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

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HOUSE OF REPRESENTATIVES

Friday, October 09, 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 seeking leave of absence from sittings of the House: the hon. Donna Cox, Member for Laventille East/Morvant for the period October 01—12, 2009; the hon. Karen Nunez-Tesheira, Member for D'Abadie/O'Meara for the period October 01—10, 2009; the hon. Pennelope Beckles, Member for Arima for the period October 01—12, 2009; the hon. Dr. Tim Gopeesingh, Member for Caroni East for the period October 06—15, 2009; the hon. Kelvin Ramnath, Member for Couva South for the period October 09—30, 2009. The leave which all these Members seek is granted.

May I inform hon. Members that I have spoken to our colleague, the Member for Couva South, Mr. Kelvin Ramnath. We all know that he is very much under the weather these days and perhaps a call from Members might cheer him up a bit.

COMMISSION OF ENQUIRY (VALIDATION AND IMMUNITY FROM PROCEEDINGS) BILL

Bill to validate the proceedings and the record of the proceedings of the Commission of Enquiry into the Construction Sector, which was appointed on September 09, 2008 by the President under the Commissions of Enquiry Act, Chap. 19:01, and for other related matters, brought from the Senate [*The Attorney General*]; read the first time.

PETITION

Mr. Speaker: Hon. Members, I have only just received a petition from Mr. Winston Peters, hon. Member for Mayaro, on behalf of Mr. Jack Warner, Member for Chaguanas West. I have not yet had the opportunity to study it, so I will do so and give leave to raise this petition on the next occasion we meet.

PAPERS LAID

1. Administrative Report of the Ministry of Tourism for the fiscal year 2008. [*The Minister of Tourism* (*Hon. Joseph Ross*)]
2. Administrative Report of the Zoological Society of Trinidad and Tobago for the fiscal year 2008. [*Hon. J. Ross*]
3. The annual audited financial statements of the Rum Distillers of Trinidad and Tobago Limited for the financial year ended December 31, 2004. [*The Minister of Works and Transport* (*Hon. Colm Imbert*)]
4. The annual audited financial statements of the Rum Distillers of Trinidad and Tobago Limited for the financial year ended December 31, 2005. [*Hon. C. Imbert*]
5. Annual audited financial statements of the Rum Distillers of Trinidad and Tobago Limited for the financial year ended December 31, 2006. [*Hon. C. Imbert*]

Papers 3 to 5 to be referred to the Public Accounts (Enterprises) Committee.

6. Annual report of the Teaching Service Commission for the year 2008. [*The Minister of Education* (*Hon. Esther Le Gendre*)]
7. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Venture Capital Incentive Programme for the year ended September 30, 2003. [*Hon. C. Imbert*]
8. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Venture Capital Incentive Programme for the year ended September 30, 2004. [*Hon. C. Imbert*]
9. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Venture Capital Incentive Programme for the year ended September 30, 2005. [*Hon. C. Imbert*]
10. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Venture Capital Incentive Programme for the year ended September 30, 2006. [*Hon. C. Imbert*]

Papers 7 to 10 to be referred to the Public Accounts Committee.

ORAL ANSWERS TO QUESTIONS

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, the Government can answer three questions today as follows: No. 91, No. 99 and No. 106 and I ask that the other questions be deferred for a period of two weeks.

I am sorry, there is one oral question, regrettably we do not have the response, but it is just one.

Mr. Speaker: I was so very happy to hear your being able to answer all these questions, but the Order Paper only has one oral question, but it also has several written questions. Those to which you refer, I do not think any of them—

Hon. C. Imbert: I have the answers.

Mr. Speaker: Then you can circulate them.

The following question stood on the Order Paper in the name of Mr. Subhas Panday (Princes Town North):

Craignish Estate
(Details of Lease Arrangements)

108. With respect to the Craignish Estate:

A) Could the hon. Minister of Local Government inform this House when the State will enter into a lease arrangement with the owner of that portion of the Craignish Estate for the use of a parcel of land for recreational purposes?

B) Is the hon. Minister aware:

i) that a motion for lease of a parcel of land at the Craignish Estate was approved by the Princes Town Regional Corporation on March 24, 2009;

ii) that the use of the land for a recreational ground was approved by Town and Country Planning Division on May 27, 2009; and

iii) that the motion referred to in paragraph B(i) above was forwarded to the Ministry of Local Government on June 24, 2009?

Question, by leave, deferred.

WRITTEN ANSWERS TO QUESTIONS

The following questions were asked by Dr. Roodal Moonilal (Oropouche East):

Housing Development Corporation
(Recipients of Wellington Gardens Homes)

91. A. Could the hon. Minister of Planning, Housing and the Environment state the number of recipients of Housing Development Corporation (HDC) homes who received keys at a ceremony on Saturday, May 30, 2009 at Wellington Gardens, Debe in the constituency of Oropouche East? and

B. Could the Minister also state the previous locality (not specific addresses) of all those applicants and indicate the date of application to the NHA by those successful applicants?

Housing Development Corporation
(Recipients of Hillview Gardens Homes)

99. A. Could the hon. Minister of Planning, Housing and the Environment state the number of recipients of the Housing Development Corporation (HDC) units who received keys at a ceremony on Wednesday, June 10, 2009 at Hillview Gardens, Retrench Village, San Fernando? and

B. Could the Minister also state the previous locality (not specific addresses) of all those applicants and indicate the date of application to the NHA/HDC by those successful applicants?

Piarco Refurbishment

106. With respect to the Piarco eastern and western extension and south terminal refurbishment, could the hon. Minister of Works and Transport state:

(A) The scope of works with respect to the above;

(B) The price for each item tendered with respect to the above;

(C) Whether there were any overruns and if so, state the total dollar amount of such overruns;

(D) Whether the work was completed on time;

(E) Whether the east and west terminal ramps were utilized by aircraft during the recently completed Summit of the Americas; and

(F) Whether works are still being carried out by any company and in particular any company within the Junior Sammy Group of Companies?

Vide end of sitting for written replies.

PRIVILEGES OF THE HOUSE

Mrs. Kamla Persad-Bissessar (*Siparia*): Mr. Speaker, I thank you for granting leave to raise in this House a matter concerning the privileges of the House. In the circumstances which I indicated to you by letter of September 22, 2009, I had respectfully requested that the hon. Speaker do recuse himself from determining whether I can raise the matter as a question of privilege and that my

application for leave be referred to and determined by the hon. Deputy Speaker of the House. The circumstances are as follows:

On Monday September 14, 2009, the hon. Attorney General, Sen. The Hon. John Jeremie SC, made a statement in the House of Representatives. In that statement, the hon. Attorney General criticized the decision of Mr. Justice Rajendra Narine in High Court Action 2292 of 2004 into the *Attorney General v Lennox Phillip and Others* to direct that the affidavit of Mr. Abu Bakr in which allegations were made against the hon. Prime Minister that inter alia "there was an oral agreement made between him and the hon. Prime Minister reciting that he had made a deal for which his debt would be forgiven in exchange for assisting the PNM in its election campaign", and this affidavit will be sent to the Acting Director of Public Prosecutions and the Acting Commissioner of Police for investigation.

The words complained of in my application are as follows:

In his statement which was not made on a substantive motion moved for the purpose, the hon. Attorney General raised, in a disparaging manner, the conduct of the Honourable Mr. Justice Rajendra Narine in the said High Court action. In his statement, the hon. Attorney General stated, *inter alia,* that the application "came before Mr. Justice Rajendra Narine who did not consider whether the alleged agreement was illegal and unenforceable, taking the position instead that the application to strike out was premature. This meant that consideration of the question of the controversial affidavit would have to be delayed until after all the evidence was in and cross-examination had occurred."

I continue with the quotation and I added for emphasis these words coming out of the Attorney General. "In other words, the judge wanted the Prime Minister before him and he wanted him to be cross-examined."

Further, the hon. Attorney General stated:

> "Inexplicably",—and I emphasize that word—"Justice Narine then, without notice to or invitation by either party before him, permitted himself to refer at great length to the contents of the very affidavit which had been struck out as being scandalous and had as a consequence become wholly irrelevant to the matter before him; the very affidavit which had been described by the Court of Appeal as scandalous and which, more importantly had been ordered to be removed from the record and which, as such, ought not to have been available to the judge to be referred to".

[MRS. PERSAD-BISSESSAR]

The Attorney General continued and I quote:

> "The court then, quite remarkably and without saying what enquiries had been made, indicated that as far as the court was aware, no action had been taken by the authorities to conduct a thorough investigation of the allegations. The court then superfluously and publicly directed the Registrar of the Supreme Court to forward a copy of the affidavit filed by the second defendant on June 08, 2006 to the Acting Commissioner of Police and the Acting Director of Public Prosecutions for their consideration.
>
> This was, of course, in defiance of the order of the Court of Appeal which had described the affidavit too scandalous and ordered it to be removed from the record.
>
> Mr. Speaker…this is the very same affidavit which the Court of Appeal held was scandalous and irrelevant and ordered that same be removed from the record. How then could the judge consider it proper to refer to this affidavit and furthermore, to send it to third parties?
>
> The action which Justice Narine took in this instance is to be contrasted with that of the Court of Appeal and the Privy Council;"

Further, Mr. Speaker, in his statement, the hon. Attorney General conveyed information to the House that was inaccurate in the material particular and which the hon. Attorney General knew or ought to have known was inaccurate. The hon. Attorney General misled the House as identified and particularized as follows:

First, the hon. Attorney General in his statements repeatedly referred to the affidavit being struck out on the ground that it was scandalous and even went so far to say that such a decision was upheld by the Privy Council. In this regard, the hon. Attorney General stated inter alia:

> "With the status of the affidavit clear as being scandalous, irrelevant…"

Secondly, "Inexplicably, Justice Narine then, without notice to or invitation by either party before him, permitted himself to refer at great length to the contents of the very affidavit which had been struck out as being scandalous and had as a consequence become wholly irrelevant to the matter before him;"

Thirdly, "his was…in defiance of the order of the Court of Appeal which had described the affidavit too scandalous and ordered it to be removed from the record. That decision was upheld by the Privy Council."

However, the Privy Council Appeal No. 30 of 2008 delivered on May 05, 2009 in forming the decision of the Court of Appeal did so only on the ground

that the material contained in the affidavit was irrelevant and not because it was scandalous as had been held by the Court of Appeal. In this regard, the Privy Council stated at the last sentence of paragraph 21 of its decision:

> "It is on this ground of irrelevance, rather than that of inconvenience or embarrassment to the Prime Minister, that the Board consider that the decision of the Court of Appeal should be affirmed."

Further, in his statement, the hon. Attorney General inexplicably did not quote this last sentence of paragraph 21 of the Privy Council judgment but quoted all the other sentences in paragraph 21 of the judgment. It is this very last sentence of paragraph 21 which makes it very clear (contrary to the allegations of the hon. Attorney General) that the decision of the Court of Appeal which was upheld by the Privy Council was that the affidavit was irrelevant, not that it was scandalous as the Attorney General repeatedly stated.

Following upon the statement of the hon. Attorney General, on the said September 14, 2009 in the House I stated:

> "I listened courtesy the Parliament Channel and was appalled to hear the statement of the hon. Attorney General in this House this morning. There has been a judgment of the Supreme Court and the hon. Attorney General came to this Parliament and abused parliamentary privilege in my respectful view."

The hon. Speaker then rose and said:

> "No. If he were doing that I would certainly stop him."

The hon. Speaker later said:

> "My understanding of it, especially since you raised the matter of privilege is that you can criticize the judgment, but what you cannot do is criticize the judge."

To which I responded:

> "With due respect, Mr. Speaker, that is your interpretation of it. When I listened to the statement, in my view, it was an attack on the judge of the Supreme Court. With due respect, you are entitled to your opinion,…"

Mr. Speaker, in the circumstances, the words of the hon. Speaker in response to my words on the said September 14, 2009 as I quoted before, may well create the perception in the minds of the fair-minded observer that the hon. Speaker has predetermined the issue of whether the hon. Attorney General in his statement breached parliamentary privilege and/or committed a contempt, so that the hon. Speaker would not be impartial, unbiased in his determination as to whether leave should be granted to raise the matter as a question of privilege.

[MRS. PERSAD-BISSESSAR]

Consequently, it is my respectful request that the hon. Speaker do recuse himself from determining whether leave is to be granted to raise the matter as a question of privilege and that the application be referred to and determined by the hon. Deputy Speaker of the House.

Mr. Speaker, I am seeking to find the pages you have identified. Standing Order No. 36(10) of the Standing Orders of the House of Representatives under the heading Contents of Speeches provides:

> "The conduct of the (President), Members of the Senate or the House of Representatives or of judges or other persons engaged in the administration of justice shall not be raised except upon a substantive motion for the purpose;"

As identified and particularized in my statement, the hon. Attorney General in his words to the House on Monday, September 14, 2009—and those words were not contained within a substantive motion moved for that purpose—raised the conduct of the hon. Justice Narine in pejorative and disparaging terms in what some have described as a frontal assault on the conduct of the Honourable Judge of the Supreme Court.

In so raising the conduct of the judge, the hon. Attorney General disobeyed Standing Order No. 36(10). Recently, on July 03, 2009 the hon. Speaker of the House ruled that a prima facie case of contempt had been made out against Andre Bagoo and others of the *Newsday* upon the allegation that he/they were in breach of Standing Order 81 of the House and referred the matter to the Committee of Privileges.

We had the learning which I had sent to you, hon. Speaker.

In the circumstances, it is my respectful view as identified and particularized, the hon. Attorney General in his statement conveyed information to the House that was inaccurate in a material particular and which he knew or ought to have known was inaccurate and thereby the hon. Attorney General misled the House.

In the circumstances, it is my respectful view that there are valid reasons to question whether the hon. Attorney General has committed a breach of privilege and/or contempt of the House of Representatives by:

(i) Disobeying Standing Order 36(10); and/or by

(ii) Deliberately misleading the House.

As I described above.

Mr. Speaker, a copy of the relevant *Hansard* extracts, the Privy Council judgment and learning has been delivered to the Office of the Speaker.

Thank you, Mr. Speaker.

Mr. Speaker: Hon. Members, on September 22, 2009 the hon. Member for Siparia sought and obtained my permission pursuant to Standing Order 27(2) to raise this matter as one of privilege.

The Member seeks to have the matter referred to the Committee of Privileges for consideration and report to this honourable House, specifically, a statement made in this House by the hon. Attorney General on September 14, 2009.

In this submission, the hon. Member also requests that I recuse myself from determining this application on the grounds that my rulings on points related to the interpretation of the Standing Orders of the House of Representatives may have created the perception that the Speaker has predetermined the issue which is the subject of this application. I propose to deal with this request first.

Hon. Members, as you are all aware, the Speaker does not take part in the deliberations of the House except in the discharge of his duties as Presiding Officer. A cardinal duty of the Speaker is the interpretation of the comprehensive rules of the procedure of the House of Representatives. Indeed, it is his role to ensure that the rules and procedures of the House are appropriately applied.

The observations of the Speaker that emanate from such applications generally known as "rulings" are authoritative and are to be followed by the House. As the ultimate arbiter and interpreter of those provisions which relate to the functioning of the House, a Speaker's decisions are final and binding and cannot be questioned, challenged, or criticized except upon a substantive motion moved for the purpose.

To suggest that a ruling made by a Speaker on the point related to the interpretation of a Standing Order prevents him from considering whether prima facie, there is a case of breach of privileges or to answer albeit related to the same statement is to show a lack of appreciation of the duties of the Speaker and of the basic rules of procedure.

Hon. Members, there is a further reason why this argument is weak. A breach of order is not to be equated with a breach of privilege. I have explained this to this House on at least two previous occasions. There must be something in the nature of the alleged breach that impedes or obstructs the House in the performance of its duties or has the tendency or possibility so to do.

Therefore, a Speaker's ruling on a point of procedure in relation to any Standing Order can in no way be a valid reason for him to abdicate his responsibility to determine a matter of privilege related to the same procedure.

The question he has to consider is whether prima facie the statement or action complained of affected, or is likely to affect the House, its committees, Members or its officers in the discharge of their responsibilities to this House he hon. Member for Siparia alleges that in a statement to this House on September 14, 2009, the hon. Attorney General committed a breach of privilege or a contempt of this House by—

(a) Offending Standing Order 36(10); and

(b) Deliberately misleading the House.

Hon. Members, one moment please, I think I may have skipped a page. Yes, let me go back.

Hon. Members, the premature and unauthorized publication of proceedings of the committee of the House may be a contempt of the House insofar as it may have the tendency to impede the work of the House or the relevant committee and not only that it is a breach of Standing Orders as the Member suggests.

If the Member's arguments are correct, every alleged breach of the Standing Orders could be the possible subject of an investigation by the Committee of Privileges and further, the Speaker may have to leave the Chair possibly every week to allow a ruling to be given as to whether there is prima facie a privilege matter to be investigated. It is for these reasons, hon. Members that I cannot accede to the request of the hon. Member for Siparia.

I now turn to the substantive issues raised by the hon. Member. Hon. Members, as I have explained, parliamentary privileges is concerned with protecting the rights and immunities of the House in regard to contempt and generally speaking, any act which obstructs or impedes the House in the performance of its functions or which obstructs or impedes any Member or officer in the discharge of his duty, or which has a tendency directly or indirectly to produce such results may be treated as a contempt.

The power to punish for breach of privilege and contempt belongs to this honourable House as a collective body for the protection of its Members and the vindication of its own authority and dignity.

The Member for Siparia alleges that in a statement to this House on September 14, 2009 the hon. Attorney General committed a breach of privilege or contempt of this House by:

(a) Offending Standing Order 36(10); and

(b) Deliberately misleading the House.

Hon Members, I do not wish here now to repeat the statements which are alleged to have been made; they are all recorded in *Hansard.*

The first ground: Members will recall that I have already explained that for a breach of Standing Order to be treated as a matter of privilege, it must interfere, or have the potential to interfere with the dignity and the integrity of the House. Therefore, the first issue to be considered is whether the Attorney General in his statement breached Standing Order 36(10) which says:

> "The conduct of the Governor, Members of the Senate or the House of Representatives or of judges, or other persons engaged in the administration of justice shall not be raised except upon a substantive motion moved for the purpose; and in any amendment, question to a Minister, or debate on a motion dealing with any other subject any reference to the conduct of any such person as aforesaid shall be out of order."

A proper understanding of this Standing Order can only be obtained after thorough research. And this is what I have done.

