*Interruption*]

Mr. Speaker: I do not know if you really heard him; be careful.

Mr. C. Sharma: I was making the point that the Government comes and cries that there is not enough legislation to treat with the issues at hand and that they are misleading. They are being economical with the truth, because we have presented all the information. All the contributors on this side have indicated. It shows a clear picture and it is not the first time that the Government has no interest in treating with the real issues in the country.

I go further:

“POCA 2000 states that when a SAR is made in good faith, the financial institutions or person engaged in relevant business activities and their employees, staff, directors, owners or other representatives as authorised by law, shall be exempted from criminal, civil and administrative liability as the case may be,…”

The UNC did its work. We made sure we protected such persons, so that the information could have flown.

“for complying with this section or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or

administrative provision, regardless of the result of the communication. The ‘Tipping Off’ provision available in POCA 2000 is documented on all Production Orders that are served. This is done to ensure that employees who comply or assist in complying with these orders are made aware of the provision. It makes in addition to this the appointed ‘Designated Authority’ (within the FIU) responsible for breach of confidentiality of information obtained during the course of his duty.

The mission found that the staff, including Compliance Officers, of most of the institutions that were interviewed had basic AML training. Staffs of the Securities Sector and the Cambios however have not been trained and generally there was no training available on CFT issues. In accordance with POCA 2000 every financial institution or person engaged in a relevant business activity is required to develop and implement a written compliance programme, which also includes the training of personnel in the identification of suspicious transactions.”

Is the Government saying that these officers are trained and are at the banks and financial institutions and they have not sent to the Government, through the authorities that exist, the information for the Government to start the investigative process? Again, the laws are here but the Government is not engaging the players at all.

“Since the POCA 2000 only covers Money Laundering, training on CFT transactions is not covered by the legislation. The institutions the mission interviewed indicated that they are in the process of training their personnel on mostly AML issues and in detecting suspicious transactions.”

They have trained people to recognize those suspicious transactions and, again, the Government has taken nothing.

One of the recommendations from us is that the authorities here need to urgently remedy these shortcomings.

“...in its regulatory framework to address the attention of financial institutions for their branches and subsidiaries in other countries and to prohibit...with Shell banks in a more formal way.

The ‘fit and proper’ requirements of the Financial Institutions Act, 1993 (FIA), the fit and proper guidelines and other corporate governance guidelines issued by the CBTT are aimed at ensuring that only persons of good character and high integrity become directors, controlling shareholders, controllers or managers in licensed financial institutions. The registration process as outlined in the Security Industry

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Act (SIA) also requires individual applicants to be of good character or in the case of companies, not have an un-discharged bankruptcy order, an appointed receiver manager, interests which may conflict with the conduct and integrity of the proposed business or a past history of suspension or expulsion from any other securities exchange.”

Again, all these things exist but, what we are seeing is that the Government is not attending to it in a meaningful and measurable way that would benefit the national community.

“While the registration process does mandate for the exclusion of participants...the SIA does not have specific provisions for the identification of beneficial shareholders or oversight in changes in management and ownership.”

We argued this on the last day when we spoke about proceeds of crime.

“...the following ‘relevant business activity’...under its First Schedule:

- Real Estate Business”

We have argued that the Government, to date, has not been able to identify any transactions in real estate that demonstrate suspicious activities or money laundering.

With respect to the sale of motor vehicles, there are vehicles sold in this country from under \$100,000 to in excess of \$1 million. All car registration takes place at the licensing office, so that information is available.

Gaming houses—this country has more than 72 casinos, including the National Lotteries Board. Do they track anything? These are the guidelines that obtained since 1997. It is not that it is new.

In other countries they have looked at the sale of jewellery. With respect to pool betting and online betting all these things obtain.

“This means that...relevant business activities have to comply with the requirements as stated in the POCA 2000.

There are concerns regarding the scope of POCA 2000...and there are no guidelines and administrative sanctions available specifically dealing with...breaches...The Trinidad and Tobago Government has not yet designated any authorities...to monitor...”

These pool houses, betting places, lotteries, et cetera. Again, the Government is not doing its work. This information has been in the Government’s domain for the longest period of time.

You would recall, in a previous budget debate, the Prime Minister spoke about gaming houses.

“T&T does not have Casinos but the Private Members Clubs (there are 72 Clubs registered) seem to operate like Casinos. The Board of Inland Revenue of Trinidad and Tobago deals with Gaming Houses, Pool Betters and Private Members Clubs however only for tax purposes.”

The Government is concerned about collecting the tax, but they may be collecting taxes from money laundering.

“There is no real supervision on what these Clubs and Gaming Houses are doing and there are no...guidelines with regard to these Clubs.”

One can look at the real estate industry and the global learning. This is something that was made available to the Government. When it came to the UNC's attention in 1997, we made sure we sent officers to train. We got some of the best minds to train. We looked at all of these.

