

*Leave of Absence**Wednesday, February 09, 2011***HOUSE OF REPRESENTATIVES***Wednesday, February 09, 2011*

The House met at 1.30 p.m.

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

Mr. Speaker: Hon. Members, I have received communication from the hon. Prakash Ramadhar, Member of Parliament for St. Augustine, who is currently out of the country. The Member has asked to be excused from today's sitting of the House. I have also been informed that Mr. Patrick Manning, Member of Parliament for San Fernando East, has asked to be excused from today's sitting of the House. The leave which the Members seek is granted.

**FINANCIAL INTELLIGENCE UNIT
OF TRINIDAD AND TOBAGO (AMDT.) BILL**

Bill to amend the Financial Intelligence Unit of Trinidad and Tobago Act, 2009 [*The Attorney General*]; read the first time.

Motion made, That the next stage be taken at a later stage in the proceedings.
[*Hon. Dr. R. Moonilal*]

Question put and agreed to.

PAPER LAID

Annual report of the Ministry of Science, Technology and Tertiary Education (MSTTE) for the period October 01, 2006 to September 30, 2007. [*The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal)*]

ORAL ANSWERS TO QUESTIONS

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, this afternoon we are also pleased to indicate to our friends opposite that the Government is in a position to answer all of the questions for oral answers. There are no questions on the Order Paper for written answers. We can proceed.

**Carenage Fish Market and
Waterfront Improvement Project
(Details of)**

- 42. Dr. Keith Rowley** (*Diego Martin West*) asked the hon. Minister of Food Production, Land and Marine Affairs:
- (a) Is the Minister aware that the initial projected completion date of the Carenage Fish Market and Waterfront Improvement Project was mid-year 2010?
 - (b) Is the Minister also aware that the Carenage Fish Market and Waterfront Improvement Project, which is in an advanced stage of construction, was halted before the projected completion date?
 - (c) Could the Minister state:
 - i. When will work resume on this project?
 - ii. What is the projected date of completion of the new Carenage Fish Market and Waterfront Improvement Project?

The Minister of Trade and Industry and Acting Minister of Food Production, Land and Marine Affairs (Hon. Stephen Cadiz): Mr. Speaker, in answer to question No. 42, item (a), the name of the project is actually the Carenage Fishing Facility. The project was under the Ministry of Community Development and was intended to be a fishing centre and waterfront recreational facility. The completion of this project was December 2009, as per contract, and mid-year 2010.

With respect to (b), the Carenage Fishing Facility is currently 55 per cent complete. Works were actually suspended in February 2010, because the then PNM administration could not find the necessary funds to complete the facility.

In answer to (c), it has been determined that this project better resides with the Ministry of Food Production, Land and Marine Affairs, which is responsible for fish landing sites in Trinidad. In this regard, the substantive Minister proposes to meet with the Minister of Community Development within the next two weeks, to discuss the time frame for handover. Thank you.

Mr. Speaker: Any supplemental?

Dr. Rowley: While we recognize that the project was stopped in early 2010, one of the reasons being change in scope of the project, is the Minister saying that

nothing has happened in the Government since February 2010 to date, on this project?

Hon. S. Cadiz: The question was—the substantive Minister would really have to answer that, and we have already said that it was actually stopped. The question was: When was it stopped? It was stopped in fact, in February 2010, because of a lack of funding.

Dr. Rowley: Mr. Speaker, if the Minister undertakes to answer the question, I expect him to answer the question. I never asked when it was stopped. I knew it was stopped. It was stopped in February 2010, because of change of scope and as you now say, lack of funding. I am asking you, since May to now, has anything happened with this project? That is all I am asking.

Dr. Moonilal: As a substantive—

Dr. Rowley: If you cannot answer—is the Minister in a position to say if anything has happened since May? [*Interruption and crosstalk*] Mr. Speaker, I crave your protection from the Member for Oropouche East.

Mr. Speaker: You have my protection.

Dr. Rowley: If I want to ask him a question, I put a question to him.

Dr. Moonilal: You are asking “stupidness” man! The man is acting Minister.

Hon. Members: No, no, no.

Mr. Speaker: Please, hon. Leader of the House, I call on you to withdraw those remarks. We have to conduct ourselves in a very courteous manner. I think we should never reach that point where we have to, across the board, make these remarks. Hon. Leader of the Opposition you may continue.