Hon. Members, in considering this question, I have looked at the practice of the Commons in the United Kingdom, I have also looked at the practice in other commonwealth jurisdictions in Canada, Australia, India and New Zealand. Hon. Members, the protection of judicial officers under the Standing Orders is based on the need for comity and mutual respect between the Legislature and the Judiciary and the requirement that judicial officers be protected from remarks which might needlessly undermine public confidence in the Judiciary.

Therefore, while a Member may criticize the findings of the court, he cannot say that either a judge was unjust or biased. Personal attacks on judges are also expressly forbidden except upon a substantive motion moved for the purpose. The authorities are clear and consistent on the meaning of Standing Order 36(10). The decision of the office holders referred to in this Standing Order can be critically commented upon but with limitation. There can be no reflection on the integrity of the office holder of the institution he or she represents.

For example, May's *Parliamentary Practice*, 23rd Edition at page 439 directs the reader to several parliamentary debates during which erring Members referred to judges as pawns on a chess board to do the dirty work of the government and stated that certain judgments have been handed down in the interest of the friends of the Home Secretary.

In Australia it gets even worse. The Australian Senate took parliamentary action against a parliamentary secretary who made a blistering, personal attack on a judge in the Senate adding that the judge had failed a test of public trust and judicial legitimacy and was unfit to sit on cases concerning sexual offences against children.

Such statements and personal attacks are plainly out of order in the United Kingdom, Australia and right here in Trinidad and Tobago.

Speaker Roy Jack of New Zealand puts it this way:

There is a clear distinction between casting a reflection on a court or on the conduct of a judge on the one hand and disagreeing with the content of a decision on the other. The question is in order if its import is that the court has misdirected itself in its approach to the matter rather than the judge had been consciously unfair or unjust.

In the case of *Regina v Commissioner of Police of the Metropolis*, *ex parte Blackburn* (No. 2) the celebrated Lord Demming acknowledged:

> "It is the right of every man in Parliament or out of it, in the press or over the broadcast, to make fair comment, even outspoken comment, on matters of public interest. Those who comment can deal faithfully with all that is done in a court of justice. They can say that we are mistaken, or our decision erroneous, whether they are subject to appeal or not. All we ask is that those who criticize us will remember that, from the nature of our office, we cannot reply to their criticisms. We cannot enter into public controversy. Still less political controversy."

Hon. Members, I have read the statement of the hon. Attorney General which is the subject matter of this application and for reasons outlined above, I remain of the opinion that they do not affect Standing Order 36(10).

The second ground raised by the hon. Member for Siparia is also in the realm of contempt and can be committed by anyone taking part in the parliamentary proceedings. It can consist of conveying of information to the House that is inaccurate in material in particular and which the person conveying the information knew at the time was inaccurate or at least ought to have known was inaccurate.

There are three elements to be established when it is alleged that a Member of Parliament is in contempt by reason of a statement that the Member has made. The statement must have in fact been misleading, it must be established that the Member making the statement knew, or ought to have known at the time the statement was made that it was incorrect and in making it, the Member must have intended to mislead the House.

Additionally, hon. Members, for a misleading of the House to be deliberate, there must be something in the nature of the incorrect statement that indicates an intention to mislead. I have examined the contribution of the hon. Attorney General in relation to this complaint, and I have read the personal explanation offered to this House by the Attorney General on Wednesday, September 30 2009 in which he acknowledged that a misunderstanding may have arisen as a consequence of his statement.

It is for these reasons outlined above I am satisfied that the matters referred to me do not constitute a prima facie case of a breach of privilege or contempt and I so rule.

2.00 p.m.

TRINIDAD AND TOBAGO FOOTBALL FEDERATION (INC'N) BILL

Question put and agreed to, That a Bill to provide for the incorporation of the Trinidad and Tobago Football Federation and for matters incidental thereto, be now read for the first time:

Bill accordingly read the first time.

PROCEEDS OF CRIME (AMDT.) BILL
(Senate Amendments)

Mr. Speaker: May I enquire who is doing this?

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, on behalf of the Minister of National Security, I beg to move the following Motion standing in his name.

Be it resolved that the Senate amendments to the Proceeds of Crime (Amdt.) Bill, 2009, listed in appendix III of the Supplemental Order Paper be considered.

Question proposed.

Question put and agreed to.

Mr. Speaker: I understand that we will be doing each clause separately, so we are not going to do them together. So we will do each separately.

Mr. Sharma: Would you permit us to do it collectively, because it is much better rather than going one after the next.

Mr. Speaker: It is for agreement. I am amenable to that.

Mr. Sharma: You do not want to do it, or you are doing them separately?

Mr. Speaker: I think your Leader prefers to do them individually. But I do not know if you want some time to think about it. The Chief Whip has indicated it will be done individually.

Mr. Sharma: Once we agree with what— [*Inaudible*]

New clause 2(A):

Senate amendment read as follows:

Insert after clause 2 a new clause 2A as follows:

"2A. This Act shall come into operation on such day as is set by the President by Proclamation."

Mr. Imbert: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate with respect to the insertion of a new clause 2(A) in the Proceeds of Crime (Amdt.) Bill.

Question proposed.

Question put and agreed to.

Clause 4.

Senate amendment read as follows:

A. In paragraph (b)—

(a) In subparagraph (i), by deleting the words "Exchange Control;" and substituting the words "Financial Institutions";

(b) Insert at the end of subparagraph (ii) the word "and";

(c) Insert after subparagraph (ii) the following:

"(iii) deleting paragraph (h), under the definition 'Financial Institutions', and substituting the following:

"(h) a person who is registered to carry on cash remitting services under the Central Bank Act;"

(iv) inserting in the definition of "Financial Institutions" after paragraph (i) the following new paragraphs (j) and (k) and renumbering existing paragraph (j) as paragraph (h):

"(j) an entity providing mutual funds;

(k) development banks, trust companies, mortgage companies; and";

B. In paragraph (d)—

(a) In subparagraph (i) by inserting after the word "three" the words "and replacing it with a comma";

(b) In subparagraph (ii) by deleting the word "after" and substituting the word "before";

C. In paragraph (f)—

(a) By deleting the word "security" and substituting the word "securities";

(b) In the definition of the word "security"—

(i) in line 3, by deleting the word "means" and substituting the word "includes";

(ii) in line 6, by inserting the word "property," after the word "debt";

(c) In subparagraph (d), by inserting the word "instrument" after the word "document";

D. In paragraph (g)—

(a) in subparagraph (a) by deleting the words "from which proceeds of crime may be derived and";

(b) in subparagraph (b) by deleting the words "have constituted an indictable offence within the meaning of paragraph (a); or" and substituting the words "would constitute an indictable offence in Trinidad and Tobago."

E. Insert after subparagraph (g), the following new subparagraphs:

"(h) by inserting in the appropriate alphabetical sequence the following new definition:

'Supervisory Authority' means the competent authority responsible for ensuring compliance by financial institutions and listed businesses with requirements to combat money laundering;"

F. Renumber (h) as (i)

Mr. Maharaj SC: Mr. Speaker, may you permit me to mention that I noticed you did not quote the case of Maharaj and the Attorney General.

Mr. Speaker: No! Well, I am not familiar with that case. [*Laughter*]

Mr. Maharaj SC: And since in your other capacity, you were involved in a very important way, I thought you would have remembered. I am not saying it was relevant.

Mr. Speaker, I would have thought that the Minister of National Security would have been here to explain what these amendments are about, because I think the Government owes a responsibility to tell the country and to tell the Members of Parliament, what these amendments are about. Just to come here and say, "Well, I am representing the Minister" and just read it out. Who sitting in Laventille, or in Diego Martin East or West could understand what we are doing here, except the Members of the House, therefore, we are making important amendments to an important piece of legislation which deals with the Proceeds of Crime.

Mr. Speaker: There is a slight procedural error. After the Clerk read the amendments, an opportunity should have been given to the hon. Minister to address exactly the first item of your complaint.

Mr. Maharaj SC: May I apologize to the Minister, in that I was criticizing him, prematurely. I do apologize.

Mr. Imbert: Thank you, Mr. Speaker. I beg to move that the House of Representatives doth agree with the Senate in the amendment to clause 4 of the Proceeds of Crime (Amdt.) Bill.

Now, Mr. Speaker, as Members will realize, this is quite a lengthy amendment. A number of alterations have been made. I will go through them briefly, and perhaps that will satisfy the Member for Tabaquite.

One of the first fundamental or significant changes was the deletion of the word "banking" which occurred in paragraph (a) of the original clause. [*Interruptio*n]

Mr. Speaker, the Attorney General is suggesting, although we have already passed it, if you would give me the leeway to explain why we inserted the new clause 2(A). I thought it was self-evident, but it is a proclamation clause and there was a concern raised in the Senate that the FIU Bill should be assented to first because it features in the Proceeds of Crime (Amdt.) Bill, and the Senate just wanted to be doubly sure—I personally thought it was a bit of overkill on the part of the Independent Benches. [*Interruption*]

The Attorney General is asking me to be kind. So the Independent Benches felt it was necessary to make certain that the FIU would come into effect before the Proceeds of Crime (Amdt.) Bill, and therefore, they asked for a proclamation clause in the Proceeds of Crime (Amdt.) Bill. So even though both Bills would be assented at more or less the same time, there is then a requirement for a proclamation of the Proceeds of Crime. So that will make it absolutely certain, that the Proceeds of Crime followed—the enactment of the Proceeds of Crime followed the Financial Intelligence Unit.

2.15 p.m.

With respect to clause 4, the first significant change is the deletion of the word "banking" and the substituting of the words "Financial Institutions". This was done to make the legislation consistent with legislative references in other legislation such as the Financial Institutions Act and the Exchange Control Act. So that is why the word "banking" has come out and has been substituted with the words, "Financial Institutions".

Additionally, the next significant change was under paragraph (h) in the original Bill, the deletion of the definition of particular institutions that are involved in the business of remitting cash and the substitution of that definition with the following definition:

> "a person who is registered to carry on cash remitting services under the Central Bank Act;"

Again, this amendment became necessary because under the recently passed Financial Institutions Act there are new registration requirements for cash remittance service providers. So that so far, the amendments that have been made are purely technical in order to ensure that there is consistency.

Mr. Maharaj SC: I must thank the hon. Minister for giving way. Does it mean that a person who is not registered would not be amenable for monitoring? Because under the Act you had a person who carried on cash remitting services. You are now saying that the person must be registered. Is it that if the person is not registered, he would be exempt, exonerated from monitoring or review?

Mr. Imbert: I do not have intimate knowledge of the Financial Institutions Act, but I would assume that if you are not registered, you cannot do that. I would assume that in the new Financial Institutions Act that just passed, you must be registered, otherwise if you engage in the business of cash remitting without registration, you would be committing an offence. That is something we can certainly check but I am pretty certain that that is so, that in order to carry out cash remitting services, you must be registered in the appropriate manner.

So it was felt that it was necessary to make it crystal clear that we are talking about a cash remittance service provider who is duly and properly registered under the Central Bank Act. I am sure that is something that we can check but, as I said, I am pretty certain that is what it is.

Continuing, in paragraph (i), the next significant amendment was the insertion of two new categories, (j) and (k) follows:

> "an entity providing mutual funds;…"

Because you would realize with the proliferation of financial institutions in Trinidad and Tobago today, there are a number of entities that deal in mutual funds. It is a fairly recent innovation; I would say within the last 10 years or so. So it was felt it was necessary to include that as a specific category. There are some entities that I am familiar with that only deal in mutual funds. So that is a new definition. In addition, it was felt it was necessary to distinguish between particular banks and development banks, trust companies and mortgage companies.

It was also felt that there was a concern that entities carrying on the business of mutual funds, development banks, trust companies, mortgage companies, were not subject to due diligence on reporting requirements that Financial Institutions would be subject to under this Act and, therefore, it was felt it was necessary to bring them in. So the intent of this part of the amendment was to try and cover every conceivable type of financial institution and capture them within the ambit of the legislation.

Moving on, the next amendments are very routine; the replacement of the word "and" with a comma and things like that. There was also an insertion to widen the scope of the institutions covered by the term "police officer" and that is why there was an insertion of these 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".

Again, as we move along, another definition, the word "security" was deleted and the following definition has been substituted:

> “'security' includes any document, instrument or writing evidencing ownership of, or any interest in the capital, debt, property, profits, earnings or royalties of any person (et cetera) without limiting…”

And so on. You can read it. The whole point of that is to ensure consistency in the definition of what constitutes “security” in other pieces of legislation.

Moving to (g), the definition of "specified offence" was deleted and a much more precise definition inserted as follows:

> “(a) an indictable offence committed in Trinidad and Tobago, whether or not the offence is tried summarily; and
>
> (b) any act committed or omitted to be done outside of Trinidad and Tobago, which would constitute an indictable offence in Trinidad and Tobago or an offence specified in the Second Schedule.”

It was felt that it should be very, very clear that the offences would be indictable offences committed in Trinidad and Tobago or outside Trinidad and Tobago, and it would also include offences under the Income Tax Act, the Corporation Tax Act, the Value Added Tax Act and the Copyright Act, and so on.

Finally, in this clause, the last change was the definition of "supervisory authority". That was a request coming from an Opposition Senator that we should define "Supervisory Authority" to mean:

> "…the competent authority responsible for ensuring compliance by financial institutions and listed businesses with requirements to combat money laundering;"

The reason this amendment was made was that the term is used throughout the Bill and, therefore, it was felt it was necessary to define it. Those are the reasons for the various amendments to clause 4.

Question proposed.

Mr. Maharaj SC: Mr. Speaker, I am very indebted to the hon. Minister for his explanations because without the explanations I would have taken a different view of one of the provisions I saw there. But as the hon. Minister was going through the amendments I did not see the clause relating to the police. I do not know if the Minister could help me, because on my copy I am not seeing anything about the police.

Mr. Imbert: That is in the D—

Mr. Maharaj SC: "D" is about the "proceeds of crime may be derived…"

It talks about "indictable offences". That is not in clause 4.

Mr. Imbert: That is in D(iii)(d). You are adding the word "and".

Mr. Maharaj SC: I see. Okay. I understand. So I would not trouble the House with anything.

Mr. S. Panday: Mr. Speaker, having heard the explanation given by the hon. Member in relation to new clause 2A when he says that:

> "This act shall come into operation on such day as is set by the President by Proclamation."

It is clear that this Government has no intention whatsoever of implementing this Act, because in order for the legislation to be completed, it must be proclaimed and if this is not proclaimed for some time, then this would not be law. In the circumstances, it is alleged that today is the last day for us not to be blacklisted. Is it then that we are fooling the international community? Are we fooling the

Financial Action Task Force on money laundering? Since they said that if this law is not passed by today we shall be blacklisted, are we fooling them and telling the international society it has been passed in the other place and now we—

Mr. Speaker: I think before you delve into this, there is a short answer to this question, you know, and perhaps the Attorney General could assist you and if you are satisfied then we can bring this matter to a close.

Mr. Dumas: If you shut your mouth the Bill would pass.

Mr. Jeremie SC: Mr. Speaker—

Mr. S. Panday: That is what the PNM wants. He said if we shut out mouths the Bill will pass. [*Crosstalk*]

Mr. Speaker: No. Order, please!

Mr. S. Panday: This is Parliament! You cannot treat Parliament like that!

Mr. Speaker: Order! I am assuming that what the Member for Princes Town North is saying is correct. If it is correct, then, you know, I do not think it is proper and it is not in order. So let us—[*Interruption*] I am saying if it is correct, then it is not in order.

Please, the Attorney General.

Mr. S. Panday: Say you did not say it!

Mr. Dumas: You were not on your feet when I said it.

Mr. Speaker: Order!

Mr. Imbert: Come on, man, we have work to do.

Mr. Jeremie SC: Mr. Speaker, the reason for inserting a proclamation clause in this Act is simply to ensure that—we are passing two Acts and there are regulations to be made under one. Now, in the other place the Independent Bench wanted the assurance that His Excellency the President would assent to the Acts in sequential order. So that to make doubly sure, the proclamation provision in inside there so that he can be instructed: you proclaim one first and then the other, and then the regulations which would be made before midnight tomorrow.

Mr. S. Panday: Tomorrow.

Mr. Jeremie SC: The cut-off time is midnight tomorrow and we are going to be audited on Monday. It would make no sense for us to be here at this late hour if it were our intention to defeat the Bill by putting in a proclamation clause. So that I give you the assurance that the Act is going to be proclaimed but in the proper order.

Mr. Maharaj SC: The regulations, you are making them tonight without showing them to the Parliament?

Mr. Jeremie SC: They are to be made by negative resolution, so that, as you would know, they are made when published. So they would be laid but they are going to be published, perhaps—I said the deadline was tomorrow night, so that they would be made some time in time before that time.

Mr. S. Panday: With the greatest respect, before tomorrow night it would be proclaimed?

Mr. Imbert: Yes.

Mr. Jeremie SC: The proclamation is going to be done before tonight. Okay? The regulations are going to be made before tomorrow night.

Mr. S. Panday: That is the point I am making. In those circumstances, what is the need for this? [*Desk thumping*] We feel suspicious that you are using the goodwill and the hard work of our brothers in the other place to make an excuse. Because if we know we have a deadline and we know that this must be assented to and proclaimed by a particular time, there is no need for this.

Mr. Jeremie SC: Can I just say that Cabinet yesterday approved the proclamation notice, so that His Excellency already has that in his possession. There would be no hindrance to him proclaiming the Bills in the proper sequence.

Mr. S. Panday: Then I humbly submit that I wish to amend this amendment, to delete new clause 2A. [*Desk thumping*]

Mr. Imbert: Mr. Speaker, may I point out to the hon. Members opposite, we have already considered and approved the new clause 2A. [*Interruption*]

Mr. S. Panday: The hon. Member for Diego Martin North/East spoke on it after the hon. Member for Tabaquite spoke.

Mr. Speaker: I do not think you want me to put it to the vote.

Mr. S. Panday: You are wasting time.

Mr. Speaker: Hon. Member, are you saying that I should put this to the vote?

Mr. S. Panday: Yes, Mr. Speaker.

Mr. Speaker: What is your amendment then, to delete the complete clause?

2.30 p.m.

Mr. S. Panday: I humbly submit this amendment, to delete 2A.

Mr. Imbert: Mr. Speaker, may I point out to the hon. Members opposite we have already considered and approved the new clause 2A.

Mr. S. Panday: The hon. Member for Diego Martin/North East spoke on it after the hon. Member for Tabaquite spoke.

Mr. Speaker: I do not think that you want me to put it to the vote.

Question, on amendment, put and negatived.

Question put and agreed to.