“The real estate business or industry in Trinidad and Tobago is not regulated, but there is an Association of Real Estate Agents (AREA), that represents approximately 50 % of all real estate agents in Trinidad and Tobago. There is need for this industry to be regulated...”

These are the international guidelines to governments establishing FIUs. Why are they not doing it? The same applies to car dealers.

“The Association of Car Dealers of T&T has received information on the submitting of SAR's via a letter from the FIU and this was distributed...this organization has no supervisory authorities and has not followed through on the topic of...”

the requirement.

Mr. Speaker, there is the Jewellery Association of Trinidad and Tobago for the dealers who deal in precious stones and metals. Again, there are no checks. While the businesses are legal, there may be persons using money to wash money, if I can use that term.

It goes on. As I have indicated, this information has been in the Government's domain, as it relates to NGOs and non-profit organizations. They can be set up by persons involved in money laundering. It has happened in the United States, Canada and elsewhere. That learning has come to us. The Government has taken no action whatsoever. The more information we present, the more it confirms in

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the minds of the people in Trinidad and Tobago that this Government really has no interest in meaningful legislation.

9.00 p.m.

“The Mutual and Legal Assistance Treaty in Criminal Matters Act No. 39 of 1997 legislates the process for mutual legal assistance.”

This was passed by the UNC in 1997:

“This Act appears to be taken seriously in Trinidad and Tobago and in general international co-operation...The Central Authority (body in the Ministry of the Attorney General) is in charge of international cooperation...it maintains regular contact with OCNU and the FIU. Upon receipt of a foreign request for assistance by the Central Authority, OCNU or the FIU would usually assist in its execution and this encourages good collaboration between parties involved. The FIU and Police generally maintain statistics on cooperation with their national and international counterparts. The Central Authority also maintains statistics with regard to mutual legal assistance as well as statistics on...

Trinidad & Tobago is party to the Vienna Convention with the relevant implementing legislation. However it is not party to the Palermo Convention and the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism...Trinidad and Tobago also has not signed the 2002 Inter-American Convention against Terrorism.”

Why did the Government not sign the convention?

“However, Trinidad and Tobago has signed agreements with different governments in order to facilitate...measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to criminal offences.

In Trinidad and Tobago assistance would be obtained if there are reasonable grounds to believe that evidence or information relevant to any criminal proceedings may be obtained in Trinidad and Tobago. Exchanges of information are not prohibited or made subject to unreasonable, disproportionate or unduly restrictive conditions. A request would not be refused on grounds that the offence is of a fiscal nature or on the grounds of secrecy or confidential requirements. Generally, mutual assistance would not be rendered in the absence of dual criminality. When dual criminality is taken into account it is the conduct that is considered and not the description of the offences.”

There are opportunities for the Government to participate and sign a number of conventions and, again, they are not doing it.

“Trinidad & Tobago currently does not have legislation in place to implement mechanisms such as controlled deliveries and is recommended to do so.”

This recommendation has been there for many years.

“In practice the T&T authorities maintain an excellent relationship with authorities in the United States of America and the United Kingdom and have coordinated...”

efforts in the past.

“However, a more pro-active approach on international cooperation...are recommended. Trinidad & Tobago has provisions for an asset forfeiture fund however the fund is not established...Trinidad & Tobago has shared confiscated assets...have been seized as a result of coordinated...”

It is very clear that the Government has been very tardy and has not been taking the necessary actions required.

I have looked at the Central Bank, and I just want to raise a few points. In a statement at the Toronto Centre, World Bank and the Central Bank of Trinidad and Tobago, an address was delivered by the Governor of the Central Bank in 2008. He said:

“Ladies and gentlemen, according to our national security agencies, the Caribbean has a Geo-Strategic location between illicit drugs providing and drug consuming countries. Thus on the basis of geography alone we should be good candidates for money laundering.”

The Government is aware of this. The Governor of the Central Bank said this. He took it from the information provided by the intelligence of the country, but there are very few prosecutions of this crime in Trinidad and Tobago. This is the observation of the Governor of the Central Bank. The Government is very much aware of this. They made the point that because of our geographic location here is a good trans-shipment point, but they are not saying what is happening in terms of prosecution of this crime. It continues:

“The CFATF has identified a number of serious deficiencies that we face in administering an effective anti-money laundering regime. Firstly, they indicate that most, if not all, regional jurisdictions have not enacted the required legislation...forty plus eight recommendations.”

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Again, there are so many things available to us to attend to this frightening situation of drug trafficking in the Caribbean to deal with money laundering and the Government has not been doing anything. They have come to this House today to satisfy the international obligations:

“An effective implementation process also requires a dynamic public awareness programme.”