Dr. Rowley: Mr. Speaker, I understand that the Minister is answering a question which was not put to him directly. He is answering for the Minister of Food Production, Land and Marine Affairs. If he is unable to answer I will accept it, but I am asking him, since May of last year to now, this project, which was stopped in early last year, if anything has happened with it since then? If he does not know, he can simply say so and I will accept that.

Hon. S. Cadiz: Mr. Speaker, that is in fact another question. The question was whether or not the project was halted. Yes, the project was halted because of a lack of funds by the then administration. If the new question then is: “Was any work started after that?” that is a new question, and I am sure the Member for Diego Martin West knows that he can file another question if he likes.

Dr. Rowley: Mr. Speaker, I just want, for the record, to put to the Member for Chaguanas East—I never asked you if the project was halted. I knew it was halted. I am talking about the start. When will the project restart? Question No. 42(c) states:

“When will work resume?”

Do not keep saying I asked you then it stopped. I did not ask you that.

Mr. Speaker: Are you in a position to answer part (c)?

Hon. S. Cadiz: Mr. Speaker, as I have said for part (c), it has been determined that this project better resides with the Ministry of Food Production, Land and Marine Affairs, which is responsible for fish landing sites in Trinidad.

In this regard, the substantive Minister proposes to meet with the Minister of Community Development within the next two weeks to discuss the time frame for the handover.

PCN 466 Driven by Minister of Sport and Youth Affairs

(Details of)

45. Dr. Keith Rowley (*Diego Martin West*) asked the hon. Minister of Sport and Youth Affairs:

- (a) On what date and time was motor vehicle PCN 466 driven and damaged by the Minister of Sport and Youth Affairs?
- (b) When was the accident reported to the police by the driver and at what Police Station was the report made?
- (c) Who were all the occupants of this vehicle at the time of the accident?
- (d) What was the nature of the official assignment that the Minister was engaged in which involved the use of the vehicle on this occasion?
- (e) Has the vehicle been repaired as at January 12, 2011 and what was the total/estimated cost of the repairs and all associated expenses resulting from this accident?
- (f) From what vote were the expenses paid or are to be paid?

The Minister of Sport and Youth Affairs (Hon. Anil Roberts): Thank you Mr. Speaker. Motor vehicle PCN 466 was driven by me on Wednesday, October 06, on one solitary occasion, as my driver Mr. Narad Satram, was in excruciating pain and had taken two Motrin 800 mg and the car was involved in an accident at 7.10 p.m.

- (b) immediately at the scene and subsequently at the Chaguanas Police Station, also to the Ministry of Sport and Youth Affairs, the Comptroller of Accounts and the Auditor General.
- (c) myself and my personal assistant.
- (d) dinner engagement with members of the central sporting community at Chaguanas.
- (e) No.
- (f) Being a Ministry vehicle, the insurance company and the Treasury Division will handle the matter, as is the norm.

Just to add for further information, which I am certain the hon. Member for Diego Martin West meant to ask, but somehow failed so to do: were there any injuries to any citizens or to the Minister? No. Everyone is okay.

Dr. Rowley: Mr. Speaker, supplemental. Could the Minister answer part (e) of the question: “What is the estimated cost of repairs of a vehicle that was damaged October last year?”

Hon. A. Roberts: No repairs were done as pictured in *Newsday*, *Guardian* and all the other media after you made this a national issue. The Ministry vehicle is still there and the Ministry’s public servants are waiting to do their do, and as soon as an estimate is given by the Ministry officials, through the Comptroller of Accounts and the Auditor General, I will be certain to pass on that information to you.

Sport Company of Trinidad and Tobago (Details of Suspended Employees)

46. Miss. Alicia Hospedales (*Arouca/Maloney*) asked the hon. Minister of Sport and Youth Affairs:

Could the Minister state:

- (a) How many employees of the Sport Company of Trinidad and Tobago were suspended?
- (b) What dates were the suspensions effected and for how long?
- (c) What were the reasons for the suspensions?
- (d) The number of contracts that were terminated as a result of the suspensions?

The Minister of Sport and Youth Affairs (Hon. Anil Roberts): Mr. Speaker, with regard to part (a) of the question, none of the employees of the Sport Company of Trinidad and Tobago Limited was suspended.

Given the above answer, parts (b), (c) and (d) of the question are not applicable. Thank you, Sir.