Clause 5

Senate amendment read as follows:

In paragraph (b) by deleting the word "activity" and substituting the word "activities".

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

Mrs. Persad-Bissessar: Why?

Mr. Imbert: That is simply an editorial amendment.

Question proposed.

Question put and agreed to.

Clause 15:

Senate amendment read as follows:

In paragraph (f) by deleting all the words after the word "associated" and replacing them with the words "For the purpose of this section associated".

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

Once again for the benefit of hon. Members opposite, this is an editorial amendment.

Question proposed.

Question put and agreed to.

Clause 17:

Senate amendment read as follows:

In paragraph (a) by inserting after the word "government department," the words "where it first appears".

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

For yet another time, this is an editorial amendment.

Question proposed.

Question put and agreed to.

Clause 28:

Senate amendment read as follows:

Insert after subparagraph (2) the following:

“(3) A person guilty of an offence under section 52 is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.”

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

Hon. Members, the purpose of this amendment was to make it clear what the penalty was for an offence under section 52 of the Act. As it now stands, the Act was silent with respect to the penalty for an offence under section 52 and it was felt that a penalty should be included. A person guilty of an offence under section 52 is liable on summary conviction to a fine of $250,000 and to imprisonment for three years. This is correcting what appears to be a lacuna in the Act.

Question proposed.

Mr. S. Panday: Clause 28 says:

“(3) A person guilty of an offence under section 52 is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.”

First of all, it seems to me that section 52 relates to section 23 which deals with the substantive offence. This is saying that a person who is guilty of an offence under section 52 is liable to summary conviction of $250,000. That is the

person who knows about the offence and does not speak about it. The penalty for the substantive offence is about $10 million or a large figure. Here we are saying that someone who knows about it and does not speak, $250,000.

The person who commits the substantive offence and this person—why the disparity in the penalty? Knowing it might tantamount to be an aider and abettor. We do not know. Is it a figure that you chose from the hat and you do not know why you chose it or to look impressive? In any event, to take the argument on the other side of the coin, why do you have to pass legislation to cause or encourage people to obey the law in these circumstances?

For example, why did we not have an environment which will facilitate people wanting to report offences which are committed under this Act? Where is the whistle blowing legislation?

Hon. Member: Coming.

Mr. S. Panday: Coming? Coming after—when? Where is the whistle blowing legislation where someone might think that he or she has a civic duty so report an offence under this Act? Where is the protection? People in Trinidad and Tobago are killed for lesser matters than these. Why did we not try to put incentives in place? Why do you not have a witness protection programme in place for persons like this? You are telling me where people will feel that they have a civic duty to report crimes. It is clear that this Government does not intend to ensure that this legislation is implemented.

Mr. Imbert: Mr. Speaker, on a point of order. Standing Order 36(1), relevance.

Mr. Speaker: Well I think that the hon. Member was just making a very fleeting reference to extraneous matters.

Mr. S. Panday: This PNM Government has been the government that has put the most Members of the Opposition before the Committee of Privileges in order to try to muzzle us. We have our duty to perform and we would do it to the best of our ability.

They say that a person guilty of an offence under section 52 is liable to this conviction. The point I was making is that there may not have been the need for this amendment, if the Government had created the environment where people would feel that they have a duty and obligation to report crime. As a matter of fact, the general law is that somebody who knows about an offence should report it such as harbouring criminals and persons who are trying to run away from the law.

We ask the question: Where is the whistle blowing legislation? The hon. Attorney General said that it is coming. I ask about witness protection so that we would not have had to have this clause. Everything is coming under the PNM. That is why I am saying that they do not intend to implement them. We ask the question—

Mr. Imbert: Mr. Speaker, I ask you to rule under Standing Order 43(1), point of order, tedious repetition.

Mr. Speaker: No. Again, give the Member a little latitude. I do not think that he is going to take advantage of my generosity and if he does I will bring him to book.

Mr. S. Panday: This PNM—

Mr. Speaker: No, no, no, you are wasting time. [*Crosstalk*] Are you through, hon. Member?

Mr. S. Panday: Mr. Speaker, no please. You are imposing this penalty for persons who have committed the offence. Had you used persuasion rather than legislation, it would have been a better situation. In order to do that you must have the infrastructure. Where is the infrastructure for the implementation of this law? Where is the special court? Where are the prosecutors? This piece of legislation is merely to frighten people to the extent that they would not talk and close their eyes when they see crimes are being committed because if they are accused of knowing about it, they could find themselves in trouble. This penalty is regressive and is not worth the paper it is written on. [*Desk thumping*]

Mr. Maharaj SC: Mr. Speaker, this clause intends to affect section 52 of the Proceeds of Crime Act. It says:

"52 (1) A person is guilty of an offence if—

(a) he knows or suspects that another person is engaged in money laundering;

(b) the information, or other matter, on which that knowledge or suspicion is based came to his attention in the course of its trade, profession, business or employment; and

(c) he does not disclose the information or other matter to a police officer as soon as is reasonably practicable after it comes to his attention."

This clause if agreed upon will mean that anyone who contravenes that provision would be liable on summary conviction to a fine $250,000. I have a

problem at this time in Trinidad and Tobago with supporting a measure like this. Right now, in Trinidad and Tobago, when people go to the police to make a report they are not protected. As a matter of fact, we have a situation where people are afraid to make reports to the police station. We are voting to fine someone $250,000 without the Government coming here and showing some concrete plan that the police service and the crime situation would change. Right now we are living in a country in which it is totally lawless.

We hear that they only come here with this because they have a time frame. Midnight tonight. What is even worse is that we are asked to approve this but we have not seen the regulations. As a matter of courtesy to the Parliament, the Government should have circulated the regulations today or some time to give us some indication. The passage of this law would give the Government the power to make subsidiary legislation. It is either we are rubber stamped, the Government decides that it has its majority, three-fifths, a simple majority and it could go ahead. If that is the case so be it.

We are dealing with very serious matters here. We are being asked in a situation where people who make reports cannot be protected. People who are victims of crime cannot be protected. It is as if we do not have a police service and Minister of National Security in Trinidad and Tobago. We come to Parliament for show. The Government is on a show. I ask the Attorney General—I know that he is in a lot of hot seat these days, but I am sure that he is capable of doing it—to give us some indication or tell the country something as to how the crime situation would be improved and witnesses who see or know something like this and make a report how they would be protected. How will people feel free to go to the police station or some agency which will disclose their names?

2.45 p.m.

Mr. Speaker, this is a reality of life in Trinidad and Tobago. Mr. Speaker, I live in a constituency now where people tell me they are not reporting anything because when they report it the criminals come back to them. I do not only go to my constituency, I go throughout the country and people are very unhappy in a situation where they can disclose matters to the police.

Those of us who look at the news, in Gandhi Village last night, people are afraid to live in the place because people are just walking in and killing and "thiefing". I need something. I speak on behalf of the people of Trinidad and Tobago. I want the Government to give them some assurance or reassurance. Since the Attorney General is in the hot seat, he is the best person—I am not

trying to regulate their affairs because I know the Leader of Government Business knows everything, so he will get up and respond, but I expect the Attorney General to tell us what is going to happen in this country with crime; how can people feel assured. If they do this—

Mr. Imbert: I always admire the Member for Tabaquite's solo enthusiasm, but there are some points to be made lest the record be inaccurate.

The Bill has already been passed with a three-fifths majority. It is not correct to say that we are coming here and trying to pass the Bill. It was already debated at length and passed with a three-fifths majority; therefore this offence has already been created in law. That is not new—the offence of not disclosing knowledge of a criminal action. This was already created months ago when the Proceeds of Crime (Amdt.) Bill was passed with a three-fifths majority. It is, therefore, not correct to say that we are seeking your approval to make this an offence. We are seeking your approval for the penalty, but the offence was already passed in this House.

I would like to correct the record. The offence of not disclosing knowledge was already debated ad nauseam and passed with a three-fifths majority. You had your chance then. I do not know where you were when the Proceeds of Crime (Amdt.) Bill was being debated. Were you in court? Were you out of the country? Were you sleeping? It is one of the three because we debated this offence. You had your chance to make all your noise when we debated the Bill. All we are doing today is procedural, the House having agreed that this should be an offence months ago. All we are doing is attaching the penalty to it.

Question put and agreed to.

Clause 29.

Senate amendment read as follows:

In paragraph (a) by deleting the chapeau and substituting the following-

(a) by repealing subsections (2) and (3) and substituting the following:

"(2) Every financial institution or listed business shall-

(a) pay special attention to all-

(i) business transactions with persons and financial institutions in or from other countries which do not or insufficiently comply with the recommendations of the Financial Action Task Force;

(ii) complex, unusual, or large transactions, whether completed or not, to, all unusual patterns of transaction and to insignificant but periodic transactions which have no apparent economic or visible lawful purpose.

(b) report all complex, unusual or large transactions referred to in subparagraph (a) to the FIU;

(c) examine the background and purpose of all transactions which have no economic or visible legal purpose under paragraph (a)(i) and make available to the Supervisory Authority, written findings after its examinations where necessary."

(b) Insert after subclause (3) the following:

"(3A) Where a financial institution or listed business makes a suspicious transaction or suspicious activity report to the FIU under this section, the Director or staff of such financial institution or listed business shall not disclose the fact or content of such report to any person, and any person who contravenes this subsection commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for three years."

(c) Renumber the existing clause "(3A)" as "(3B)" and insert the following new subclauses thereafter:

"(3C) For the purpose of subsection (1), "large transaction" means a transaction, the value of which is ninety-five thousand dollars or such other amount as the Minister may by Order prescribe.

(3D) A report shall be made irrespective of the type of specified offence from which the funds may be generated including offences under the Income Tax Act, the Corporation Tax Act and the Value Added Tax Act."

Mr. Imbert: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment to clause 29.

The clause may appear lengthy, but essentially what is being done is to correct some deficiencies in clause 55 of the Bill so that they are more closely aligned with the recommendations of the Financial Action Task Force as they relate to financial institutions and listed businesses in the reporting of certain types of transactions.

The amendment before us is intended to correct the inaccuracy in clause 55 and to bring the provisions more in line with the FATF recommendations. If you go through it, what is being done is that subsection (3) is being repealed and a subsection (2) is being substituted. That will now make it clear that the transactions that are to be reported include complex, unusual or large transactions whether completed or not, unusual patterns of transactions and transactions which have no apparent economic or visible lawful purpose.

That is the policy that informs the changes that are being made. It is now a requirement that a financial institution or listed business will examine and pay special attention to complex, unusual or large transactions, which have no apparent economic or lawful purpose. It is also now going to be a requirement that transactions associated with other countries, which do not sufficiently comply with the recommendations of the Financial Action Task Force, must now be given special attention.

With respect to the last parts of this amendment, the question of disclosure has been addressed. In the new (3A), it states:

> "Where a financial institution or listed business makes a suspicious transaction or suspicious activity report to the FIU under this section, the Director or staff"—and this came up during the debate—"of such financial institution or listed business shall not disclose the fact or content of such report to any person, and any person who contravenes this subsection commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment of three years."

In the new (3C), the large transaction is now defined to make it consistent with the international norms. In the international arena, a large transaction is now considered to be something of the order of US $15,000. In the past, US $10,000 or its equivalent was used. I am also told that euro 15,000 is also used, so that the $95,000 that you see here:

> "For the purpose of subsection (1), 'large transaction' means a transaction, the value of which is ninety-five thousand dollars"—Trinidad and Tobago dollars obviously—"or such other amount as the Minister may by Order prescribe."

That is approximately US $15,000 at the current rate of exchange. That is how we got the TT $95,000. I want to make that clear before you jump up and ask.

In (3D), just to make sure that this includes all the possible offences under the Income Tax Act, the Corporation Tax Act and the Value Added Tax Act:

> "A report shall be made irrespective of the type of specified offence from which the funds may be generated including offences under the Income Tax Act, the Corporation Tax Act and the Value Added Tax Act."

Just to recap, it was felt necessary to correct some inaccuracies in clause 55 of the Bill to make the definition of transaction or large complex transactions more in keeping with the FATF recommendations. Also, the disclosure clause has been tightened and "large transaction" has been defined and the net of offences broadened.

Question proposed.

Mr. Maharaj SC: Mr. Speaker, in the amendment read, we see that in 29(2)(b):

"report all complex, unusual or large transactions referred…to the FIU;"

This brings into focus whether the FIU can deal with these complex, unusual or large transactions. I know that the Bill has been debated and passed, but why are we passing this when we know that these things would not be dealt with.

I am glad that the Attorney General is here. This is all to detect money laundering. In order to detect money laundering, it is recognized that the traditional police service cannot do the job, so the Government has come with a specialized unit which is the concept used in several countries.

3.00 p.m.

Mr. Speaker, we represent the people. The Government could do what it has to do, but we represent the people. For us to be satisfied that what we are doing here is not just a token, not just a sham, that we are just passing it to satisfy organizations and the international community—the Attorney General could help us in his response. How is it that Trinidad and Tobago passed a counter task force, which studied all the situations in the country? That task force had success in the fight against money laundering. Since 2002 to now there has been no prosecution or conviction for money laundering; none. As a matter of fact, and I do not want to go into it in detail, both the United States reports and the financial reports internationally have criticized the Government for its inaction in respect of money laundering.

For example, one of the questions one of my constituents would ask me is: If they cannot deal with Calder Hart, how could they deal with money laundering?

That is one of the questions. [*Interruption*]

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

Mr. Speaker: Yes.

Mr. Maharaj SC: When the Government brings a measure like this, they have to couple it. The hon. Leader of Government Business in the House is handicapped today because he does not have all the information. When a measure

like this comes he ought to tell the House that this is going to be enforced and show how it is going to be enforced, so that people could be satisfied.

We are making a serious error to think that what is said in this House only has an effect here. What we say would have an effect outside. The Government has to demonstrate, to us and to the national community, that when they come here they are coming with serious business and that this measure is going to be enforced. I would support this 100 per cent if I know that this is going to be enforced.

Mr. Imbert: Support it.

Mr. Maharaj SC: Right now we do not even have a Director of Public Prosecutions. [*Interruption*]

Mr. Speaker: You know he is going to get up again; be careful.

Mr. Jeremie SC: Regarding the question of the activity of the task force, I am not sure if you are aware that there have been roughly 13,000 suspicious activity reports (SARS). Of that number, just a small percentage would have been investigated. It is not correct to say that the task force has been inactive. They have been monitoring; they have been looking at suspicious activities. Of that 13,400-plus, they have ruled out 13,200 as being related to any sort of criminal activity; so they really have been investigating, perhaps, 200.

You must remember that they have been doing that without legislative support, because your Proceeds of Crime Act was held to be unconstitutional, up to quite recently. It has only been revived in February 2009. I think it would be unfair to beat the task force with the stick of inactivity. They are working, and the measure that we seek to pass today is designed to give teeth to the operations of the task force.

It is also not correct to say that there is no Director of Public Prosecutions (DPP). As you must know, there must be a DPP. There is an Acting Director, so that the post has to be filled, but there must always be a DPP. You must know that, Member for Tabaquite. [*Interruption*]

Mr. Maharaj SC: I am very sorry that the hon. Attorney General got the impression that I was attacking the task force. As a matter of fact, I was not attacking the task force. If the task force is still operating, I am glad to hear that. At the time it operated during the period of from 1998—2001, there was evidence that the task force did not only investigate, but also prosecuted and had convictions for money laundering.

If you remember, Mr. Speaker, or if the hon. Attorney General remembers or studies the history, you would have noticed that there was a gentleman leading that task force, a police officer called Mr. Raymond Craig. He was vetted by the English Secret Service, or whatever you call it, the American and the Canadian. What happened was that sometime after 2002, or between 2001—2005, he was transferred to the Traffic Branch. He is now in another position, but not in the task force. During the period of time that he was head of the task force, the Government of Trinidad and Tobago, together with these countries that I mentioned, were able to sponsor training sessions for him and the members of the task force, in this particular field.

In order for that task force to be conceptualized it was found that you could not have a financial investigation unit in a ministry of government with a unit; it was not the way to go. You have agreed on that and you are going that way, but it was found that the way to go was to have the same concept as in the United Kingdom, the United States of America and Canada, because it was recognized that money laundering was a very complicated issue.

So you had the task force concept, where under one roof you had representatives of the police, representatives of the customs, representatives of immigration, representatives of the DPP's office and representatives of the Solicitor General's Office, or whatever it was, but you had all the major players under one roof, with the technology. You had intelligence fed from the international community through a person, because the international community wanted to be sure that the person they were feeding the information to could have passed the test. That was why, before Mr. Raymond Craig was appointed head of the task force, in order to get the support of the international community intelligence, he had to pass that test. They made it quite clear that if the Government of Trinidad and Tobago had put anybody who did not pass that test, intelligence would suffer.

I think the Attorney General would be the first person to admit that this is the kind of area in which you cannot really fight it effectively, unless you have international cooperation.

Mr. Jeremie SC: Of course, none of us would disagree that you have must have international cooperation. There is a central authority, as you know, which responds to mutual legal assistance treaties and is functioning exceptionally well. It is recognized worldwide as one of the best functioning central authorities in the world.

Insofar as the task force is concerned, that is now in the Ministry of National Security. It does, as far as I am aware, contain those core competencies, save and except for the involvement of the Solicitor General. I do not think that there was

ever a representative from the Solicitor General's Office in it. I think you are wrong on that. The Director of Public Prosecutions, of course, would have some input. I am not sure if they are a member of the task force, but they do have core competencies.

I am not aware of why that individual you spoke about was transferred out of the task force. That is a matter for the Ministry of National Security. You must understand that I have no control over that, but the new agency is headed by an individual who has the core competencies and the confidence of the international community, because they are doing work.

What you must remember is that in the period of time or which you spoke, the task force was supported by appropriate legislation. The legislation was struck out after you left office; it was struck out in 2002.

Mr. Maharaj SC: What happened?

Mr. Jeremie SC: There was no legislative support for confiscation orders, and the like, under the Proceeds of Crime Act. The legislation was struck down. It could not be used until February of 2009, because of the defect in section 35 or 33, the one that gives authorization to go in on a search warrant. That, my friend, is the answer.

I am being told that Mr. Craig—well, I do not like to mention names in this place—but the gentleman that you spoke of went on a couple years leave. On his return he was assigned to the Firearms Interdiction Unit within the police service, not the traffic branch, the Firearms Interdiction Unit.

Mr. Maharaj SC: Mr. Craig was in the traffic branch, because I saw him on the road doing traffic duties. He was sent on leave, I understand. I am coming back to some of the things the Attorney General said.