There have been no public awareness programmes. In fact, when one looks at the recent requirement in the integrity legislation, they want persons who are reporting matters to the Integrity Commission to give a whole history of themselves, and that should not be the case. It continues:

“The public must be involved in the fight against money laundering and terrorism and meaningful involvement can be achieved through their education on key issues and signals. Growth in the general awareness of the nature of money laundering and its pernicious effects when combined with the training of relevant stakeholders can lead to the appropriate levels of vigilance.”

Again, we are suggesting and the international learning is that we must involve the national community.

Mr. Speaker, I refer to what obtained in 2007, but what are some of the other findings?

“Marijuana is cultivated in Trinidad and Tobago which is also a trans-shipment centre for cocaine. There have been significant seizures of drugs and marijuana and cocaine are available locally...There is no evidence that other illicit drugs are available.”

What is disturbing is that there is no seizure when it comes to money.

“Money laundering arises primarily from the domestic drug trade and from ‘transit’ trafficking. Penetration of the economy by criminals was limited by currency controls until they were removed in recent years.”

It is clear that money laundering has been taking place under the watch of the PNM, and they have done absolutely nothing.

Mr. Speaker, what are some of the other provisions that the Government could have acted on?

“The Dangerous Drugs (Amendment) Act, 1994, prohibits the laundering of drug trafficking proceeds for the purpose of avoiding prosecution or a confiscation or a forfeiture order.

It is also illegal for a person to conceal, dispose, disguise, transfer bring into or remove from Trinidad and Tobago, any such money or property.”

The Government has not been able to identify one case. It continues:

“Disclosure of suspicions is voluntary, but potential criminal liability is risked by those who may be involved in a suspicious transaction but fail to report it.

Asset of any person against whom a prosecution for a drug trafficking offence has been or is about to be instituted may be restrained...

A Court, subject to the rights of innocent third parties, shall order the forfeiture of the proceeds of drug trafficking that are part of the estate of a deceased person, or which has been abandoned.

International co-operation is assured by the Extradition Act and the Dangerous Drugs (Amendment) Act, 1994. To fully comply with the Vienna Convention, Trinidad and Tobago will have to enact further legislation for Mutual Legal Assistance.”

This has been in the purview of the Government for the longest while, but it has done absolutely nothing.

“The Dangerous Drugs (Amendment) Act 1994 does not explicitly provide for the restraint of assets on behalf of foreign governments, although it does contemplate enforcement of an external confiscation forfeiture order by a court of a designated country...

The Office of Strategic Services (OSS) is the Central Authority, OSS is an intelligence gathering and dissemination agency.”

An inter-ministerial team was established to negotiate bilateral mutual assistance treaties with other countries.

“Commercial banks have formed an ad hoc Money Laundering Committee comprising OSS and the Central Bank. Banks have adopted a ‘Money Laundering Prevention Agreement’ which establishes procedures for declaring the source of cash deposits when these exceed TT \$40,000.”

When the UNC was in government, we established the \$40,000 and when the PNM came into Government they increased it to \$60,000. The question is: Why did the Government increase it from \$40,000 to \$60,000 and to protect whom? It means now, based on the PNM’s intervention, a person can deposit \$55,000 and not have to worry. This Government really does not have any interest in this matter.

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“Banks have established staff training, received the OSS money laundering booklet, and instituted procedures for suspicious transactions reporting and voluntary requirements for records and customer identification. Identification requirements have not been applied retroactively.

Only suspicious transactions involving drug money need be reported.”

This is to ensure that banks are not overloaded. This can cause a bank to determine easily whether a suspicion is accurate, based on drug-related activities.

“Senior customs or police officers at ports can detain any cash exceeding TT \$20,000 if there is a reasonable suspicion that it is or represents the proceeds of drug trafficking.”

To date, the Government has not reported to this House a single case. I remember under the UNC government we had indicated that we would consider extending the range of offences to other serious crimes, and to further consider making suspicion transaction reporting compulsory. This was a UNC government at work, always working in the interest of the national community.

“Responsibility for investigating money laundering and drug trafficking lies with the Organised Crime and Narcotics Unit (OCNU)...”

We have indicated that this body has that power. During the UNC administration, officers were trained in financial investigations.

“The Director of Public Prosecutions (DPP) manages applications...of drug-related assets, and the prosecution of money laundering offences.”

Today, based on recent developments, we have seen interference.

“The Office of Strategic Services (OSS) in the Ministry of National Security gathers intelligence; advises on anti-money laundering strategy; develops public education programmes; and maintains communication with corresponding foreign agencies.”

Again, we are not seeing this. Why are they not providing this kind of information to the national community? Under the UNC, there was a booklet published to educate the general public and also to assist officers.

“OSS’ Financial Intelligence Unit receives and analyses voluntary reports of suspicious activity, conducts follow-up, and determines whether to forward it to the police...”

I was hoping that the Government would tell us how many matters were forwarded to the police and what the end result was.

“The police and Customs can detain cash at the border on reasonable grounds for suspecting that it represents the proceeds of drug trafficking.”

There were cases under the UNC, but under this PNM Government there has been no detention or the forfeiture of assets in the last five years.