**Upgrade of Recreational Grounds
(Details of)**

47. Miss Alicia Hospedales (Arouca/Maloney) asked the hon. Minister of Sport and Youth Affairs:

Could the Minister state:

- (a) When will the upgrade of the Henry Street, Arouca Recreational Ground, Clayton Ince Ground, Maloney and the Bon Air Gardens Recreational Grounds commence?
- (b) What were the original dates for the commencement of these projects?
- (c) What are the revised commencement and completion dates?
- (d) What is the reason for the delay in the commencement of upgrading these recreational facilities?

The Minister of Sport and Youth Affairs (Hon. Anil Roberts): Thank you Mr. Speaker. As soon as the independent consultants complete their assessment and analysis of all projects across Trinidad and Tobago and make their recommendations on the way forward to the board of the Sport Company, the board will act on its mandate to take sport to the people in an efficient, effective and transparent manner.

Based on the above, (b), not applicable; (c), not applicable; and (d), refer to (a).

Miss Hospedales: Mr. Speaker, the Member did not answer the questions. I would like to know when these projects would commence.

Hon. A. Roberts: Mr. Speaker, asked and answered.

Miss Hospedales: Mr. Speaker, the Member did not answer the questions that were posed to him.

Mr. Speaker: Could I have your silence and attention? The Minister has responded. Do you want to raise any supplemental questions?

1.45 p.m.

Miss Hospedales: What is the time frame for the review of those recreational grounds, Mr. Minister?

Hon. A. Roberts: The time frame for the consultant's review of all projects and recreational grounds is approximately six weeks.

**Tunapuna Piarco Regional Corporation
(Details of projects)**

48. Miss Alicia Hospedales asked the hon. Minister of Local Government:

Could the Minister state:

- (a) The number of projects undertaken by the Tunapuna Piarco Regional Corporation during June 1, 2010 to December, 31, 2010?
- (b) The total expenditure on these projects?
- (d) The names of the contractors employed to undertake these projects?
- (d) The list of new projects proposed by this regional corporation and their scheduled commencement dates?

The Minister of Local Government (Hon. Chandresh Sharma): Thank you very much, Mr. Speaker. Thank you Member for Arouca/Maloney, for asking a very good question.

For the first time in the history of local government every single—every single—local government practitioner, in the Tunapuna Regional Corporation has projects under its watch; the first time in the history of this country—33 projects. [*Desk thumping*].

- (b) Again, in keeping with the mantra of value for money, for these 33 projects, the sum of \$4,764,977 is being expended; again value for money.
- (c) The name of the contractors employed to undertake these projects are as follows: The first point to be made is that every one of the contractors that I am going to name, has been working for the Government for the last 20 years; very important continuity obtains.
 1. Jen Cam Limited.
 2. Sotheby's Development Limited

3. Fidea's Services Limited
4. St. Bernard Construction.
5. D & L Contracting
6. Price Masters Hardware
7. MNR Hardware
8. Second Crossing
9. Office Plus Limited
10. Modern Electrical Supplies
11. General Electrical Supplies
12. DEL Electrical
13. Pre-Mix Concrete Limited
14. Sat Sais Limited
15. Spancast Caribbean Limited
16. Office Plus—again, some have more than one contract
17. Mootilal Moonan Engineering
18. Lake Asphalt
19. Agri Mart
20. Nazoor Mohammed Contractors Limited
21. Bhagwansingh Hardware
22. Ann-Marie Rambally
23. Modern Fabricators
24. M K Asgarali & Sons
25. Neal and Massy Automotive
26. The WIZZ Computers Limited
27. New Worlds Electronics
28. PRW Enterprises

29. Metal Design & Concepts
 30. A Moses & Sons
 31. CMR & Company Limited
 32. PODS Marketing
 33. L & W Engineering
 34. Blue Waters Products
- (d) The list of new projects proposed by the Tunapuna Regional Corporation and their scheduled commencement dates are as follows: Again, to make the point, in every single electoral district which covers 10 constituencies, projects plural in every single electoral district all are expected to commence on March 15.
1. Third Street West Recreation Ground
 2. William Bailey Lane off Olton Road
 3. Third Street West
 4. Sixth Street East
 5. Orange Grove Road, that is in front of Atwell Educational Institution
 6. Fourth Street, La Baha Road
 7. Drain off Bellview Road
 8. Ramtally Trace
 9. Ramsaran Trace
 10. Marcus Road
 11. Maraj Street off First Street, Five Rivers
 12. Huggins Street, Tacarigua
 13. Mount View Road,
 14. Hodge Lane
 15. Sesame Street
 16. Ramkissoon Street
 17. Cool Avenue