I think you should check it again. When Justice Jamadar struck out a section of the Proceeds of Crime Act it had to do with a search warrant. That did not prevent the Proceeds of Crime Act from being carried out.

Mr. Jeremie SC: We need to check it, but my understanding is that the Act itself was struck down on the test that it was not reasonably justifiable in a society having respect for a proper rule of law.

Mr. Maharaj SC: I would not want to bring a privileges motion, but the entire Act was not struck down. What happened was that there was a case, one of the cases which arose from the airport, a civil matter. That section was challenged in respect of some of the investigation which was done. That Court of Appeal decision was reversed. Am I correct?

Mr. Jeremie SC: Can I just say that I do have some inside knowledge, because I was involved in the matter before Justice Jamadar. There was an attack to the search warrant provision. There was also a general attack to the entire Act. The attack on the general Act was that it failed the section 13 test. I am not sure, but it is my belief that Justice Jamadar struck down the entire Act, not simply the search warrant provision.

Mr. Maharaj SC: We will check that and let the national community know. But I am putting it on the record of the Parliament that the entire Act was not struck down.

Mr. Jeremie SC: Do not say that yet.

Mr. Maharaj SC: I am saying it. The entire Act was not struck out. That decision of Justice Jamadar was upheld by the Court of Appeal, but was reversed by the Privy Council. Am I correct?

Mr. Jeremie SC: No, Justice Jamadar's decision was reversed by the Court of Appeal.

Mr. Maharaj SC: Oh, it was reversed by the Court of Appeal?

3.15 p.m.

Anyhow, the Financial Investigation Unit, in relation to what the Attorney General said, it is a fact—

Mr. Imbert: Mr. Speaker, may I crave your indulgence? Could the Member say which part of the amendment he is referring to?

Mr. Maharaj SC: Clause 29.

Mr. Imbert: Which part of it?

Mr. Maharaj SC: Did you not read:

"Every financial institution or listed business shall—

(a) pay special attention to all—

(i) business transactions with persons and financial institutions…

(ii) complex, unusual, or large transactions…"

Mr. Imbert: I do not see the relevance in what you are saying.

Mr. Maharaj SC: At the time, he did not object. I now have responses from the Attorney General, and I am responding to the Attorney General, unless the hon. Leader of Government Business wants to take away my right to respond.

Mr. Speaker: You address me on the amendments.

Mr. Maharaj SC: Much obliged. Mr. Speaker, I will take directions from you. In response to what the hon. Attorney General said, the task force which was established—I was saying that Mr. Craig went to the Traffic Branch and he was performing traffic duties. I saw him doing traffic duties. It may be that he was attached to the firearms unit, but he was assigned to do traffic duties, I do not know. I actually saw Mr. Craig doing traffic duties. So, the question is—he is probably looking for firearms on the road. I do not understand this Government. A man who got all this training to head a task force—

Mr. Speaker: I think you are belabouring the point.

Mr. Maharaj SC: If you could just permit me to make this point—was not used for the particular purpose and he was all over the world. I do not understand it.

Coming back to the Bill, it says:

"(b) report all complex, unusual or large transactions referred to in subparagraph (a) to the FIU;"

As I was saying, the Government cannot seriously ask us—not that they want our support—when they want our support, they know how to get it. They cannot seriously approve this and vote for this without telling us and showing us how this FIU is going to work if from 2002—2009, they had no prosecution for money laundering, none whatsoever. Even if the Act could not come into play, based on what the Attorney General said, then all the investigations would have been done, and you would have had a spate of prosecutions. How do we know that this is not going to be like a white elephant passing to have an FIU and nothing is going to happen?

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

Mr. S. Panday: Mr. Speaker, nothing that the PNM does should be taken at face value. I am particularly disturbed with new subsection (3A) of the amendments which says:

Insert after subclause (3) the following:

It refers to section 55 of the parent Act. This PNM Government has introduced something here to undermine and dilute the parent Act. It says:

"Where a financial institution or listed business makes a suspicious transaction or suspicious activity report to the FIU under this section, the Director or staff of such financial institution or listed business shall not disclose the fact or content of such report to any person,..."

Not even the Uff Commission.

"and any person who contravenes this subsection commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for three years."

Mr. Speaker, it would appear to me that this clause is a privacy clause. They have introduced a privacy clause into the legislation which was not there and, therefore, when you introduce a privacy clause, you must ask yourself: What counterbalance is there, because a privacy clause like this can create a situation for covering up corruption? If nobody can speak, and you are giving people that protection: Where is the counterbalance to ensure that there is no corruption? For example, let us take any organization. If you find information of any suspicious activity and you report it to the FIU, you cannot tell anyone that. So, although at this point in time, we have a commission of enquiry dealing with corruption—

Mr. Speaker: There is no need to bring that in. That is not before us.

Mr. S. Panday: Mr. Speaker, I am saying that this contribution is relevant, because you cannot tell it to anybody, not even a policeman and, therefore, if there are allegations of corruption, you cannot speak about them. The Proceeds of Crime Act, Chap. 11:27 is really to deal with corruption. What we are saying is that by the PNM introducing this clause, it is undermining the purport and intent of the parent Act. That is the argument I am making. You cannot, under any circumstances, mention this to anybody.

Mr. Speaker, maybe in the other place, our colleagues saw it from a different point of view, but as you are fully aware, this was hurried into the other place. As a matter of fact, the other place was complaining that they got this at the eleventh and a half hour and, as such, they probably did not think this out properly. When one looks at this document today, one sees that this is open to abuse, and abuse in such a way to destroy the Act.

Mr. Speaker, the PNM is introducing this legislation, and if we continue in this manner we will, indeed, drop in the corruption perception index. If we pass legislation which gives the impression to the Transparency Institute or other governing bodies that we are passing legislation to cover up corruption, we may fall again.

Mr. Speaker, the Global Corruption Report, 2009 came out this week and our perception in 2008 was 72. In 2001, we were No. 31 when the UNC was there. Since the PNM came into office we went from 33, 43, 51 and now today, 72. When we pass this kind of legislation, the world is looking at us. The whole world

knows what is happening in this country. The whole world knows that this Government has a state enterprise trying to go to court to cover up under the issue of privacy.

Mr. Speaker: You are, in fact, way off course. Please, get back on course.

Mr. S. Panday: You do not want to hear it, so what I am going to do? The reason I am cautioning the hon. Attorney General today is that this PNM Government has apologized to the nation for passing legislation which led to cover-up under the guise of privacy. That was again mentioned in the Global Corruption Index Report.

Mr. Speaker, you will remember the Stone Street Capital issue where the Prime Minister had indicated—

Mr. Speaker: Again, hon. Member, all that you are raising should have been raised when we were debating the Bill. You need to confine your contribution strictly to the amendments.

Mr. S. Panday: That is what I am saying. If we understand what is happening, they are inserting this into the legislation; they are inserting this into the parent Act and, therefore, we are saying that this amendment is a dangerous piece of amendment.

What I am saying is that the hon. Prime Minister has apologized to the nation with respect to the Home Mortgage Bank issue and Stone Street Capital for introducing legislation like this. This is the same type of legislation which led to corruption in the Home Mortgage Bank. That is the point I am making. We cannot support this insertion into the law under these circumstances. [*Desk thumping*] We do not want the Prime Minister—in the Global Perception Index Report which says, inter alia, that the Prime Minister admitted that it was the legislative changes passed by his Government that facilitated the Stone Street Capital fiasco. Today, again, we are introducing legislation which, in my humble view, will create that same situation. Therefore, we ask the question: Do we really intend to implement this legislation?

Mr. Speaker, in this legislation here where you cannot speak about anything, and where this Government has created a situation with state companies which control a large amount of resources and where you have interlocking directorships, when you have a clause like this in the legislation, where are we going? It is not me who is complaining about it.

Mr. Speaker, the Global Corruption Report said that overlapping directorship is an invitation to this type of behaviour for cover-up and covering up corruption. This is frightening! To see that the PNM is passing legislation to give effect to a situation which we had before is very frightening.

Mr. Speaker, not only that, but you cannot speak to anyone; you cannot report it to anyone. So, when you have interlocking directorships and you have the PNM mantra—PNM takes care of its own—this clause that is in the legislation would ensure that no PNM get in trouble.

We move on to the other point which is clause 29(3C) and it says:

"For the purpose of subsection (1), 'large transaction'…"

Hear how this PNM is doing everything within their power to undermine the parent legislation! These are amendments; these are insertions to strong and powerful laws. I say this will be thrown into the garbage bin. This is merely an exercise to fool the international community. All this legislation here today is not to be blacklisted to be the International Financial Centre. When that comes, if it happens that we are not blacklisted, and we become the International Financial Centre and these things start to crop up—when these sections are utilized by unscrupulous persons—then we are going to be in a worse position than the intention to become the International Financial Centre.

Mr. Speaker, look again at what they are doing in clause 29(c). It says:

Renumber the existing clause "(3A)" as "(3B)" and insert the following subclause thereafter:

These are serious amendments

3.30 p.m.

It says:

"(3C) For the purpose of subsection (1), 'large transaction' means a transaction, the value of which is ninety-five thousand dollars..."

It sounds comical and the hon. Minister said, we are saying norms, norms. So, they work it out to the exact cent. One would have thought that in a society like this, to say $100,000 is a large transaction, but they went down to $95,000. Look at the sting in the tail coming now:

"or such other amount as the Minister may by Order prescribe."

So, by tomorrow morning, $95,000 could go through the window. You are telling the international community look, we are fooling you. We are fooling you by saying we are going with the international norms of US $15,000 or as my hon. colleague from Diego Martin North/East said, EU $15,000, but that fails into nullity when ones reads:

"or such other amount as the Minister may by Order prescribe."

So, by tomorrow, this Minister and this PNM Government could get up tomorrow morning and say, hear what happen, forget the $95,000, yes, we raise it to $2.5 million, and undermine the whole intent of the Act.

I humbly suggest that the Minister, a political person, who belongs to a party who receives funding through money laundering—sorry, I apologize, who may. Are you creating this situation here to allow the proceeds of money laundering under the Proceeds of Crime Act to infiltrate our legislation, our politics? I humbly submit an amendment that we put a figure—whatever figure you want, put $95,000, which I am suspicious about and I will tell you why in a few minutes—or delete:

"or such other amount as the Minister may by Order prescribe."

Mr. Speaker, you know something? When the Minister prescribes this, he does it in his office; Parliament does not know about this; the nation does not know about this. Is this another aspect of the Act, which overlaps subsection (3A), of privacy? We are giving privacy under subsection (3A). Now are we giving the Minister privacy to change the amount, which means a large transaction? I humbly submit that should not be given to a politician to prescribe on such a fundamental issue; maybe some commission or something like that but not a Minister.

That is why I really believe that the PNM is introducing these amendments to a strong piece of legislation to destroy it. The hon. Member indicated that $95,000 is the norm. There is no reason for me to really doubt him, but having regard to the history of the PNM, where in the T&TEC street lighting fiasco they had a figure of millions of dollars—If you give an award for a contract over a certain amount you need the board's oversight and if you break it down below a certain figure then one person could have been given the contract; where one contract was broken into seven pieces.

I have no reason to doubt the integrity of the hon. Minister, but knowing this PNM Government and having watched the track record of this PNM Government, I am suspicious. As I say, these two sections are sections that concern us very much.

Thank you.

Question put and agreed to.

Clause 30.

Senate amendment read as follows:

In clause 30(a), in new section 56(1) -

A. Delete the word "and" at the end of paragraph (e);

B. Insert after paragraph (e) the following new paragraphs:

"(f) the measures that may be taken by a Supervisory Authority to secure compliance with this Act or to prevent the commission of an unsafe or unsound practice including-

(i) administrative sanctions;

(ii) disciplinary actions when possible;

(g) the manner and time frame in which retrospective due diligence may be undertaken in respect of business relationships or one off transactions that were established or performed prior to the coming into force of the proceeds of Crime (Amendment) Act, 2009 by a financial institution or listed business; and";

C. Renumber existing paragraph "(f)" as paragraph "(h)".

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

Once again, Mr. Speaker, similar to what we discussed previously, these amendments were necessary to be compliant with the recommendations of the Financial Action Task Force. They were not contained in the Bill previously. It was an omission, and as the distinguished counsel on the opposite side would know, that in order to avoid review of decisions made by public authorities or in order to minimize the review of decisions by public authorities, there is need for certainty, and the amendment gives the parameters within which the supervisory authority may act.

It indicates that there can be administrative sanctions or disciplinary action. It also gives provision for the manner and time frame for retrospective due diligence in respect of business relationships or one off transactions. Not only is there the necessity to try to avoid ambiguity and to try to provide as much certainty as is possible within legislation, it was also recognized by the Financial Action Task Force that it is necessary to spell these things out.

Mr. Maharaj SC: Mr. Speaker, thank you. Are these the exact words of the Financial Action Task Force or is this the principle?

Mr. Imbert: I cannot answer you specifically. I know that in several instances some of the amendments made are verbatim, taken word for word, from the Financial Action Task Force, but I am advised this is the general principle in this particular case.

Thank you, Mr. Speaker.

Question proposed.

Mr. Maharaj SC: Mr. Speaker, the reason I asked the hon. Minister that question is because when I looked at clause 30, I took the view that this was too vague and it is subject to a subjective value judgment, which can hardly ever be the subject of legal certainty, and if you have a legal enquiry it would be difficult. I mean, for example, how would you decide to put administrative sanctions for an unsafe and an unsound practice if you do not define it or give some criteria for defining why there should be administrative sanctions? This is so wide, it is a blanket operation. Yes?

Mr. Imbert: I cannot ask you to give way to me, so complete what you are saying.

Mr. Maharaj SC: This can have serious consequences and I think that we should get it clear, because it seems to me that unless there are some criteria on what basis there would be administrative sanctions, or on what basis there would be disciplinary actions taken, what you are going to do is, you are going to have no certainty or no degree of certainty that you expect to achieve.

I could understand (g):

> "the manner and time frame in which retrospective due diligence may be undertaken in respect of business relationships or one off transactions that were established or performed prior to the coming into force of the proceeds of Crime (Amendment) Act..."

But the difficulty I have is with (f). I think this is very important in the world today especially in Trinidad and Tobago, as to we should know exactly what is a sound practice as far as the public service is concerned; what is unsafe; for what there should be administrative sanctions; and for what there should be disciplinary actions, but this has to do now—it impacts with the private sector too.

Thank you very much, Mr. Speaker.

Mr. Imbert: If you read it very carefully; you have to really look at the words closely. The first part of the amendment speaks about the measures to be taken or may be taken by the Supervisory Authority to ensure compliance with the Act. So, you have to understand that it is giving the power to prescribe measures that may be taken to ensure compliance with the Act. It is not a question of unsafe and unsound practices yet. You are dealing with compliance or non-compliance, which you will have to agree there is some certainty with respect to whether one is compliant or not compliant.

The unsafe and unsound practices come in a preventative way. Read it carefully, it says:

"…or to prevent the commission of an unsafe or unsound practice…"

So, this is, using the local parlance, "taking in front". There are two types of measures here. There are measures to secure compliance and there are measures to prevent non-compliance. I am advised by the Attorney General that the use of the words unsafe and unsound, have their general English meaning. Of course, a smart lawyer, an experienced attorney such as the hon. Member opposite—[*Interruption*] "Nah, nah", not me; I want to go to heaven—could make a fortune out of trying to get a court to interpret the meaning of the words unsafe and unsound.

As you know, hon. Member, the whole question of judicial review goes to reasonableness. So, that the Supervisory Authority, in prescribing measures to prevent the commission of an unsafe or unsound practice, simply has to be reasonable and a court will determine whether the Supervisory Authority is being reasonable or not. With respect to the difference between administrative sanctions and disciplinary action, those too have their general English meaning. Administrative sanction for example, could be suspension of activity, as opposed to disciplinary action, which could be the imposition of a penalty.

So, in looking at prevention of the commission of an unsafe or unsound practice, the Supervisory Authority might be getting some warning signals with respect to a potential problem that may occur, and could suspend a particular type of activity with respect to a financial institution or listed business or if there is non-compliance, could impose a penalty.

While I understand what you are saying, as I said, that is a matter for experienced attorneys to receive briefs in order to determine the meaning of unsafe and unsound.

Question put and agreed to.

3.45 p.m.

New Clause 30A.

Senate amendments read as follows:

Insert after clause 30 the following new sub-clause:

"30A The Act is amended by inserting after section 56 the following:

"56A. The Supervisory Authority shall submit an annual report to the Minister who shall lay such report, in Parliament, one month after its receipt.

56B. There shall be established for the purposes of this Act, a Joint Committee of Parliament to be known as the Joint Parliamentary Committee on the Proceeds of Crime."

Mr. Imbert: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the insertion of new clause 30A. Mr. Speaker, this is a request coming from an Independent Senator, the second part that is. Let me just deal with the first part. The first part of this amendment requires the Supervisory Authority to submit an annual report. That will be based on the financial year, I am told, and then one month after the Supervisory Authority submits that annual report to the Minister the Minister will lay it.

With respect to the second part, that was simply a request coming from an Independent Senator. I shall say no more on that.

Question proposed.

Dr. Rafeeq: Just very briefly, the term "Supervisory Authority" is used in several places in the Act and it is defined in the amendments here, but as far as the joint committee is concerned, this is the first time that the joint committee is being introduced in this piece of legislation. It says nothing about what the composition of the joint select committee will be, what the functions of the joint select committee will be, what the powers will be. In our Standing Orders here, there shall be a joint select committee on external affairs—that is that committee—and then it says about the membership of the committee and then it says about the powers of the committee and the functions of the committee, they are defined in the Standing Orders here.

Here we have a joint committee on Proceeds of Crime, it says nothing as to whether the supervisory authority will send the report to the joint committee or whether the Parliament will send the report to the parliamentary committee. What is the role and function of the joint parliamentary committee; it is not defined here at all? So, there is nothing here to give us a sense as to what are the roles, functions and powers of the joint select committee.

Mr. S. Panday: Mr. Speaker, again, this section is need for concern and look at the drafting you will see that this would have no effect whatsoever. We put this there to fill space. This is what you call a filler. A filler as in a movie, this is a filler. Section 56A says:

> "The Supervisory Authority shall submit an annual report to the Minister who shall lay such report, in Parliament, one month after its receipt."

Because of the PNM's incompetence they brought this Bill to the other place at the 11½ hour.