“OSS co-ordinates the nation’s anti-money laundering programmes. OSS has established dialogue with the non-bank financial sector...there has been a lack of awareness of vulnerability to exploitation by money launderers.”

Mr. Speaker, part of the recommendations of the Egmont Group is that there should be licensing agreements where real estate agents, company and trust managers are treated.

“The regulators of other financial sectors have not yet developed an effective response to money laundering.”

Mr. Speaker, this is because the Government is not assisting in obtaining same.

“Although there is no association to develop policy, banks have developed standards. These standards for customer identification, record keeping and reporting of suspicious activity have not been applied by non-bank financial institutions.”

What is the PNM Government doing?

“Reporting of suspicions is voluntary. The examiners’ attention was drawn to the fact that Trinidad and Tobago has a relatively small population where ‘everybody knows everybody.’ The fact that witnesses have been threatened, assaulted, and even murdered...”

So, the Government is not protecting the average citizen. When one looks at the number of cases in the courts and the refusal of witnesses to give information—

9.15 p.m.

Recently we saw a number of murders and similar crimes, and witnesses are scared under this Government, because the Government does not protect them. What have we seen under the PNM?

“There has been a substantial increase in drug trafficking and cash flows.”

Yet the Government is doing nothing. There is the removal of currency controls, because when we had it at \$40,000 the PNM moved it to \$60,000.

The gaming houses, the betting houses are not regulated.

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“The legislative framework for the prosecution of local offences is adequate and meets conventional obligations.”

Yet the Government is not causing it to work. They are always talking about making more and more.

“There is an immediate need for enhanced practical cooperation between the enforcement agencies.”

The Police should be allowed to do its work; they should be given the resources; there should be less Government interference; the FIU should be made to stay under the Ministry of National Security.

Training and resource need to be addressed if this strategy is to work.

“Standards affecting banks should be extended where appropriate to non-bank financial institutions. National organizations and professional bodies should develop regulations and guidelines.”

Requirements to enhance the anti-money laundering role and the authority of the Supervisor of Insurance, the Inspector of Banks and the Commissioner of Cooperatives need to be revisited and to be engaged.

“The enactment of the Mutual Legal Assistance law and the establishment of a Central Authority together with the appropriate...arrangements...”—need to be put in place.

This Government needs to give high priority to the expansion of the offences for money laundering and to consider immediate action. As early as October 1995, when the OSO was established we went on to establish the Strategic Services Agency, the main function of which is to provide a central point for the receipt of all development and disclosures, and inform the appropriate service.

Mr. Speaker, it is very, very clear that the Government has no interest; I have indicated that. We have demonstrated very clearly, based on what exists today in terms of the laws, is sufficient grounds for the Government to take action. To date they have not brought anything to this House; they have not been able to influence us in any meaningful way why we should support this Bill.

So, we would wait to hear from the Government and perhaps consider it at a later time.

Mr. Ramesh Lawrence Maharaj SC (*Tabaquite*): Thank you very much, Mr. Speaker. I feel a duty to intervene in this debate, not only because of its importance in the fight against crime, but because what we are dealing with in this

Bill is the Financial Intelligence Unit, which would be the engine to drive the implementation of the Proceeds of Crime Act, in order to detect and prosecute money laundering.

If this unit is not properly conceptualized, properly thought out and adequate provisions are not made for it to perform the statutory functions and roles, then we would be in the same boat we are in now, in which we saw that an Act was passed in 2000, money laundering was a criminal offence. At trials in the High Court and Magistrates' Court, the Director of Public Prosecutions had the power to get the court to determine whether persons who were charged and then convicted benefited from drug trafficking and also benefited from any of the indictable offences or any of the offences in the schedule to the Act. Therefore, we have seen that we have had legislation which gave the legal infrastructure to have money laundering prosecuted; to have ill-gotten gains of crime got and got for the benefit of the people of Trinidad and Tobago, but that has not been happening.

I have had the privilege and honour to have participated, as a Minister from about 1996 to 2000, in having to be the Minister responsible for these kinds of legislation, which included the Proceeds of Crime Act, the Mutual Legal Assistance Act, the amendment to the Drug Trafficking Act. Therefore, what I want to do today, is to share some of my knowledge, my experience and what I see here for the Government to consider whether this is the route to go in this matter.

Mr. Speaker, before I proceed, I think it is important for us to get one point clear and that point is that it is not correct—as one, I think it is the hon. Member for Port of Spain South—to say that there were no administrative arrangements which were put in place for the Act to be implemented. As a matter of fact, when the Proceeds of Crime Act was passed in 2000, what happened was that there was a Financial Intelligence Unit, and that Financial Intelligence Unit was known as the Counter Drug Crime Task Force.