18. Jokhan Trace
19. Valley View Drive No. 1
20. First Avenue off Pinto Road, Arima
21. Aripo Village
22. Piarco Old Road
23. Beharry Trace Extension
24. Upper Caiman Road, St Joseph
24. Albert Street, St Joseph
25. Abercromby Street, St Joseph
26. Boodram Drive
27. Forde Street off Waterloo Road
28. St John Street, Arouca
29. Old Golden Grove Road
30. Reid Lane Extension
31. Orange Grove Trace, St Augustine South
32. Chadee Street
33. Kingdom Avenue
34. Keskidee Avenue
35. Goya Road
36. Olton Road off Olton Trace
37. David Trace, Kelly Village
38. Knowles Street, Curepe
39. Ramjohn Street
40. Centenary Street
41. Road paving and extension of parking area at Caroni Cremation Site
42. Road paving at Streatham Lodge Cemetery Road
43. Upgrading of Hardial and Constantine Park

44. Upgrade of workshop and Transport building and this is May 1.
45. Supply of 3 Phase electricity to workshop—these are the local government buildings
46. Construction of market
47. Replacing of guttering and repaving of market flooring,
48. Procurement of major vehicles, May 1,
 - (a) 1 dump truck,
 - (b) water tender
 - (c) bob cat.
49. Disaster Preparedness—
 - (a) Purchase of vehicle, May 1.
Draft special development plan—
 - (a) Feasibility studies for new office building.

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

Miss Hospedales: Mr. Speaker, just for the information of the Minister of Local Government, he did not respond to the first part of the question, which asked for the number of projects that were done during the period June 1, 2010 [*Desk thumping*] to December, 31 2010. And he also I just want to get a little bit of clarification from him with respect to the response to part (c). Are those a list of businesses you all conduct business with, or are they a list of contractors that actually do small contracts or projects in the regional corporation?

Hon. C. Sharma: That is a very brilliant question. The names of contractors employed, this is your question to undertake the projects you have asked for, the names I have identified are the providers of same.

Miss Hospedales: Mr. Speaker, the Minister still has not answered part (a).

Hon. C. Sharma: Member for Arouca, let us go in the tea room and have some tea, we need to talk.

**Uff Commission of Enquiry
(Financing of)**

52. Dr. Keith Rowley: asked the hon. Prime Minister:

With respect to the financing of the Uff Commission of Enquiry could the hon. Prime Minister state:

- (a) The total cost, to the taxpayer, of the Uff Commission of Enquiry?
- (b) The total cost incurred by each state agency, quasi-state agency, including NIPDEC and central government entity which participated in the enquiry?

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, on behalf of the hon. Prime Minister, the response to part (a): The Office of the Prime Minister was responsible for all costs of the secretariat of the Uff Commission. In this regard the total cost of the secretariat was \$14,274,594.89.

- (b) The Office of the Prime Minister, Mr. Speaker, was not responsible for cost incurred by state agencies and quasi-state agency, in the fulfillment of their obligation resulting from participation in the Uff Commission of Enquiry. As a consequence, any question requiring the cost borne by state agencies and quasi-state agencies, is better directed to the appropriate agency or quasi-agency. [*Desk thumping*]

Dr. Rowley: Mr. Speaker, I just want to understand that the Government—is the Government saying that a question about the Uff Commission of Enquiry, which had a responsibility in the Office of the Prime Minister, the total cost of that enquiry ought not to be answered by the Office of the Prime Minister, is that what he is saying?

Dr. R. Moonilal: Mr. Speaker, the information supplied to us indicates that the Office of the Prime Minister was responsible for the secretariat of the Uff Commission, the cost has been stated earlier. However, the Office of the Prime Minister was not responsible for cost incurred in other state agencies, and the Member can simply file a question to the relevant state agency and have the answer prepared by that agency and line Ministry, for example, the Member named NIPDEC, of course. You can have the relevant line Minister responsible for that agency supply the information to the Parliament.

1.55 p.m.**DEFINITE URGENT MATTER****(LEAVE)****Dismantling Of The National Aids Coordinating Committee**

Dr. Amery Browne (*Diego Martin Central*): Mr. Speaker, in accordance with Standing Order 12 of the House of Representatives, I hereby seek your leave to move the adjournment of the House of today's sitting, for the purpose of discussing a definite matter of urgent public importance, namely, the irresponsible decision of the Government to dismantle the National Aids Coordinating Committee at a critical point in our nation's response to the HIV pandemic.