As a result of that it seems to me the other place did not have sufficient time to really analyze the amendment. It says that the annual report of the supervisory

committee shall be sent to the Minister and one month after he shall lay it in Parliament. It does not say the supervisory committee shall submit an annual report. It does not give any specification as to when that annual report shall be submitted.

If you look at the papers and reports which are being laid in this honourable House you would see we are receiving reports of certain organizations for 2001 and 2002. So in order for this section to have any real teeth in it, it should have said the Supervisory Authority shall submit an annual report within three months after the close of the financial year or some particular date and then we move in the other direction. So when we give the impression that we are working, we are getting this in place, we are bringing it to the Parliament, we may never ever get it to bring it to Parliament and that is what is frightening.

In addition to the contribution which the Member for Caroni Central spoke about in section 56B:

> "There shall be established for the purposes of this Act, a Joint Select Committee of Parliament to be known as a Joint Parliamentary Committee on the Proceeds of Crime."

Assuming that indeed we get Standing Orders to fulfil the concerns of my colleague about numerating the functions of the select committee, the committee system in this country under this PNM has failed. The PNM has undermined every committee we have, and therefore, they will always have the majority. They like committee too bad. You remember when the UDeCott hit the fan the hon. Prime Minister said, "Let us go to a joint select committee and it will give you more leeway. In that joint select committee we shall have hearings in public". But at the end of the day they would have had a majority as the Standing Orders state. And when they have this majority they will bamboozle Members of the committee, they will take advantage of the Members of the committee and at the end of the day a favourable report will be brought to the Parliament.

So, this joint select committee merely, in this form, I humbly submit will have no teeth. What we should do if we are really serious about money laundering and dealing with the proceeds of crime, we should define a joint select committee in which we should say a special joint select committee or joint committee and this special committee, a joint committee of the Parliament, meaning Members of the Upper House and Lower House and the Government and the Opposition, will have equal numbers on that committee and that committee shall have a certain number of Independent Senators and shall be chaired by an Independent Senator.

Mr. Dumas: Independent Opposition.

Mr. S. Panday: You are saying the Independent Senators are Independent Opposition?

Mr. Dumas: I will say what I want when I want.

Mr. S. Panday: Oh, you will say what you want when you want. Mr. Speaker, these amendments are not worth the paper they are written on. I have great respect for all of the Members in the other place, but I put the full blame at the feet of the PNM for bringing this legislation at such a late hour that the Senators in the other place really tried to assist to ensure that things work properly, but this Government, they did not know this Government. We face you all every day, yes, we face you all every day and we know the vagabonds and rogues we have there and in those circumstances this is not worth the paper it is written on. Thank you.

Mr. Maharaj SC: Thank you very much, Mr. Speaker. There are many reasons why I have to make a contribution on this matter—

Mr. Imbert: Just excuse me, I apologize. I rise on a point of order, you were obviously being distracted, I am sorry.

The Member for Princes Town North described the Members on this side as vagabonds and rogues [*Crosstalk*] and I would like him to withdraw it and apologize.

Mr. Speaker: Yes, I am sure he would do that.

Mr. S. Panday: Mr. Speaker, I apologize for calling my friends there vagabonds and rogues, but this PNM Government has abused the system and that PNM party and its members are vagabonds and rogues.

Mr. Speaker: No, if it is that you call Members opposite, your colleagues, vagabonds and rogues—[*Interruption*] You are not listening to me hon. Member! If you have called your colleagues—

[*Mr. Panday in discussion with another Member*]

I am speaking to you, hon. Member for Princes Town North. [*Interruption*] Yes, you are not listening.

Mr. S. Panday: Oh, I apologize to you, Mr. Speaker.

Mr. Speaker: Good. Now I think you need to apologize to your colleagues opposite if you had called them vagabonds and rogues. Well, you can do that quickly and let us move on.

Mr. S. Panday: Okay, Mr. Speaker. I apologize if the term was so serious and if they took it so seriously, [*Crosstalk*] but, in those circumstances, I humbly, sincerely and only reservedly with a heavy heart withdraw it. Thank you, Mr. Speaker.

Mr. Imbert: You did not apologize.

Hon. Member: I did not hear you. [*Crosstalk*]

Miss Panday: He did, he did.

Mr. S. Panday: If this same Government wants an apology, apology, Mr. Speaker. [*Crosstalk*]

Mr. Speaker: I apologize, that is what you have to say.

Mr. S. Panday: But, Mr. Speaker, I went further than that. I said I humbly, sincerely and heavy heartedly apologize. [*Desk thumping*]

Mr. Imbert: You now say it for the first time.

Mr. Maharaj SC: Mr. Speaker, I really have to intervene in respect of this matter, because what this Senate has done here is to send a signal to the Government that it is unhappy about accountability and it wants some accountability with respect to this legislation. Therefore, it decided that it would recommend that there be a joint select committee on the Proceeds of Crime (Amdt.) Bill.

The Senate would not have done that unless the Senate felt that the Parliament and the people need to have some accountability so that there can be some scrutiny as to what is happening—because when you take section 56A and 56B, they want a report to the Minister and to have a joint select committee in respect of this matter. This is really for many reasons, a clause which would not be achieved. We know that the Government regards the Parliament as a department of Government; we know that the Government has in effect abolished all the proposals for reforms for the Parliament to be independent; we know that the joint select committees of Parliament which are supposed to function basically do not function; we know that even without this measure that you could have—because there is a section in the Constitution which provides for ministries to be brought before joint select committees.

So, we are having a situation in which there is the cry and there is the cry obviously for accountability of the Government to Parliament in which the Parliament must have institutional independence and it may be an occasion in which I can ask the Government to seriously consider the effect of what the Senate is asking for. What the Senate is asking for is for there to be some scrutiny, they are in effect asking for Parliament to be effective, and Parliament cannot be

effective unless the joint select committees work, unless Government reconsiders its policy for joint select committees and unless Government reconsiders its policy with respect to the Parliament not being a department of Government.

This is a very serious matter because a few years ago the Prime Minister indicated that he wants to use the Red House for his office and if this building is used for the office of the Prime Minister then the Parliament would become a department, in effect, of the Prime Minister's Office. Now, I do not know whether he has abandoned that plan, it may be that he has abandoned it, but I want to send a signal that what the Senate is asking for, is for Parliament to be independent, the institutional independence. I want when the Leader of Government Business gets up for him to tell this country and give an undertaking that his Government is going to reconsider the proposals which were made for institutional independence for the office of Speaker and for the Parliament of Trinidad and Tobago.

Secondly, I want him to give an undertaking that it is not the policy of the Government for the Red House and this building to be used for the office of the Prime Minister.

Mr. Imbert: That is it! Mr. Speaker, I again have to say one could admire the solo enthusiasm of the Member for Tabaquite, quite often looking for sound bytes.

The proposals in the amendment or the insertion of a new clause 30A are not unique. They did not drop from the sky. They did not land here from out of space. If one looks at the Dangerous Drugs Act, Chap. 11:25, passed in this House in November 1991, by the NAR government—[*Interruption*]

4.00 p.m.

Mr. S. Panday: What section?

Mr. Imbert: Hurry dog eat raw meat—and amended by the PNM government in 1994. I want to repeat, amended by the People's National Movement government in 1994, at section 59A—[I*nterruption*]

Mrs. Persad-Bissessar: It is not Chap. 25—[I*nterruption*]

Mr. Imbert:—and section 59B.

Mrs. Persad-Bissessar:—of 11:25.

Mr. Imbert: Mr. Speaker—[I*nterruption*]

Mrs. Persad-Bissessar: You said it wrong.

Mr. Imbert:—again, I admire the frequent attempts by the Member for Siparia, to interject in an attempt, feeble as it is, to make some point. As usual, it is an irrelevant and trivial interjection. [*Interruption*]

Mrs. Persad-Bissessar: I will talk after you.

Mr. Imbert: Section 59A, section 59B—you cannot talk after me, I am closing. [*Interruption*]

Mrs. Persad-Bissessar: Yes.

Mr. Imbert:—of the Dangerous Drugs Act—you cannot talk after me—Chap. 11:25—and your hearing is defective because I said, 11:25. Chap. 11:25. [*Interruption*]

Mrs. Persad-Bissessar: That is wrong.

Mr. Imbert Section 59A, section 59B amended in 1994 by the People's National Movement government read as follows. Member for Tabaquite—because I am ignoring the Member for Siparia—I am speaking to you, through you, Mr. Speaker:

> "Section 59A of the Dangerous Drugs Act:
>
> The Minister shall cause to be laid in both Houses of Parliament, annually, a report on the Administration of this Act."

That is a PNM amendment to the Dangerous Drugs Act. Section 59B:

> "There shall be established for the purposes of this Act, a Joint Parliamentary Committee of Parliament to be known as the Joint Parliamentary Committee on Dangerous Drugs".

Therefore, Mr. Speaker, the precedent for this recommendation coming from the Senate, is a precedent—[*Interruption*]

Mr. S. Panday: You never implemented it.

Mr. Imbert: No, you had your chance. [*Interruption*]—established by the People's National Movement government.

Mr. S. Panday: Never implemented it.

Mr. Imbert: No! "I know you want to recover a lil bit, but I ain't giving you a chance to recover." You see, in 1994, this PNM government amended the Dangerous Drugs Act introduced by the NAR, to introduce the concept of an annual report, and to introduce the concept of a Joint Parliamentary Committee on Dangerous Drugs.

Hon. Member: How did it function?

Mr. S. Panday: It never worked.

Mr. Imbert: That, Mr. Speaker, is not the context of the submission made by the Member for Tabaquite. [*Desk thumping*] The Member for Tabaquite said, "The reason for this amendment was that the Senate did not have confidence, and that is why the Senate introduced this nonsense." The Independent Benches simply asked for the Government to put into this law—which by the way was passed by you—without these clauses. So all the Senate did—just like the PNM did in 1994, when we recognized the deficiencies in the Dangerous Drugs Act and we put in the requirement for annual reporting, and we put in the requirement for a joint parliamentary committee—was said, "The UNC Act, Proceeds of Crime please fix it the same way you fix, the NAR Dangerous Drugs Act, and put in a requirement for annual reporting, and put in a requirement for joint parliamentary committee," and we willingly obliged.

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

Question put and agreed to.

Clause 34.

Senate amendment read as follows:

In the First Schedule, insert after item, "An Art Dealer" the following new item:

> "Any such person when he prepares for and when he carries out transactions for a client in relation to the following activities:
>
> (a) acting as a formation agent of legal persons;
>
> (b) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership or a similar position in relation to other legal persons;
>
> (c) providing a registered office, business address or accommodation, correspondence or administrative address for a company a partnership or any other legal person or arrangement; and
>
> (d) acting as (or arranging for another person to act as) a nominee shareholder for another person."

Mr. Imbert: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the amendment to clause 34.

That is not the Schedule? Yes, it is the Schedule. It deals with the Schedule, Mr. Speaker.

Mr. Speaker: Yes.

Mr. Imbert: It was required to, again, for completeness. They are trust and company service providers—you know you have a multitude of financial institutions these days. You have institutions involved in the remittance of cash—we went through that already for the day—mutual funds and so on, development banks, et cetera, commercial banks, you name it, foreign exchange dealers. There is a plethora of financial institutions nowadays, and trust and company service providers was a category that should have been included in the Bill as a listed business because there are two types of entities that you are looking at now, the straight bank or the financial institution, and now, listed businesses. You will see the different types of listed businesses.

So this insertion to the Schedule is intended to include trust and company service providers, and is self evident. This is a particular type of trust and company service provider. This would be acting as a formation agent of legal persons; acting as a director or secretary of a company, et cetera; providing a registered office, business address or accommodation and so on; acting as a trustee of an express trust; acting as a nominee shareholder for another person. These are all the things that persons who are in the business of trust and company services do, which could have an impact on crime, money laundering, et cetera. So it was felt necessary and is a requirement anyway, to put this into the legislation.

Thank you, Mr. Speaker.

Question proposed.

Mr. Maharaj SC: Mr. Speaker, I must say that this is a very good amendment. In my view, this is an amendment which is deserving and I think it will strengthen the measures. I just wanted the Government to consider, it may be that there is an answer to this. Looking through these amendments and looking through the Act, I find that there may be a loophole for an organization to be used for the purposes of money laundering and it is not covered by the Act. For example, I do not see charities or charitable foundations covered, and it is not unknown that in some countries, within recent times, charities and charitable organizations have been used or, they can be formed as a charity or a charitable organization and it can be used for laundering money.

As a matter of fact, from what I have read in some of the Central American countries, one of the ways in which money laundering occurred for a long time

and it was not detected, was that the drug dealers sponsored the formation of charitable companies, and the money laundering was done through these charitable companies, or corporations, or organizations. The whole aim of getting at money laundering is to be able to take away the profit of crime. Because it has been felt and it has been proven, that if criminals know and persons know that the moneys, the profit of crime will be taken away, even if it is not taken away right away, it will be traced, it will be followed and their properties can be taken away, they will continue to use other organizations in order to fight crime. That is why one of the measures which the Proceeds of Crime Act was able to do at the stage it started, was to be able to confiscate some assets.

As a matter of fact, it was the threat of confiscating the Dole Chadee Estate with the Proceeds of Crime Act, which caused the Dole Chadee Estate to be used for drug rehabilitation by the State. I have looked at it. I have not studied it as I would have liked to do, but in looking at this last night and even sometime in the court this morning while I was engaged, I could not find anywhere in which it is expressly covered, and to me this might be a loophole and the Government may consider that is the position.

Thank you very much, Mr. Speaker.

Mr. S. Panday: Thank you, Mr. Speaker. Indeed, I wish to congratulate the Senate for this amendment. However, I humbly submit that this clause could have been widened, not in terms only of such person, but in terms of activities.

Mr. Speaker, it says:

> “Any such person when he prepares for and when he carries out transactions for a client"—carries out transactions for a client, I repeat—"in relation to the following activities..”

So the liability now is circumscribed by (a), (b) and (c). I humbly submit that it should be wider than that, and here it speaks of acting of a formation agent; acting as director, et cetera; providing registered office, business address, accommodation, et cetera.

Mr. Speaker, I humbly submit that in addition to this, we should have added after (c) or (d), "provide any service of a financial nature to the client." For example, in the case of Calder Hart, Calder Hart did not give premises, but he gave a service by allowing his telephone number to be used as CH. So they are giving—[*Interruption*]

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

Mr. Speaker: No. No. He is giving an example as to what he is proposing as an amendment. Go ahead.

Mr. S. Panday: Yes, Mr. Speaker, so therefore, to catch where, for example, you are giving a service, and in the case of Calder Hart, was an underhand service, we humbly submit that we should include after (d), "also rendering services of a financial nature". Then this will make sense.

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

Mr. Jeremie SC: Mr. Speaker, the point raised by the Member for Tabaquite with respect to charities. Now what we have to remember is that the legislation which is before us, the Proceeds of Crime (Amdt.) is not to be looked at by itself. That is to say, that it comes together with a suite of legislation including the FIU, and including the Terrorist Financing Bill which is to come. It is ready, but it is to come and it is in that piece of legislation that we have dealt with charities.

4.15 p.m.

As you know, the 9/11 events in the US took place, in part, through the conduit of charitable financing; so we have dealt with it there; it is to come.

I have checked the Act and we were both wrong, in the sense it was section 33 and not the entire Act that was struck down, but section 33 was the heart of the Act. It also provided for search and, interrelated, for seizure of assets.

Mr. Imbert: I think the Attorney General has adequately dealt with concerns raised. I beg to move.

Question put and agreed to.

FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO BILL

(Senate Amendments)

The Minister of Works and Transport (Hon. Colm. Imbert): Mr. Speaker, I beg to move,

That the Senate amendments to the Financial Intelligence Unit of Trinidad and Tobago Bill, 2009, listed in Appendix IV be considered.

Question proposed.

Question put and agreed to.

Clause 2.

Senate amendment read as follows:

A. In the definition of the word "Act, " by inserting the word "The" before the words "Act" and relocating the definition in the appropriate alphabetic sequence;

B. In the definition of the word "financial institution", by deleting the words "proceeds of crime";

C. In the definition of the words "proceeds of crime", by deleting the words "proceeds of crime" appearing before the word: "Act";

D. By deleting subclause 2(2) and inserting the following new subclause:

"In determining what is a suspicious transaction or suspicious activity, a financial institution or listed business shall follow the guidelines issued by the Central Bank of Trinidad and Tobago or other supervisory authority, from time to time."

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

The purpose of the amendment to clause 2, and various amendments, is purely editorial in terms of defining the Act to mean the Proceeds of Crime Act and consequential amendments that flow from defining the Act to mean the "POCA".

Question proposed.

Question put and agreed to.

Clause 3.

Senate amendment read as follows:

A. In subclause (2)—

(a) by inserting after the word "of" in the first line the words "such numbers of suitably qualified public officers including"; and

(b) by deleting the words "and such appropriate number of suitably qualified officers".

B. In subclause (2)(b) by inserting after the word "Ministry" the words "of Finance".

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

There was one little aspect of clause 2, if you would indulge me, that was not just a consequential editorial amendment. It was the definition of what is a suspicious transaction. I have gone back to clause 2. This was a request coming from the Opposition in the Senate. They felt that these words should be put in:

"In determining what is a suspicious transaction or suspicious activity, a financial institution or listed business shall follow the guidelines issued by the Central Bank of Trinidad and Tobago or other supervisory authority, from time to time."

This was necessary to provide some certainty. In other words, a competent authority like the Central Bank is best placed to give a definition of what is a suspicious transaction or a suspicious activity. I just wanted to clear that up, that there were not consequential amendments to clause 2.

With respect to clause 3, the view was that the Director and Deputy Director of the FIU should be public officers, that the normal public service procedures would apply and that appointments were to be made by the Public Service Commission. That was the view in the Senate. That was the reason for this amendment.

Question proposed.

Mr. Bharath: Mr. Speaker, we have argued at length on this side of the House—and I am certain, when I listened to part of the debate in the other House—that we believe that the qualifications of both the Director and Assistant Director be actually determined and stated in the Act. In fact, there are many other instances that we are aware of, in other pieces of legislation, where the qualifications of the Director and the Acting Director are actually specified. We are not quite sure why the Government is intent on not inserting the qualifications of these persons.

We believe that this is a very, very important piece of legislation for Trinidad and Tobago. We also believe that certainly the FIU would determine the level, the depth, the breadth and the width of investigation that takes place, the collation of information, where it goes and how it is dissipated. Therefore, the character, the integrity and the qualifications of the persons who head this unit are very, very important in determining the credibility of the unit and its ability to implement, in a timely fashion.