That unit was set up after the Government of Trinidad and Tobago—and in particular, the Attorney General and the Minister of National Security, from 1996—looked at what kind of machinery there should be in place to implement the Proceeds of Crime Act. We studied what occurred in the United States of America, United Kingdom and Canada. What happened is, based on the advice we got, based on us seeing models which operated in those countries, we set up this task force.

The task force was not an ordinary task force, and it must not be confused with what I think some of the Members or one or two Members confuse it with. It is totally different from the Anti-corruption Unit; this was the Counter Drug Task

Force. What that task force had is that in the United States of America, in Canada and in England, it was said that in order to implement this kind of legislation, which needed specialized knowledge, which also needed coordination from some of the major law enforcement agencies, that you had to try to get representatives of all the major state units under one roof. Therefore, we had in that unit a representative or representatives of the Director of Public Prosecutions the police service, the Inland Revenue; the Solicitor General Department, the Customs and Immigration of the Ministry of Finance.

That unit was headed by a police officer; a police officer who was cleared by the intelligence in the United States, in Canada and in England. I have a duty to mention his name, because I realize he was no longer there after 2001; I think now he is an Inspector, Inspector Raymond Craig. He was the one who headed that task force.

This task force or Financial Intelligence Unit for these purposes was accountable to the Commissioner of Police and to the Director of Public Prosecutions. It originally fell under the Ministry of the Attorney General and the Ministry of National Security; then it went under the Ministry of National Security; it was like a department of Government.

Therefore, what we had and if the hon. Attorney General can look back—because he was not there shortly after 2001—he would see that was the task force which was regarded by the international community as causing Trinidad and Tobago to be the leading country in the region, in the fight against drugs and money laundering, because that task force was not staffed by anyone who was not only cleared by local intelligence but who was cleared by the intelligence of the United States of America, England and Canada, and that was a task force that Janet Reno, the then Attorney General of the United States of America—

We had an international conference in Trinidad and Tobago in order to discuss the fight against money laundering and the confiscation of assets from drug traffickers and those who profit from crime. The Americans believed and she said it, that this task force was the leader in the region, and the American government gave assistance.

As a matter of fact, the Attorney General of the United States of America at that time sent persons from Puerto Rico and from America, who worked in the fight against drugs, to work in that task force. The Canadian government provided assistance by giving us the expertise. So, you had under one roof, when you got the intelligence—and I should say something here without compromising this nation's security.

This task force headed by Mr. Craig and the other persons who were there earned the reputation of major intelligence services which operate in the

Caribbean and in Latin America. There is a major intelligence service which operates out of Venezuela and that international intelligence service used to pass the information to Trinidad, which they would not have passed unless, as they said, they had confidence in the persons in that task force.

If the records are checked you would see that during the initial stages of that task force, several drug traffickers, their properties were identified, money laundering charges were laid, confiscation orders were got and the task force was responsible for—I cannot remember the sum—I think it is thousands of millions of dollars recovered for Trinidad and Tobago.

It is in that setting you would have noticed, Mr. Speaker, that in the Proceeds of Crime Act there is a section which says there is an asset fund, forfeiture fund, which would be used for the enhancement of the communities in Trinidad and Tobago.

I do not know; all that I know is that I had no control over it after I left the Government, and after a few months—I knew that Mr. Craig was there because I used to see the work; I knew the task force was functioning, but I do not know after 2001 what happened. What I do know is that I see some of the police officers who were involved in that task force and for whom I had seen, as Attorney General, high commendation then in the fight against drugs, I then saw them regulating traffic, and I see Mr. Craig outside of the fighting drugs, seeing about traffic or something else.

So, I do not know what has happened, but what I do know is, if that unit was functioning, we would not have had the situation today, in which we cannot say that we have succeeded in the fight against money laundering or we have succeeded in getting the ill-gotten gains of the criminals.

As a matter of fact, there can be no doubt that one of the strongest weapons for fighting organized crime is to disrupt the ability of the organization to fund it. If they get the money, as they do, from the crime, if that money is taken away from them, it would reduce crime in any society. That is why this money laundering concept, this concept of confiscating the assets of drug dealers and those who commit serious crimes and the profit from them, is taking away the proceeds of crime, taking away the fruits of the crime in order to fight crime.

You will recall, Mr. Speaker, it is in that context that the Government at the time, the country at the time, was able to take some of the assets of Dole Chadee, including the estate in which a rehabilitation centre was put, which Attorney General, Janet Reno, came to open in Trinidad and Tobago, because we started to take the assets.

9.30 p.m.

Today, I want to pay tribute—not to the Government, because government comes and government goes; not to the Minister of National Security or the Attorney General at the time—to the members of that task force, Inspector Raymond Craig and his men and women and those persons, the public officers, who were able to take that new movement, to take the initiative and take the lead in the Caribbean and not only in the Caribbean, but in Latin America in causing that unit to be regarded as the leading unit in the region in the fight against drugs and money laundering.

I think that when this debate resumes—if it is not finished tonight—we should get an explanation of why the initial success of that task force, that Financial Investigative Unit, what happened to it? Why is it that it has not functioned? I do not know, but I think the country ought to know and I think one of the reasons why the country ought to know is that we cannot get away from the fact that we have a high crime rate in Trinidad and Tobago. Unbelievable, unacceptable, and we have a situation in which there are organized criminal gangs in Trinidad and Tobago. We have a situation in which we see, from the newspapers, when some of them die, they leave millions of dollars. We have a situation in which the criminal gangs are multiplying and have multiplied, not only in gang numbers or in individual numbers—members of the gang—but geographically they have multiplied and they have extended. But yet we have not been able to take any of the moneys of those criminal gangs. This country, from 2002 to now, has not been able to confiscate the assets of any of these criminal gang members. Why?

The Minister of National Security got up in this House and he said that he knew who the criminal gang members were. As a matter of fact he gave statements as to how they were being extended. There have been discussions between the Government and members of the criminal gangs, and yet we have money laundering laws, we have all of these laws, because I want to get it clear, nothing prevented the implementation of this Act. One, there was in existence a law which provided for those who benefited from crime, whether it is drug trafficking, indictable offence or any other offence mentioned in the specified offence in the Schedule, that their property could have been taken. You had all of these things about suspicious transactions, all of these measures, so why it is that these persons have been able to operate? I am not only talking about the criminal gangs, I am talking about the drug traffickers and I am talking of those who are involved in kidnapping and those who are involved in children missing and people missing in Trinidad and Tobago.

That is why we have to look at this measure. I am not here as to whether it is UNC or PNM or anybody, I am on this matter for Trinidad and Tobago, because what is happening in Trinidad and Tobago is affecting everyone. It does not matter if you are PNM, UNC, COP or whatever you are. That is why we have to look at this matter and see—are we going, passing this Bill as it is, to make a difference to the situation in Trinidad and Tobago? That is the issue! Whether the Financial Intelligence Unit as provided in this Bill would be able to effectively perform the statutory functions and duties set out in the Act.

Now, we are setting up a Financial Intelligence Unit in this Bill in the Ministry of Finance. The Bill does not provide—who are the kinds of people who would comprise this unit. We do not have an idea, what are the criteria they would have. All I can tell you is that when—as an Attorney General I did this in the period I was there, you had to have criteria.

For example, in the unit you would have to have an accountant; you would have to have police; you would have to have Immigration and you would have to guard the Ministry of Finance. You would have to have all the players because if you are following Mr. A and Mr. A also comes to Trinidad and Tobago, probably living in America, you need to have the Customs involved, the Immigration involved, you need the whole—it is coordinated, and that is why the concept. As a matter of fact I actually went to see how this thing operates in the United States of America. In Florida before they had this task force in which everybody was under one roof you could not make a dent into the money laundering problem at all. When they set this up—as a matter of fact I had the honour to speak and to be with the person who was in charge of this task force at the time.

So, we just set up a unit, and I am not criticizing anyone here because this is not simple legislation; this is not a simple thing. This had to have study. You have to study this carefully in advance and you set it up, but this unit according to the Bill will have to get all this request, they will have to analyze and evaluate, they will have to have standards, they will then have to assess the transaction to see whether there are suspicious transactions, then they have to make a report. When this unit makes a report to the law enforcement agency, according to the Act, the law enforcement agency then has to decide whether a money laundering offence has been committed and whether there are proceeds of crime located in Trinidad and Tobago or elsewhere. So, according to this Bill, you will also have to have a unit to initially get the information analyzed and then send it to the law enforcement agency for the law enforcement agency to probably do a number of repeat work.

So, the question is, would you get anywhere with this? It would seem to me that this unit should be a department of government in the sense that it is a department either under the Ministry of the Attorney General or the Ministry of National Security. The office of the DPP is a department under the Ministry of the Attorney General. This unit would be involved in investigating, analyzing, prosecuting, et cetera, and in that unit there should be some criteria mentioned in the Bill as to what are the criteria of the people who would comprise it. The Government can easily get persons who were involved in the task force, can go back to the record and can probably check and see how that was set up and the Ministry of Finance would be represented in that situation.

Mr. Speaker, in any country where this kind of legislation was debated or in most of the countries where it was debated, one of the major aspects of the debate is what you are going to do to implement. Is it going to be effective? I have taken some of the points from some of those debates and what they have used. You would need expertise. It is extremely complex work, demanding the right skills. People have to be properly trained in financial investigation, and prosecutors and judges must be equipped to deal with these deals with these difficult cases.