Mr. Speaker, as I mentioned before, there are other pieces of legislation where the qualifications of these persons are specified. We find it rather strange that the Government is intent on ensuring that these qualifications are not specified. As a result of which, we are suspicious that they may wish to put persons who are not adequately qualified in these positions. We would want to humbly recommend that the persons filling these positions either be professional lawyers of a certain standing, of maybe 10 years qualifications, or accountants of similar standing in society.

Mr. Maharaj SC: I regret to say that I do not agree with this amendment to limit this unit to public officers. I do not see that in a unit like this, with the kind of expertise that is required, would necessarily be found within the public service. I think that this amendment would prevent, to a great extent, the object and purpose of this unit, if it is going to be a tool in the fight against money

laundering. If you have a unit which is comprised of individuals who are not suitably qualified or do not have the necessary expertise, you would now have to train them. That takes a long period of time.

Having regard to my experience, if I may say so, although the public service would have persons of great ability, this is a specialized field. This is not an ordinary investigation in which you would even have to get a chartered accountant, et cetera, this is a specialized field. When the task force has to get going, Trinidad and Tobago had to get persons from the US who were trained and experienced to come to Trinidad and Tobago to work with even persons who were taken from the private sector, because at that time there was limited human resource. Now you have more available in the international field.

It may be that this unit would need, not only expertise from Trinidad and Tobago, but from the Caribbean and the wider world. What you are doing is, in effect, tying the hands of this unit behind its back. This is a serious situation.

With the greatest respect to the other place, I think the Government should decide to make a policy decision on this matter. The policy decision has to be: Is it going to succumb, at all times, just to be nice, without looking at the issue here? The issue here is that this is a unit. This is the body which is going to carry this legislation. This is the pit and substance of this legislation. This is the engine of the legislation. Are you going to give it petrol that cannot work with this engine? What are you going to do? We would be wasting our time in this honourable House to agree to this.

I also endorse what the hon. Member for St. Augustine said. The point I had made on this clause really was that this Bill had to do with the collection of data on very important matters. There is a provision for the appointment of a director and deputy director, but we do not say what the criteria are, et cetera. It did not occur to me last night—probably I was tired—that this was limited to public officers.

I am sorry if I sound too emotional, but this is wrong; this is wrong. I am sure if it was explained to the Members in the other place, they would understand that it has to be otherwise.

Mr. Jeremie SC: The Member for Tabaquite is quite correct, in my view. This is a point which the Government adopted as policy. It was passed in this House in a way that would allow us a degree of flexibility in terms of employment, but when we got to the other place we encountered unanimity in the Independent Benches. It is a matter that we feel strongly about, but we need to continue to speak.

The point was made to the Independent Benches. It is something that we, perhaps, need to explain to them in greater detail and continue to work with them on. But it was necessary for us to make this concession for the Bill to be passed in the other place.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Clause 4.

Senate amendment read as follows:

Delete subclause 4A.

Mr. Imbert: Mr. Speaker, in the other place it was felt that the new clause 4A was too specific and gave a little too much control to the Minister and it was felt that section 85 of the Constitution, which gives a Minister general direction and control over a government department was adequate to meet the requirements of the proposed section. Therefore, the view is that it was not necessary to particularize in the manner proposed in the new clause 4A and, therefore, it was deleted.

Question proposed.

Mr. Bharath: Mr. Speaker, again, we on this side have argued vociferously with regard to where this unit falls and specifically under the guidance and directions of the Minister of Finance. We feel that in this particular instance that this unit would have a greater degree of autonomy and independence if it is not under a specific ministry of Government or a specific Minister, in this particular case the Minister of Finance.

We have grave reservations about this Minister of Finance, in particular, having control over this kind of unit which has to display a great degree of independence if it is to be credible. We have already seen that this particular Minister is alleged to have used confidential information that was at her disposal for her own benefit. There was a recommendation—

Mr. Imbert: Mr. Speaker, Standing Order 36(5) the Member is imputing improper motives repeatedly.

Mr. Speaker: Well not repeatedly; he said it once and he used the word, alleged, but let me remind the hon. Member that there is, in fact, a substantive motion before the House dealing with that issue, so perhaps you would like to withdraw the remark.

Mr. Bharath: My purpose is not to cause any offence and if I have, I withdraw and I apologize.

There is a proposal that we on this side made with regard to the FIU and where it sits, that it be an independent body. At the very least, we believe that it should sit possibly under the aegis of the Central Bank of Trinidad and Tobago which will then take it out of the direct control of the Minister of Finance.

In the United States their effective FIU was originally established as an agency of the US Department of Treasury, but was then elevated after 9/11, to an independent bureau which gives it the level of autonomy to carry out the levels of investigations that it required, free of any interference of any ministerial control.

The other way that we believe that the independence of this particular unit can be enhanced, is if there were provisions put into the legislation that limited the power of the appointing authority to be able to dismiss the director, because that would obviously strengthen the independence of the director by preventing other officials, whether it is the Minister or other officials, from exerting undue influence or interference in that portfolio.

Mr. Imbert: Mr. Speaker, I did not want to allow the Member to spend time on a matter where he is clearly misinformed. One of the amendments made in the Senate and the Member for Tabaquite was very forceful on this, was that this person shall be a public officer appointed by the Public Service Commission and, therefore, the concept of removal by a government, does not arise. This person would be fully within the public service regulations and could only be removed by the Public Service Commission. So what you are speaking about is not applicable.

Mr. Bharath: Thank you for the interjection, Minister. But we have seen in other instances in Trinidad and Tobago where, although the director may have been appointed by the Public Service Commission, as you say, we have seen instances in Trinidad and Tobago in other areas where the Government has attempted to interfere, or where there have been incursions in the Judiciary and in the Police Service and in the Service Commissions.

I just wanted to put on that, you know, there are in some countries high level committees—and we talked about this the last time—high level committees that are placed between the Ministry and the FIU itself. I just wanted to highlight a couple of them.

In Italy, for example, there is a Guidance Committee, which was established in 1997 to do exactly that, to guide the work of the FIU and to interface with the minister so there is greater independence, or there seems to be greater independence of this particular unit.

In the Netherlands there is an assistance committee made up of representatives of the ministers, or the various ministries who are concerned with the running of this ministry, of the prosecution agencies, financial sector supervisors, and they are charged, again, with assisting the FIUs. My colleague from Oropouche East had made reference to these matters when he spoke on the Bill earlier this month.

In South Africa there is a Money Laundering Advisory Council, again sitting in-between the minister and this unit that advises the minister and advises on supervisory issues.

So there is precedent. It is not to say it does not exist. There is precedent to show that where there is likely to be any degree of doubt as to the independence of this unit, that there is a body that is placed between the minister or the ministry and the unit to ensure its independence.

So I would like, again, on behalf of the Opposition and the people of Trinidad and Tobago to beseech this Government to put something like that in place in Trinidad and Tobago so that there is no credibility gap with regard to the efficient functioning of this unit.

Thank you.

Mr. Maharaj SC: Mr. Speaker, I would like to endorse what the hon. Member for St. Augustine said, and it is very important that a minister in a unit like this, whoever the minister is, should not be able to give directions to such a unit, because what you are doing is that you are getting a person—and it is not directions in respect of administration; his directions would be in respect of functions and the functions of the unit can lead to prosecutions. Not that the unit can prosecute, but in the collection of evidence you can have the situation where the collection of evidence is contaminated with political directions.

I want to put on record—I know the Government has made a policy decision, but I want to put on record for history that the Government is making the wrong move. The Government should not use a unit in a ministry like this for this fight. I am making a prediction that what will happen with this is that there will be a lot of criticism; that the unit is being used for political purposes, burying information with respect to Government people and used as a means of harassment to other persons.

Also, what will happen is that the integrity of this unit will be compromised in a way in which its credibility with the public—there would not be public confidence in it. That is why this unit should be headed by an independent person, a person who cannot receive directions on its functions from a minister. I agree, there is a distinction between

interference and accountability. I do not have a problem with even the Judiciary being accountable for the expenditure of public funds, because that is a position I have always taken, but I have objection, for example, with the functions of the Judiciary to be interfered with. Similarly, if you have a unit which is supposed to collect information of a matter which could impact upon a prosecution to come, I do not think that you should have the risk of the appearance of political contamination or political bias.

In that context, I just want to put it on record—I know it is a policy decision; we cannot change it; you have obviously stated that you have the vote; you can go ahead with it, but I am saying you are going the wrong way and if you do not reconsider it now, at some time reconsider it early because you are going to destroy what you want to put in place to attack this major problem in Trinidad and Tobago.

Dr. Moonilal: Mr. Speaker, I just want to join my colleagues from St. Augustine and Tabaquite on making this comment on the proposed amendment, that deals with this issue of a minister giving directions to a unit, a unit that is responsible for dealing with matters involving money laundering, crime, what is normally known as white-collar crime and so on.

The amendments as the minister—in this case it is the Minister of Finance. Again, notwithstanding our experience with the current Minister of Finance—and I, in no way want to personalize that, because another Minister of Finance may be worse, so I am not personalizing it. But a Minister of Finance is essentially a politician of the ruling party, whichever party is in the Government at any time; a Minister of Finance is a politician that is subject to the rules of the political party, the norms of that party, the philosophy of that party and is in obedience to the leader and leadership of that party.

So we are saying that a politician should be giving directions in writing of a general nature as to policy. Policy means approach, and so on. I just want to focus more on the Minister. A Minister, in this case a politician, should not have their hands involved in units—

Mr. Imbert: Mr. Speaker, Standing Order 36(1), relevance. We are deleting that clause; we are not putting it in.

5.15 p.m.

Mr. Speaker: I do not have to rule on that.

Dr. Moonilal: Should I then focus on the Central Bank issue? They are not deleting the power of the Minister. That is the issue. You may delete the clause, but the issue is the power of the Minister, the direction? The Minister is still the head of the unit. Are you deleting the Minister? Yes or no? You are not. The issue is whether you will give the control to the Minister as a politician or the Central Bank?

Mr. Imbert: Standing Order 36(1). That matter is not contained within the amendment that we are discussing.

Mr. Speaker: Could you move on please? What he is saying he is correct.

Dr. Moonilal: All I ask the Government at this stage is to join my colleague, the Member for St. Augustine in whether they will reconsider this approach where they put power in the hands of the Minister, a politician as opposed to the Central Bank.

Mr. Speaker: We have the distinguished Member for Fyzabad.

Mr. Sharma: I think that I would be failing the country if I do not intervene in this matter. When we debate matters here it is intended for the best governance of the country. The Opposition in both places has made many comments as it relates to the independence of this unit. A court in Trinidad and Tobago has ruled that once the perception of bias exists, you do not have to prove bias. We are of the opinion that another approach has to be employed. For instance—

Mr. Imbert: Relevance.

Mr. Speaker: No. You see the Member is just about to come to his point so I would allow him.

Mr. Sharma: I would have thought that the Member for Diego Martin/North East who will celebrate 18 years in December would have the intelligence and experience to know when a Member is coming to the point. There must be some foreplay as the Prime Minister will say. The Government has not indicated to us the real objections for what they are proposing. We have advanced our arguments. Simply tell us why you want to do it this way and we may or may not agree. At the end of the session let us arrive at what is best for Trinidad and Tobago.

Mr. Imbert: Thank you, Mr. Speaker. For the avoidance of doubt, it is obviously not apparent to some of the Members opposite. I know that it is apparent to the Member for Tabaquite. We are discussing an amendment which deletes clause 4A. In other words it deletes the power of the Minister to give to the FIU the directions in writing of a general nature as to the policy to be followed in the performance of its functions. That is no longer within the legislation. To talk about it as if it were still there is absolutely irrelevant.

The fact of the matter is that section 85 of the Constitution states that where a Minister has been assigned responsibility for a department of government, the Minister shall exercise general direction and control over that department and subject to that direction and control, the Permanent Secretary shall be the supervisor of the department.

The other place believed that section 85 was strong enough in that it makes it very clear that a Minister shall exercise direction and control over a department of government assigned to that Minister. The other place was of the view that it was not necessary to be more specific in terms of what was in clause 4A.

The fact of the matter is that this identical clause appears in many other similar pieces of legislation all over the world. In St. Kitts' legislation it is almost word for word. In the Bahamas legislation it is almost word for word in terms of the Financial Intelligence Unit. In Australia the same principles are outlined in slightly different language, but they give the minister the power to give directions in the public interest. There are many jurisdictions all over the world where the minister is given this power.

However, in view of the fact that under section 85 of the Constitution, ministers exercise general direction and control over departments assigned to them, and since this would be a department of the Ministry of Finance, we were willing to accommodate the request in the other place that this be deleted.

Mr. Speaker: I must tell you that I allowed the hon. Member for Fyzabad to make a small intervention simply because, as he has said, that it would have been awkward for him not to do so because his constituents would have brought him to book. The question of relevance really, was not in play. [*Laughter*]

Question put and agreed to.

Clause 8:

Senate amendment read as follows:

A. In subclause (1)-

(a) in line 2, by inserting after the word "collection" the words "of financial intelligence and the";

(b) by inserting after the words "exchange of" the word "such";

B. In subclause (3)(c)(i) by deleting the words "sections 16 and 17" and substituting the words "section 18";

C. By inserting a new paragraph (j) as follows:

“(j) shall retain all pertinent information it receives for a minimum of six years.”

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

[MR. C. IMBERT]

Again, the first part of this amendment was simply a clarification of the drafting for easier reading and that is why the words, "of collection of financial intelligence and the analysis, dissemination and exchange of such financial intelligence" were added. That was to make it very clear that the FIU shall be the primary institution for the collection of financial intelligence, analysis and dissemination of such financial intelligence. That was the reason for that change.

With respect to the next change, some further clarification was required in order to make it easier to understand exactly what was being proposed in terms of the drafting and correcting a referential error in particular with respect to section 18. The wrong section was referred to. The correct section is 18. Clause 3(c)(i) had referred to sections 16 and 17 of the legislation and it should have been section 18. The words "sections 16 and 17" are being deleted and the words "section 18" have come in.

The more substantial amendment made to this particular clause 8 is inserting a new sub paragraph, "shall retain all pertinent information it receives for a minimum of six years". For taxation purposes—

Mr. Maharaj SC: I could respond if necessary. You said section 18. As I understand it, is it that you will make public, information about investigation and collection of financial intelligence? Am I reading it correctly? Under section 18, the amendment that you are asking for is after the word “collection”. Is this the section that deals with making public?

Mr. Imbert: I will read section 18 to you. "The Director shall submit an annual report to the Minister on the performance of the FIU including statistics" et cetera and the Minister shall. This is what it was before. This is what it is.

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

Section 16 spoke about cooperation and liaison with the Central Bank, other relevant foreign authorities and any other person who might assist the director in the provision of information.

Section 17 spoke about the publication of the countries identified by the Financial Action Task Force.

Read the existing clause 8(3). Go to 8(3)(c), the FIU

> “shall collect information as required for—the annual and periodic reports”. Previously, it said, "(i) in accordance with sections 16 and 17". It should have said in accordance with section 18 because it is in section 18 that the

requirement for the annual report is created. The way it is supposed to read is, the FIU "shall collect information as required for—the annual and periodic report in accordance with section 18".

Does that clarify what you are asking or do you require further clarification?

Mr. Maharaj SC: If it is a report which will not contain personal information about intelligence and investigations, I am happy. I think that every safeguard, even if it means you must have the power to excise some matters which have to be secret—

Mr. Imbert: Let me read again what 18 is.

"The Director shall submit an annual report to the Minister on the performance of the FIU"—so I guess the amount of transaction is looked at and that kind of thing—"including statistics on suspicious transaction and suspicious activities reports, the results of the analyses of these reports, trends and typologies of money laundering activities or offences."

It is technical data and not the identity of persons. Remember, you have the prohibition on disclosure, so that even though there is a requirement to produce an annual report, contained within that annual report, you cannot have a breach of the disclosing section. That is my understanding of the intention.

Mr. Jeremie SC: The new section 8(3)(c) will read: "In furtherance of the functions assigned to it under subsections (1) and (2)", those are the general functions, "with respect to receipt of suspicious activities" and so on, the FIU may request and shall analyze but (c) is different. It says, "shall collect information as required for" and as we have amended it, the annual and periodic reports in accordance with section 18. Clearly, section 18 speaks to the annual and periodic reports.

Mr. Imbert: This is new procedure to me but it is all right. As I indicated, I was speaking about the retention of pertinent information that it receives for a minimum of six years. Under the income tax laws, the period of time that records are required to be kept is six years. It was felt that since banks and other financial institutions would be keeping records for a period of six years in accordance with other legislation, it was appropriate with respect to this legislation to use a six-year period. That is why it is worded this way, "shall retain all pertinent information it receives for a minimum of six years". That is the substantive amendment. The others are merely correcting typographical and drafting errors.

Question put and agreed to.

5.30 p.m.

Clause 15.

Senate amendment read as follows:

A. In subclause (1) by inserting after the word "authority" the words "for investigation".

B. By inserting a new subclause (3) as follows:

"(3) For the purposes of this section, the Minister with responsibility for national security may by Order prescribe the law enforcement authorities to which the FIU shall submit a report within the context of its subject matter."

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

This amendment clarifies what was perceived to be an ambiguous area in clause 15 and one of the Senators in the other place felt that it was not clear that the FIU would be forwarding the report of suspicious activities or transactions to the competent authority for the purpose of investigation. Since it was the view in the other place and it did not take away from the legislation, we had no objection to including the words "for investigation".

That clause will now read:

"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 for investigation to determine whether a money laundering offence has been committed, or whether the proceeds of crime are located in Trinidad and Tobago or elsewhere."

As I said, the words "for investigation" were added for clarity. The substantial amendment made to clause 15 was the insertion of a new subclause (3), which reads as follows:

"For the purposes of this section, the Minister with responsibility for national security may by Order prescribe the law enforcement authorities to which the FIU shall submit a report within the context of its subject matter."

The view was that this was previously inappropriately placed within the Interpretation section and it was more appropriately placed within the body of the Bill in a new subclause (3).

Question proposed.

Dr. Moonilal: Mr. Speaker, the attempt is to insert a new subclause (3):

"For the purposes of this section, the Minister with responsibility for national security may by Order prescribe the law enforcement authorities to which the FIU shall submit a report within the context of its subject matter."

Does this mean that the Minister of National Security, in practice, can indicate, by Order, that a law enforcement authority will be the Anti-Corruption Investigation Bureau or, at some appropriate time, the Special Anti-Crime Unit of Trinidad and Tobago, as a law enforcement authority? Therefore, under this clause, the Minister of National Security can direct the FIU to submit reports for investigation to those authorities, as opposed to the Commissioner of Police or the Director of Public Prosecutions.