As a matter of fact, there were two junior lawyers who used to do most of the prosecution in these matters when I was Attorney General and sometimes they would come to me and they would say, "AG, the judges and the magistrates do not seem to understand what we are talking about." So, in any fight of this—I know that one has to be very careful with the doctrine of the separation of powers and interfering with Judiciary, because they are very sensitive too, but I think that the Attorney General would have to have discussions with the Chief Justice. Apart from having this there will have to be a trained Judiciary and a trained Magistracy in order to deal with this matter. But I think that the unit, this engine, must be a proper engine, because if it is not a proper engine and it cannot work properly and it is not going to work properly, you are not going to get any benefits from the Act.

The other aspect I want to talk about is that under the Bill in the definition section, and this is a point I raised in the other matter, but it is here also and I really did not get an opportunity to fully articulate it on the floor of the House in that debate. I was not in the country, but under "law enforcement authorities" that says:

"any other agency of the State in which investigative powers similar to those exercisable by a police constable appointed under the Police Service Act, are lawfully vested;"

This provision may be well intentioned and it may be well intentioned in the sense that it is not a way of indirectly extending the category of persons to exercise police powers. But it can be construed that what you are doing here is that any other agency apart from the police service, apart from the Customs and Excise, because the Customs and Excise has limited powers with respect to police powers; the Board of Inland Revenue has some cohesive powers by statute in respect of income tax, et cetera. But any other agencies of the State in which investigative powers similar to those exercisable by a police constable appointed under the Police Service Act are lawfully vested.

This is giving a leeway, a blanket that although it may be well-intentioned that in implementing it, agencies of the State can just exercise police powers.

Mr. Imbert: Would the Member give way? I have looked at that, would not the words "are lawfully vested" in the context of those investigative powers limit the agencies which would fall under this? Because it says, "any other agency of the State in which investigative powers...are lawfully vested;". Would you not need to have a statute to vest these powers in an agency?

Mr. R. L. Maharaj SC: Well, okay, assuming that is correct, that is one interpretation, but you could have another interpretation and therefore my point is that if you are going to deal with something like this, it should be absolutely clear. *[Interruption]* But I do not see the need for that. If you want to put any particular agency, I think you should name the agencies. I want to put on record that what arises here is whether police powers and functions which are core and essential state powers and functions can be lawfully and constitutionally exercised or performed in our country by persons who are not members of the police service, supplemental police, municipal police, special reserve police or special powers given to the customs and the Board of Inland Revenue in particular cases. I do not think that it can, and I think that even if the Government gets the three-fifths majority for this, the question which would always arise,—I am not saying it will succeed—is whether it is reasonably justifiable. I do not think that the Government should in respect of the kind of legislation like this directly or indirectly cause an argument to be had, which can even hold up prosecution.

9.45 p.m.

As a matter of fact, the Attorney General reminded me today that there was one even with this Proceeds of Crime Bill, in which there was litigation and they had said that some provision of the Act was unconstitutional. *[Interruption]*

Hon. Jeremie: I think there were several difficulties with the Act, mainly typographical. What Justice Jamadhar did, was to go through the provisions of the Act and the Schedule, and he found that there were so many difficulties with the Act, for some reason he struck the Act down. The decision was perplexing to me—[*Interruption*]

Mr. R. L. Maharaj SC: [*Inaudible*—he struck the whole Act down.

Hon. Jeremie: No, he struck the sections down. Those were the sections in dispute.

Mr. R. L. Maharaj SC: And I was told by Mr. Quamina one day in San Fernando, that the Court of Appeal reversed his decision. Am I correct?

Hon. Jeremie: The Privy Council upheld that.

Mr. R. L. Maharaj SC: The Privy Council has upheld—[*Interruption*]

Hon. Jeremie: The Court of Appeal.

Mr. R. L. Maharaj SC: The Court of Appeal decision. Oh, I see, it went to the Privy Council. So at least we do not have that problem. No. But I think that does not take away from the fact, that if we are going—because this is going to be your important tool. This is going to be an important tool to fight the criminals. This is going to be an important tool to get at their moneys. This is going to be an important tool to break them. All these criminal gangs in Trinidad and Tobago, if it is that you have an effective unit whether it is this or what we had before, if the unit was functioning, we would have got at them already. Would we not Attorney General? We would have got at them already. We would have stopped them. They would have stopped the killing. They would have stopped the kidnapping. So if we want to stop this crime—and I had read that the Attorney General had said in this House, "time for action is now", but he then had to leave us. But this is time that we decide that either the country is going to declare war on the criminals, or we are going to just be soft on them. And one of the ways that you can be hard on the criminals, hard on the organized criminals, is to take away their moneys, take away the profits from the crime.

As a matter of fact, Mr. Speaker, if you read—I have some of them here—some of the reports on how this kind of legislation has reduced crime and organized crime, you would see that millions of pounds have been taken from organized criminals; billions of dollars in the United States and you will see how much money in our country—[*Interruption*]

Hon. Member: Vehicles.

Mr. R. L. Maharaj SC:—vehicles, the ships, all these sorts of things have been taken away. You floor them. I think what we should do on the basis of a national effort, is that we should use a measure like this.

The Government should look at this carefully; come at it; let us get a good unit; let us get a unit that will work; let us find out what went wrong with this Counter Drug Task Force that we had; let us make sure we get people who are well-equipped in order to staff this unit; and let us get going. I support this. I support it. But I will support it if we have the right kind of unit. I cannot support it if we are just going to put it and put it, and what has happened for the last few years. I support it if we have the right unit and we are able to make a dent on crime with that.

I want to tell you, Mr. Speaker, that one of the things—and I understand what an Attorney General has to go through—that one has to confront oneself with, when one is an Attorney General in Trinidad and Tobago, is how to deal with a situation in which the bureaucracy around, in which one sees the crime become uncontrollable and there are laws and one wants to have them implemented to deal with the problem, and one does not have the necessary resources in order to deal with it. But I think that we have been fortunate in that some of the laws may have been passed. There have been errors in some, there may have been problems in some, there may have been drafting errors, some of them have been corrected or they can be corrected. Some of the implementation machinery may not have been the best, but the fact of the matter is that we have public officers who are involved with them, who have learnt, who have had experience and who can assist the Government in dealing with this problem.

Mr. Speaker, in concluding, whatever we do in this House, one of the major problems affecting the people in Trinidad and Tobago is safety and security. That is the live issue. When we talk here and the people see us in the Parliament, they sometimes want to know if we are alienated from their problem. And if you go to any meeting, any social grouping or anything, people are afraid. Businesses are closed at 7 o'clock in rural areas because people are afraid.

Two nights ago I went to a wake, at Freeport, of a businessman was tied up and killed. We seem to have a group of young people who are going around the country, obviously getting money. They rob, they get the moneys from the business people and they are making money out of it. This whole murder situation—and the criminal activities—in Trinidad and Tobago is really paying people to commit crime, and I think we should do something now in order to get the profits from the crime.

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

The Minister of Finance (Hon. Karen Nunez-Tesheira): Mr. Speaker, I listened attentively to what the Member for Tabaquite had to say in his contribution, and I think listening to him, it is clear that we are not miles apart at all. His sense of—I would not say the sense of outrage, but certainly a level of despair with regard to the level of crime that is visited on our country, is something whether we are UNC, to quote from him, PNM or COP, we are all citizens of Trinidad and Tobago and we certainly care tremendously about our country. That in fact is the motivation for the amendments to the Proceeds of Crime Act which was debated earlier this evening, and, as the Member for Tabaquite also said with regard to the Financial Intelligence Unit, it is really the engine of enforcement. It is the mechanism by which we will ensure that the legislation that we call the Proceeds of Crime Act is able to give it life, force and effect.

When the Member for Tabaquite spoke, we did do our research, perhaps not at the level of detail, but we are certainly aware of the work that had been done during your time in office when the unit was started in the Attorney General's chambers and moved thereafter to the Ministry of National Security. Looking at it, we looked at the various models and I believe the Member for Oropouche East was here and he was criticizing us for looking only—or I took it to mean that we were looking only at the administrative model. We looked at the administrative model; we looked at the judicial model; we looked at the law enforcement model and what they call a hybrid model; and looking at all the models, we made an attempt to ensure that the model that was chosen for Trinidad and Tobago, that which the Government wanted to put forward as the model for Trinidad and Tobago, was the one best suited for our circumstances. But as I said, Mr. Speaker, we are all here to do what is best for Trinidad and Tobago.

I think when the Member for Tabaquite spoke about the legislation, the Proceeds of Crime Act, we cannot separate what we call the "white-collar", euphemistically we call it, the "laundering of the money" from the fact that that is the proceeds of criminal activity at its worst.

So having heard what the Member for Tabaquite had to say, in particular, we would want to consider the comments made because we want to ensure that it is not only going to be a piece of legislation that this side embraces, but a piece of legislation that on the other side we would not be hearing "abstain", we would not be hearing "no", but we will be getting the full support which the Member for Tabaquite has indicated he is prepared so to do.

Mr. Speaker, we are asking that we look at the comments made by the other side, and take them into consideration before we complete the winding up on this debate.

I thank you. [*Desk thumping*]

Adjournment

Wednesday, June 03, 2009

ADJOURNMENT

The Minister of Works and Transport (Hon. Colm Imbert): Just to make it crystal clear that the Member had not completed her winding up, I beg to move that this House do now adjourn to Friday, June 12, 2009 at 1.30 p.m., on which day we will deal with Motion No. 3 under Government Business on the Order Paper.

Mr. Speaker: Before I put the motion for the adjournment, there are matters to be raised?

Mr. Imbert: I believe so.

Dr. Rafeeq: [*Inaudible*]

Mr. Imbert: Mr. Speaker, I would be happy to oblige the Opposition. You see, I am a very helpful person.

Mr. Speaker: You see what cooperation can do?

Question put and agreed to.

House adjourned accordingly.

Adjourned at 9.57 p.m.