If the Anti-Corruption Investigation Bureau is under the control of a minister and the Special Anti-Crime Unit is under the control of a minister, those authorities will receive this report by order of the Minister of National Security. This comes back to the issue we have raised time and again about the power of politicians, not only the Minister of National Security, but the Minister of Finance, and the invisible political hand that seems to be operating throughout this legislation.

We have been pointing out the risk and while Members indicated that something has been deleted; that we remove the statutory power to prescribe policy in clause 3 of the Bill, which holds, that department, the FIU, is still under a minister and within a ministry and subject, I imagine, to operational, administrative and financial control by a minister and a permanent secretary.

The department is within a ministry; Ministers have power to determine where investigations go. It is a concern I want to raise and maybe there may be clarifications.

Mr. Imbert: I thought it was adequately dealt with in the substantive debate. There are a number of jurisdictions where the FIUs submit reports to all sorts of people—customs, ordinary policemen, all sorts of "law enforcement" agencies. We felt that, in terms of the sensitivity of this legislation, it was inappropriate. So, in the parent Bill, we have not put in the provision where the report is sent to every Tom, Dick and Harry, if I may use such loose language.

We put very specifically that—I am reading from the definition section—:

"'law enforcement authority' means the Commissioner of Police…"

because we felt that by defining the top policeman, there must be some integrity in that office, the highest office in the police force, and, therefore, it was appropriate to send information to the Commissioner of Police. We added, to give the authorities

flexibility, "or any law enforcement body prescribed by the Minister with responsibility for national security", but it must be an authority. I am advised that the Anti-Corruption Bureau is not an authority. Perhaps the Member for Tabaquite could clarify. Do you concur, Sir? He concurs.

The Special Anti-Crime Unit of Trinidad and Tobago is not an authority. I thought that the hon. Minister had made it very clear that what she was contemplating was an investigation financial bureau that would be created by statute in the future. I distinctly remember the Minister making that point and, therefore, there is no cause for alarm. The authority will have to be what is known in law as an authority. Until an authority is established, it would not be sending its report to the Anti-Corruption Bureau. There is nothing to worry about with respect to that. We will deal with that when the matter comes up for debate.

If you look at the legislation, in the Interpretation section, this provision that the Minister with responsibility for national security may by Order prescribe the law enforcement authorities, et cetera, really was in a strange place, and it is appropriate that it be put in a better place. It was felt that it should go into clause 15, which, if you refer to it, deals with what happens after the FIU has concluded its analysis or evaluation of a suspicious transaction or activity report and so on. It was felt that it was appropriate that since that clause deals with what happens after that evaluation is done, that they come in to say where the report should go.

Question put and agreed to.

Clause 17.

Senate amendment read as follows:

In subclause (1)(a) by deleting the words "one newspaper" and substituting the words "two newspapers".

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

We had originally believed that publication in the *Gazette* and in one newspaper was adequate, but there was a view that it might be more appropriate to publish it in two newspapers. We did not see a problem with that, so we agreed.

Question proposed.

Question put and agreed to.

Clause 18.

Senate amendment read as follows:

A. In subclause (1) by inserting after the word "submit" the following words, "within sixty days of the end of the financial year,";

B. In subclause (2) by deleting the words "two months" and substituting the words "thirty days".

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

This brings us to the point we were at a little while ago. This is certainly as opposed to the perception of ambiguity that was raised on the other side. This makes it crystal clear that within sixty days of the end of the financial year, September 30, the director is required to submit the annual report. It gives a specific time line for the submission of the annual year.

In addition, in the amendment to subclause (2), it was felt that since the Minister is simply forwarding the report, not tampering with it in any way, two months might be too long for the submission of the report and, therefore, the Minister could be required to submit it within 30 days. This reduced the period from two months to 30 days. What would happen now is that within two months of the end of the financial year, at the end of September, the director will submit the report to the Minister. In other words, there is a coincidence of the financial year and the calendar year. If you add it up, it takes it to the end of September.

5.45 p.m.

So that the financial year comes to an end at the end of September, and within two months of that date, the Director will submit the report and within one month of that, 30 days, the Minister will submit the report and that will take you towards the end of the calendar year.

Mr. Speaker, that is it.

Question proposed.

Question put and agreed to.

New Clause 28.

Senate amendment read as follows:

Insert after clause 27 a new clause 28 as follows:

"28. (1) Within one year of the coming into effect of this Act, the Minister shall return to Parliament for a review, by Parliament, of the operation of the Act.

(2) The review shall be debated by Parliament with a view to any amendment of the Act that may further the compliance with the Financial Action Task Force obligations of the State."

Mr. Imbert: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the insertion of a new clause 28. The new clause 28 reads as follows:

Insert after clause 27 a new clause 28 as follows:

"28. (1) Within one year of the coming into effect of this Act, the Minister shall return to Parliament for a review, by Parliament, of the operation of the Act.

(2) The review shall be debated by Parliament with a view to any amendment of the Act that may further the compliance with the Financial Action Task Force obligations of the State."

The Senate was of the view that the Minister should re-examine the Act within one year. This was the provision they came up with. That is all I have to say about that.

Question proposed.

Mr. Bharath: Mr. Speaker, thank you. I think we all agree that this insertion in the legislation is a start, but it certainly does not go far enough. I think we all agree, on both sides, that this is very important and critical legislation for Trinidad and Tobago, and forms part of a larger package of legislation that is meant to protect the global financial system from the financing of terrorism and money laundering. We have serious reservations about this Bill which we have expressed today. We believe that the Bill is both deficient and defective in a number of ways which we have expressed.

The recommendations of FATF defined the criminal justice and regulatory measures that should be implemented that would get around these problems, and we have certainly not implemented all of those recommendations. In fact, we have only implemented sufficient to just get a passing mark, effectively, once this legislation is through.

We have already expressed our concerns that the recommendations that FATF made were made since 2003. In fact, CFATF made recommendations in 2005. So, the Government has been sitting on these recommendations now for four years, and they are now bringing the Bill to Parliament. When we had the discussion on the Bill earlier last week, both the Attorney General and the Prime Minister stated that their legislative priorities were different and, therefore, that is the reason—apart from the fact that they may not have had the majority—it has only been brought now.

Obviously, the Opposition and many others cannot help but feel that we have a gun pointed at our heads, because we have to now meet this deadline of midnight tomorrow night. Of course, as you would appreciate, if it is that we were to vote against the legislation, because we believe that it is defective, we will have blame cast upon us that we are the cause for Trinidad and Tobago being blacklisted.

Mr. Speaker, obviously, it is not our intention to vote against the legislation, because as we all are patriots of Trinidad and Tobago, we would want to ensure that the legislation sees an easy passage through Trinidad and Tobago. [*Interruption*] In light of the reservations that we have listed earlier, we would like, not just for the Government to bring this legislation to be debated in Parliament in a year's time, but we would want the insertion of a sunset clause for a period of one year to allow the House to fully debate this issue when it comes back.

I am aware that in the other place, the Attorney General and the Minister in the Ministry of Finance have suggested that there is no precedent for this. In fact, I think the Attorney General suggested, through you, Mr. Speaker, that it was against the FATF regulations or recommendations. If you could point me in the direction of where that is—

Sen. Jeremie SC: I do not think that is correct. What I said was that we were in touch with CFATF, and that they had told us that we would not get—I am not sure if I used these exact words—the credit of having enacted legislation if we pass it with a sunset clause, because it would give a degree of impermanence to the legislation.

Mr. Bharath: Is the Attorney General aware of the fact that in both the United Kingdom and Canada there are pieces of legislation that form part of their anti-corruption legislation that do have sunset clauses. I am going to share this with you, Attorney General and maybe this is something that you could research.

I am going to read this. The United Kingdom government announced in June 2008 that the areas of the United Kingdom market abuse regime that are super equivalent to the EU market abuse directive implemented in the United Kingdom in July 2005 are to be retained.

Sen. Jeremie SC: We are dealing with two different things. I am talking about FATF and you are talking about an EU directive. So, we are dealing with the FATF and their recommendations on an audit which is to be done on our laws by FATF. The analogy fails.

Mr. Bharath: I am suggesting to you, Mr. Attorney General, that the EU directive enabled the United Kingdom to retain certain clauses simply because they wanted to give

the United Kingdom sufficient time to conduct a comprehensive review of the legislation. So, they have effectively gone against the FATF recommendations. I am saying that similarly we could have done the same thing. It is not that there is any recommendation that prevents us or precludes us from doing it, other countries have done it.

The Canadian government did a similar thing with their Anti-Terrorism Act. There were sunset clauses in their Anti-Terrorism Act in Canada that allow them to come back and review certain pieces of the legislation within a space of three years in this particular instance.

Mr. Speaker, there is precedent that allows countries, if they so wish, to put this into their legislation that will allow a much fuller debate to take place when the legislation is brought back. There are many issues that we have raised here today that are of serious concerns, not just to the Opposition, but to the country as a whole, particularly with regard to the issue of independence.

I humbly suggest and humbly ask that the Government reviews this issue and inserts a sunset clause that will give the country the requisite and necessary credibility or comfort so that this particular piece of legislation will be given an opportunity to go through for a year, see how it works, and then come back to the Parliament for reenactment.

I thank you. [*Desk thumping*]

Mr. Maharaj SC: Mr. Speaker, this clause is of no use whatsoever, having regard to the concerns which have been expressed in relation to the quick pace that both places had to deal with this measure. This is a bad example of legislation; a bad example of how Parliament ought to be conducted. For example, if I am correct, at the last sitting, Parliament was adjourned to a date to be fixed.

The House of Representatives was summoned with a telephone call and people had to put down everything to come and deal with these amendments, and the same thing happened in the other place, and this is happening very often. I mean no disrespect to anybody individually. This is not right; it is not good. It sets a bad example for how Parliament is to be conducted, but when you consider that a measure like this which is of such great importance, not only to the fight against crime, but important for the image of the country, it does not reflect very well for Trinidad and Tobago that the Government had to rush this piece of legislation, merely in order to comply with an international requirement. It does not do the country good.

I think that the Government should recognize that the Members of Parliament in both places decided to put country first and go along with what has happened

just in order to provide whatever safeguards to have the legislation pass so that the reputation of Trinidad and Tobago can be saved. I think that the Government owes a responsibility to the people of this country—even if it does not want to say that it owes a responsibility to us—that in all the circumstances of this matter, it should even, at this stage, either decide to change this clause and give a sunset clause to say that this law would be effective for a year or even six months. Even if the Government gives an undertaking today, they can go ahead and comply, but it can give an undertaking that there will be a sunset clause and that amendment can be brought on the next occasion with a Bill or any other amendment or whatever it is.

I do not think that whether one is a UNC Member or one is a PNM Member, we have to look at what is for the country at this time. I do not think it will go down well with the population and even supporters of the governing party or the nation as a whole for lawmaking—making laws for people in these circumstances—that the Government would appear that it had a majority and they decided to use it by the hook or the crook, regardless of what the position is. It is setting a bad precedent and a bad perception. I would like to make an appeal to the Government even at this late hour to redress this situation, not in the interest of the UNC; not in the interest of the PNM; but in the interest of Trinidad and Tobago.

Mr. Speaker, thank you very much.

Mr. Imbert: Mr. Speaker, first I want to thank all Members opposite for their support of these amendments, because somewhere in-between the dialogue, I think I heard the Member for St. Augustine—although his back is to us; he is engrossed in other matters—say that they are supporting the legislation. Somewhere in the "ol' talk" I heard that. [*Interruption*] Listen, I would take that as support. I want to thank all hon. Members opposite for recognizing that this legislation is very important, and that it is necessary for us to meet certain deadlines.

We are on the last clause and I am the last speaker and, therefore, as soon as I am finished speaking, the necessary arrangements can be made by the Attorney General and the Parliament to give effect to the Bills. I just want to reassure you that we are here to make sure that we can give effect to these two pieces of legislation. So, as soon as we complete our business on this matter, the authorities will do whatever is necessary to give effect to the legislation. As the Attorney General said—

Mr. S. Panday: Gazette this one.

Mr. Speaker: Order!

Mr. Imbert: I do not mind if they have a little fun. We most certainly intend to Gazette this, sorry publish it. Eventually the Acts would be gazetted. All Acts of Parliament are gazetted.

6.00 p.m.

We do intend to do whatever is required in terms of publication of whatever is necessary to bring these amendments into effect. In all sincerity, on behalf of the Government, I want to thank hon. Members for allowing us to get to this point where we concluded our business with respect to these two very important pieces of legislation, so that we can meet, at least to some significant extent, the requirements of FATF.

I can assure you that we have taken on board everything you have said, but it is impossible under the circumstances to agree to make any changes at this time, because it would have to go back to the other place; you would have to convene the other place; it is just not practical. I want to assure you in all sincerity that we have listened to you. Many of the points that you have made are valuable points and certainly food for thought.

I would certainly assist the Government in the refinement and improvement of these two very important pieces of legislation. Regrettably, we cannot comply with the requirement for a sunset clause at this point in time. I am afraid we just cannot do that, because that would mean we would have to go back to the other place. [*Interruption*] The Attorney General is reminding me that not only would there be a delay; therefore we would miss the deadline—

Mr. S. Panday: And you only have six hours.

Mr. Imbert: We have a bit more than that—but we would lose the credits. All of this is about getting a sufficient number of credits within the CFATF system and the FATF system, in order to avoid Trinidad and Tobago being blacklisted. This is not a trivial matter that we are about here, and as the Attorney General has pointed out, if we were to accede to a sunset clause, it would introduce such uncertainty into the process that we would not get the points that we are required to get.

With those few words, Mr. Speaker, I simply want to thank hon. Members opposite again for their support and contributions in the consideration of these amendments.

Thank you, Mr. Speaker.

Question put and agreed to.

Mr. Imbert: Mr. Speaker, we can now move to Motion No. 2 and Motion No. 4.

SPECIAL SELECT COMMITTEE REPORTS

Status of Children (Amdt.) Bill
(Adoption)

The Minister of Science, Technology and Tertiary Education (Hon. Christine Kangaloo): Thank you very much, Mr. Speaker. I beg to move the following Motion standing in my name:

Be it resolved that this House adopt the First Interim Report of the Special Select Committee appointed to consider and report on a Bill entitled, "An Act to amend the Status of Children Act, Chap. 46:07 and to provide for DNA Analysis in Civil Proceedings".

Mr. Speaker, you may recall that this Committee was established on Friday, March 20, 2009. The Committee was mandated to consider and report on the Status of Children (Amdt.) Bill, 2009, and to report to the House in one month.

Following that, two Members of the Committee who were originally appointed on March 20, 2009, resigned and therefore, two other Members had to be appointed. So, pursuant to Standing Order 77(2), the Speaker appointed me to be the Chairman, and the quorum was established.

To date, the Committee has held one meeting. There was an agreement at that meeting to seek the expert assistance of the Chief Parliamentary Counsel, as well as the technocrats of the Ministry of Legal Affairs. Consequently, having regard to the detailed and comprehensive nature of the work to be undertaken, the Committee wishes to report that it has not yet been able to conclude its considerations of the Bill, and therefore, needs an additional six weeks in order to complete its deliberations and report to the House.

So, that is the nature of the interim report, which is before the House, and I therefore beg to move.

Question put and agreed to.

Report adopted.

Protection of Children Bill
(Adoption)

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I would try my best without documents. I beg to move the following Motion standing in my name:

Be it resolved that this House adopt the Third Interim Report of the Special Select Committee appointed to consider and report on a Bill entitled "An Act relating to the protection of children and for matters related thereto".

To put everybody's mind at ease, the report simply indicated that the Committee had done some work and needed some more time.

I beg to move.

Question put and agreed to.

Report adopted.

ADJOURNMENT

Mr. Speaker: The Member for Oropouche East is under severe constraints and he has to raise it, so you want to move the motion for the adjournment.

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I beg to move that this House do now adjourn to Wednesday, October 14, 2009.

Mr. S. Panday: Why?

Hon. C. Imbert: Notwithstanding the violence of that question, why, it is in recognition and with deference to the Hindu community, who will be celebrating the festival of lights, Divali, which is on Saturday, and we felt it was inappropriate to have a sitting of the House of Representatives on Friday, October 16, 2009.

Several Members opposite have prevailed upon me, Mr. Speaker, and in the spirit of human kindness and compassion, and the spirit of Divali, the victory of light over darkness, we felt it was appropriate to have the sitting on Wednesday rather than on Friday, to allow Members of the Hindu faith, to go to their constituencies, comingle with their constituents, and celebrate the festival of lights.

I beg to move that this House be adjourned to Wednesday, October 14, 2009, to allow Members opposite to be with their constituents in the celebration of Divali on Friday.

Mr. Speaker: What time and what are you doing?

Hon. C. Imbert: The sitting shall be at 1.30 p.m. and we would do that Land Acquisition Motion that we were unable to do today. Also, in deference to the weather, I think it is appropriate that we adjourn at this time.

Mr. Speaker: Before I put the matter on the adjournment, as I said before, the hon. Member for Oropouche East is under the weather, so to speak, and he has to put this motion on the adjournment to the House, lest he is unable to return to his constituency. So, I have given him permission to raise this matter. I now call on the hon. Member.

Monkey Town Government Primary School (Construction of)

Dr. Roodal Moonilal (*Oropouche East*): Thank you so much, Mr. Speaker, for your mercy. I rise on a matter to be raised on the motion on the adjournment of the House, namely, the failure of the Ministry of Education and its related agencies, to begin construction of the Monkey Town Government Primary School, as per the commitment of the Ministry of Education in the Parliament.

The children, parents and community of Barrackpore, have been severely hampered over the years, not only by flooding and bad roads, but by the non-provision of basic services including education. It was in 2004, after an earthquake damaged the Monkey Town Government Primary School that the students, in the interest of safety, were placed at two schools: Picton Presbyterian Primary School and Debe Presbyterian Primary School.

Anyone familiar with this area of the country would know that those two schools are miles away from where the Monkey Town Primary School was located. What this meant was that our children in the primary school would have to get up very early in the morning at 4.00 a.m., 4.30 a.m., organize themselves at home; parents would have to rise and take them by taxi—two, three taxis in some cases—to far-off Debe and to the Picton Presbyterian school, which is on the corner of Diamond Village and the M2 Ring Road, and that posed a severe inconvenience.

Mr. Speaker, over the years I have been in touch with the principal of the Debe Presbyterian Primary School and the principal has been telling me about the trauma, the stress, and the distress of the children going to that school. When they get up at that hour—we are dealing with children five years to 10 years, 11 years—they fall asleep by 10 o'clock in the morning; they cannot prepare their homework properly; they cannot respond to the teaching environment. Those children are not in an environment where they can learn, because of their mental, and in some cases, emotional stress of travelling, and the physical stress it involves.

Apart from that, where the two schools are located—and the Debe Presbyterian Primary School in particular—are by no stretch of the imagination large buildings, well equipped and so on. They also have a resource challenge in terms of space for learning, for desks, chairs, recreation and so on. It is really a horrible position for the children of Barrackpore, lower Barrackpore and surrounding areas that they be placed at that temporary location.

Mr. Speaker, you will agree with me that 2004 to 2009, cannot be considered temporary; that clearly is not a temporary arrangement; that has become almost a

permanent arrangement. The Government, Ministers of Government and Ministers of Education from 2004, have all brought with them promises and commitments to attend to this problem and to construct indeed a new primary school.

6.15 p.m.

It was last year in April that the Member of Parliament joined the residents, the parents and the children to protest at Monkey Town and to come to the Parliament to protest and that is really a sign of the times. It was really a symbolic expression in a country; it tells you something of governance when children protest because they want a school. As young people we look on sometimes and we believe—

Mr. Speaker, please indicate to them that their role is to say yes at the appropriate time. [*Interruption*]

Mr. Speaker: Order!

Dr. R. Moonilal: It is really a sign of the times when children must protest because they want education. We want resources, we want computers and we want equipment. In my constituency, I am so proud the children protest because they want education. In other places we have the situation where children drop out of the school. They have the school and they do not go to the school. [*Interruption*]

Mr. Speaker: Order please!

Dr. R. Moonilal: In my constituency the children want the education. They protest, they demand education and facilities and the children came to Port of Spain in April 2008 to the Parliament and protested.

The President of the Parent/Teachers' Association at that time of the protest—April 2008 received a letter from the Ministry of Education signed by the Permanent Secretary, Ministry of Education, and the letter reads:

> "I wish to advise that the architectural designs for the new school has been completed and handed over to the Education Facilities Company Limited (EFCL). The company which is established to manage the construction"—that is why the Motion makes mention of agencies and so on—"this company has advised that an award was made to develop the design services for construction of the school. These designs are projected to be completed by August 2008 so that tender could be awarded for the construction around October 2008."

Mr. Speaker, this is October 2008. When nothing happened in October, November, December, January, February and March, in April the Member of Parliament for Oropouche East, representing the constituents in the Parliament—

and this is something we have to be a bit forceful on these days—filed a question that was duly answered. Mr. Speaker, some of the confusion going on in Oropouche is caused by the Member for Diego Martin North/East, who is always promising to fix roads and he asked us to send him a letter with all the roads to repair and not one single road was repaired and the people of Gandhi Village should be aware—[*Desk thumping*]

Mr. Imbert: Mr. Speaker, Standing Order 36(1)—

Dr. R. Moonilal:—that you promised to fix the roads—sit down.

Mr. Speaker: No, he is on a point of order.

Mr. Imbert: His Motion is about a school and he is talking about roads, totally irrelevant. [*Crosstalk*]

Dr. R. Moonilal: This morning they wanted to protest the roads and "it flood", so these problems are all related. [*Interruption*]

Mr. Speaker, in April—as I was telling you before the Minister took umbrage because he is failing to repair roads throughout the constituency—I filed a question to the Minister of Education, and let us focus on the Minister of Education and not the incompetence of the Minister of Works and Transport. [*Interruption*] Let us focus on a competent Minister of Education.

Mr. Imbert: Mr. Speaker, Standing Order 36(1)—

Dr. R. Moonilal: I asked the Minister of Education in May for the school—

Mr. Speaker: The Member has raised a Standing Order; please confine your presentation to what is before us, the Monkey Town Primary School, the failure to construct it.

Dr. R. Moonilal: Yes, Mr. Speaker. As I was saying before I was interrupted by the Member, I asked the following question in April 2009. With respect to the construction of the Monkey Town Government Primary School, could the Minister state the expected commencement date; the anticipated completion date and the estimated cost of the project? The Minister of Education, the hon. Esther Le "Gendery"—

Mr. S. Panday: Le Gendre.

Dr. R. Moonilal: No, I am not good with these kinds of things, you know. The hon. Minister of Education, Esther Le Gendre.

Miss Le Gendre: [*Inaudible*]

Dr. R. Moonilal: I got it, I got it; forgive me please. Mr. Speaker, I got it right, the hon. Esther Le Gendre, that is it? I learn that today. This is what the hon. Esther Le Gendre said, in response to the question asked. Part A of the question. The construction of the Monkey Town Government Primary School is expected to commence before the end of August 2009—I repeat that: the construction of the Monkey Town Government Primary School is expected to commence before the end of August 2009. The anticipated completion date for the project is by the end of November 2010 and the estimated cost of construction of the school is TT $26,933,487.48. This is the response of the Minister.

I want to indicate to the Minister, the Parliament and to those outside of Barrackpore that as of October 09, 2009 they have not dug a hole yet to start the school, they have not started mobilizing the equipment, resources, nothing could be seen to be happening there. I do not know what is the problem, whether it is the flooding, the rains, whatever is the problem, the parents are up in arms, the children are frustrated and before they take their frustration out on any innocent soul, I think it is timely that the Minister respond today in the Parliament and indicate clearly and categorically what is the status of this project. [*Desk thumping*]

We have also heard from the Minister and we have absolutely no grudge or hard feelings, but we have heard in recent times the Minister announcing that there will be an upgrade of eight primary schools and construction of eight ECC schools but there was no mention of Monkey Town Government Primary School. We have heard the Minister in a nice extempo style indicate that a state-of-the-art school is to be built at Arima. We are happy for the children of Arima. We would like to be happy for children of Oropouche East, but we are happy for the children of Arima, they are getting a school within 24 months at a cost of $32 million and the school has an administrative centre, a pan theatre and a computer room. Congratulations to the children of Arima. Could we get some good news now for the children of Barrackpore and Monkey Town so these parents will not have to suffer such distress in the near future?

Mr. Speaker, I want to tell the Minister that I have so far asked parents and the children to restrain themselves from further protest activity in Barrackpore. I have asked them to restrain themselves, regrettably. I could not have prevailed on the people from Gandhi Village because of the Minister of Works and Transport, but regrettably. [*Interruption*] Let me get back to Monkey Town, I have asked that the children and parents restrain themselves and I told them that on this evening on the Motion of the Adjournment they will hear some very good news, they should tune in to Channel 11 and 105.5 FM, because they will hear some good news from the Member for Tunapuna, the very distinguished and hon. Esther Le Gendre.

Thank you, Mr. Speaker.

The Minister of Education (Hon. Esther Le Gendre): Mr. Speaker, before I deal with the really substantive matter at hand which is a Motion relating to the building of the Monkey Town Government Primary School, I would just like to get a bit of irrelevance here out of the way. And that relates to the Member for Oropouche East, his suggestion that this is an issue about a set of roads that he has directed to the Minister of Works and Transport.

My understanding is that the issue of the roads and the condition of the said roads is a direct consequence of the incompetence of the Penal/Debe controlled UNC—[*Desk thumping and crosstalk*]

Hon. Member: She is responding, she is responding. Sit down!

Hon. E. Le Gendre: I am happy that nobody wants to know about it. [*Crosstalk*] But this is a direct consequence of the Penal/Debe controlled regional corporation. [*Interruption*]

Mr. Speaker: Order!

Hon. E. Le Gendre: It has been under the control of the UNC government for the last 20 years, and too, the roads in question are not the responsibility of the Ministry of Works and Transport.

But to return to the substantive issue. [*Interruption*] Mr. Speaker, I share the concern of the Minister for Oropouche—

Dr. Browne: He is not any Minister.

Hon. E. Le Gendre: Sorry, the "wanna be" Minister, I stand corrected. [*Laughter*]

Mr. Imbert: Oh, how unkind. [*Laughter and crosstalk*]

Hon. E. Le Gendre: But seriously, Mr. Speaker, I share the concern of the Member for Oropouche East in relation to the Monkey Town Government Primary School.

Promises were made to construct this school and I am still advised by the EFCL that the lengthy process which the Member has described is in fact complete and that a contract is to be awarded next month for the construction of the new school. [*Interruption*] This is the latest information I have.

The Member for Oropouche East should recognize that the construction of a school is not a today for tomorrow affair, and perhaps I should agree that it should not take as long as it did in this case. I agree that the students of Monkey Town Government Primary School are not currently housed in ideal circumstances, they deserve a new school of their own of the kind that is currently being built in the

new style of government primary schools and this is in fact the type of facility that is planned for the Monkey Town Government Primary School.

With regard to the need for demonstration and threats of putting little children on the line to come up to Port of Spain in a bus—[*Interruption*] there are avenues to express dissatisfaction and one of them is—

Hon. Member: You should not have brought them up here.

Hon. E. Le Gendre: The Member for Oropouche East, it is possible to use him as an avenue, he is always available. [*Interruption*]

I think as a people we really have—and I am glad you told me that the parents at Monkey Town are listening, because I really want to talk to them this evening and to ask them, through you and through the Speaker, what is the example we are setting for our children? [*Interruption*] That every opportunity for a discussion—is it that we have lost our ability to discuss issues or ability to reconcile issues through discussion and through understanding? Because the Member for Oropouche East cannot say nor can any Member on that side indicate that they have ever failed to be able to bring a matter for discussion to the Minister of Education. They can never say this. I have always been available, they can always get information as correct and as up-to-date as I can get it, so they have an open door for discussion for conciliation.

To so use the parents of these children for political gains and to so use and exploit little children to put them in a bus and bring them to Port of Spain when they should be in school, simply to support the political agenda of the Members, I would like to draw the line there. [*Crosstalk*]

Mr. Speaker, it is my hope that this matter could in fact be brought to a conclusion. As I indicated earlier, Member for Oropouche East, the process of design/tender/award is close to completion and if the award is in November 2009—nobody mobilizes in December—you can expect mobilization to begin in the first quarter of the new year, and thereafter a school of this size—it is usually an 18-month to 24-month schedule, I do not have that schedule before me. But one thing I can appeal to the Member for Oropouche, is that while the school is being constructed—[*Interruption*]

Hon. Member: He is a good Minister, not a good—[*Inaudible*]

Hon. E. Le Gendre:—we do ask for the understanding of the teachers and the student of the Monkey Town Government Primary School to just hold on a bit more and to be a little patient, so we can look forward to having a modern primary school,

which in addition to regular classrooms, will boast of a music room; a cafeteria where lunches that are provided by the State will be served; a tassa room—if you would like to use the pan theatre for that as well—but it is pan, tassa, it is music. There will be a fully equipped computer room; extra storage space for musical instruments as well as what does not exist now, an area for play. In other words, all of the equipment to ensure the holistic development of our children will be available.

Mr. Speaker, I beg to move. [*Desk thumping*]

Question put and agreed to.

House adjourned accordingly.

Adjourned at 6.31 p.m.

WRITTEN ANSWERS TO QUESTIONS

The following questions were asked by Dr. Roodal Moonilal (Oropouche East):

Housing Development Corporation
(Recipients of Wellington Gardens Homes)

91. A. Could the hon. Minister of Planning, Housing and the Environment state the number of recipients of Housing Development Corporation (HDC) homes who received keys at a ceremony on Saturday, May 30, 2009 at Wellington Gardens, Debe in the constituency of Oropouche East? and

B. Could the Minister also state the previous locality (not specific addresses) of all those applicants and indicate the date of application to the NHA by those successful applicants?

The following reply was circulated to Members of the House:

The Minister of Planning, Housing and the Environment (Sen. the Hon. Dr. E. Gaynor Dick-Forde): Nine recipients were allocated units and received keys at Wellington Gardens, Debe, in the constituency of Oropouche East at the presentation of keys ceremony held on Saturday, May 30, 2009.

The beneficiaries were previously located in the Alutrint Buffer Zone and had to be relocated to facilitate work in that area.

Housing Development Corporation
(Recipients of Hillview Gardens Homes)

99. A. Could the hon. Minister of Planning, Housing and the Environment state the number of recipients of the Housing Development Corporation (HDC)

units who received keys at a ceremony on Wednesday, June 10, 2009 at Hillview Gardens, Retrench Village, San Fernando? and

B. Could the Minister also state the previous locality (not specific addresses) of all those applicants and indicate the date of application to the NHA/HDC by those successful applicants?

The following reply was circulated to Members of the House:

The Minister of Planning, Housing and the Environment (Sen. the Hon. Dr. E. Gaynor Dcik-Forde): Fifty-five (55) recipients who were allocated units at Hillview Gardens, Retrench Village, San Fernando were invited to a symbolic presentation of keys ceremony on Wednesday, June 10, 2009. At that ceremony, one recipient received keys. This person was the sole beneficiary to have completed the assessment process to finalize the purchase of the units. All other beneficiaries were required to visit the HDC Head Office to complete their respective transactions toward the receipt of their new homes. It is to be emphasized that the allocation of housing units to citizens is only properly finalized when beneficiaries to complete the procedure for acquiring a mortgage or to finalize the rent-to-own transaction.

Since all housing applicants may indicate the general area in which they would prefer to be allocated upon application, beneficiaries of housing units under the Government's housing programme come from all areas in Trinidad, with a concentration sometimes in the area of the new development. Successful applicants from the Retrench Housing Development were no different. The successful applicants submitted application forms during the period May 2003 to August 2008. Members should note that all applicants for government housing were required to reapply in 2003.

The following question was asked by Mr. Jack Warner (Chaguanas West):

Piarco Refurbishment

106. With respect to the Piarco eastern and western extension and south terminal refurbishment, could the hon. Minister of Works and Transport state:

(A) The scope of works with respect to the above;

(B) The price for each item tendered with respect to the above;

(C) Whether there were any overruns and if so, state the total dollar amount of such overruns;

(D) Whether the work was completed on time;

(E) Whether the east and west terminal ramps were utilized by aircraft during the recently completed Summit of the Americas; and

(F) Whether works are still being carried out by any company and in particular any company within the Junior Sammy Group of Companies?

The following reply was circulated to Members of the House:

The Minister of Works and Transport (Hon C. Imbert): The scope of works for the Piarco eastern and western extension was the construction of 57,193 square meters of airport ramp space in accordance with ICAO and FAA standards, with a structural capacity to support the movement of the Boeing (B777) aircraft. The B777 is the design aircraft for the aircraft movement area at Piarco.

The major work items were:

(i) Demolition of the existing apron bituminous shoulder pavement and electrical lighting features;

(ii) Installation of new security fence and gates;

(iii) Demolition of existing security fence and gates;

(iv) Excavation to a sub-base level of 686mm (27 ins) below the existing datum;

(v) Placement and compacting of 153mm (6 ins) thick P209 sub-base;

(vi) Placement and compacting of 153mm (6 ins) thick P401 bituminous concrete base course;

(vii) Placement of 381mm (15 inches) thick P501 Portland cement concrete using a self propelled slipform paver without delay. The alignment and evaluation of the paver was regulated from outside reference lines established for the purpose;

(viii) The placement and compacting of 381mm (15 ins) thick surface course of hot mix asphalt in the taxi lanes to FAA P401 specifications;

(ix) Installation of apron edge lighting and pavement markings;

(x) Miscellaneous site finishes including expansion joints;

(xi) Heavy haul road construction for east ramp.

The major work items for the south terminal refurbishment were:

(i) Demolition of the finger pier and the gutting of the Immigration Hall and duty free shopping area and the demolition of the shops at the front of the terminal;

(ii) The construction of 1512 square meters of Portland cement concrete ramp in accordance with ICAO and FAA specifications;

(iii) Construction of an Executive Jet Facility and an Airport Security Surveillance Centre;

(iv) Expansion and paving of the car park area at the South Terminal.

The price of each item tendered with respect to the above:

Major Work Item	Tender Value	Final Contract Sum
North Terminal Ramp Expansion	$145,265,441.25	$140,550,581.13
Heavy Haul Road – East Ramp	$ 19,721,925.00	$ 4,500,181.50
Finger Pier Demolition	$ 2,875,991.25	$ 3,176,043.75
South Terminal Demolition and Ramp Construction	$ 10,694,380.00	$ 11,562,591.36
South Terminal Demolition and Ramp Construction	$ 10,694,380.00	$ 11,562,591.36
Executive Jet facility and Security Surveillance Centre	$ 52,000,000.00	Not Completed
Car Park Rehabilitation – South Terminal	$ 5,380,786.75	$ 5,310,015.80

There were no major cost overruns as demonstrated in the table provided in response to question (b) above.

During the demolition of the finger pier, additional works were identified. The execution of these works was approved by the authority.

Also, undocumented fuel lines were encountered during the ramp construction and additional works were required to protect the aviation fuel lines.

A significant cost saving was realized in the construction of the heavy haul road east ramp as the contractor introduced construction equipment and methods which only required partial construction of the heavy haul road.

The works listed under (a) above were completed on time within the contracted period.

Whether the east and west terminal ramps were utilized by aircraft during the recently completed Summit of the Americas:

The east ramp was utilized extensively by the domestic airbridge and provided parking for four Dash 8 aircrafts, one Airbus A 319 and Gulf Stream G-V. The west ramp expansion provided ramp parking for one Boeing 757, two Boeing 737s and one Gulf Stream G-111.

The additional ramp parking positions allowed the Airports Authority to accommodate all visiting aircrafts for the Fifth Summit of the Americas without disruption to regular scheduled commercial air traffic.

Currently the Junior Sammy Group of Companies through its subcontractor Airside Installation Limited is completing the installation of taxiway edge lights. These works are part of the Alpha Taxiway System Rehabilitation, 2008. The Scope of Works for this project was:

(i) Construction of a Haul Road parallel to Taxiway Alpha to safely permit construction traffic simultaneously with Aircraft Operations Full reconstruction;

(ii) Full reconstruction of isolated areas of the taxiway system that had exhibited signs of failure;

(iii) Hot Mix Asphalt Overlay of the Taxiway System;

(iv) Variable depth overlay of taxiway shoulder;

(v) Installation of taxiway lights.

The contract for the Alpha Taxiway System Rehabilitation was delayed to May 2009 due to the inability of Trinidad Lake Asphalt to meet the demands of the ramp expansion and the rehabilitation of the Alpha Taxiway System.

The placement of the Hot Mix Asphalt overlay was completed on July 03, 2009 and the installation of the Taxiway Lights is scheduled to be completed by September 30, 2009.