The matter is definite, as it has now been specifically referred to in pronouncements and media interviews emanating from the Office of the Prime Minister, to the effect that committee members and NACC staff who work under the Office of the Prime Minister, have learned that their positions will be terminated via the media as opposed to direct information sharing.

Mr. Speaker the matter is urgent, because the NACC staff, board members and stakeholders have been traumatized and confused by the absence of meaningful discussion and consultation by the abruptness of these pronouncements and by the Government's callous disregard for existing institutional memory and disregard for the commendable performance and accomplishments of the NACC and all of its partner agencies. [*Crosstalk*] Mr. Speaker?

Mr. Speaker: Order!

Dr. A. Browne: Mr. Speaker, the matter is of public importance because it has triggered the erosion of critical stakeholder commitment, it has already resulted in the migration of valuable staff to other fields of endeavour and it has led to serious uncertainty about the future well-being of persons living with HIV and persons at risk in Trinidad and Tobago.

In the absence of proper consultation and planning, this poor decision by the Government threatens the continuity and the stability of the national and regional strategic response to HIV. It must be viewed as a clear and present danger to public health and safety and it must be condemned by every right thinking citizen of Trinidad and Tobago. I thank you, Mr. Speaker.

Mr. Speaker: Hon. Members, this matter does not qualify under the relevant standing order and I would ask the hon. Member in question to raise that matter under Standing Order 11. Let us continue please.

**FINANCIAL INTELLIGENCE UNIT OF
TRINIDAD AND TOBAGO (AMDT.) BILL**

The Attorney General (Sen. The Hon. Anand Ramlogan): Thank you, Mr. Speaker, I beg to move,

That a Bill to amend the Financial Intelligence Unit of Trinidad and Tobago Act, 2009, be now read a second time.

Mr. Speaker, I rise today to make a contribution on this matter, which is before this honourable House, and that is the Bill entitled the Financial Intelligence Unit of Trinidad and Tobago (Amdt.) Bill, 2011. Mr. Speaker, the Financial Intelligence Unit of Trinidad and Tobago Act was passed and assented to on October 09, 2009 and proclaimed on February 09, 2010. This Act was enacted by the last administration to give effect to recommendation 26 of the Financial Action Task Force (FATF). A little background and history about the Financial Action Task Force, Mr. Speaker, for the record.

In 1989, a group known as the G7 comprising Heads of State of the world's major industrialized countries, comprising France, Canada, Germany, Italy, Japan, the United Kingdom and the United States of America, established the Financial Action Task Force at its 15th G7 Summit held in Paris. This Financial Action Task Force was set up in recognition of the threat that money laundering posed to the banking system, and the stability of financial institutions across the globe. The G7 Heads of State and the President of the European Commission, convened FATF which is the acronym for Financial Action Task Force, from the G7 member states and the European Commission and eight other countries. FATF was thereafter given the responsibility of examining money laundering methods and techniques, the trends, the methodology, and to review the action which had already been taken at the domestic and international levels, with a view to setting out measures and making recommendations as to how member states should combat money laundering in their individual respective jurisdictions.

In April 1990, less than a year after its creation, the FATF issued a report containing a set of some 40 recommendations, Mr. Speaker. These recommendations provided a comprehensive plan, an action plan as it were to fight money laundering. In October 2001, the FATF issued eight special recommendations thereafter deal with the issue of terrorism financing.

The continued evolution and development, the ingenuity of those who launder money, dirty money that they seek to wash and launder and clean, prompted FATF

to revise its standards to undertake a comprehensive review of the standards that should apply, to combat money laundering and the financing of terrorism in June 2003.

In October of 2004 FATF published a ninth special recommendation to further strengthen the existing international standards to combat the money laundering and terrorism financing. These recommendations are what we commonly refer to as the FATF 40+9 recommendations.

The FATF 40+9 recommendations are recognized by all the leading international agencies, Mr. Speaker, including of course the International Monetary Fund and the World Bank. It is generally accepted that these are the universal standards and criteria by which one would judge a nation that intends to combat the scourge of money laundering and financing of terrorism. Regionally and locally the FATF process was translated through the operations of the Caribbean Financial Action Task Force (CFATF). CFATF is an organization of 29 states of the Caribbean basin. They have agreed among themselves to implement common and standardized measures to address the criminal problem we have that afflicts the region of money laundering and the financing of terrorism. This was a commendable measure because individual nations in the Caricom—small as we—are particularly vulnerable given our special geopolitical position as a prime spot and country for drug transshipment between South and North America. The membership of the CFATF includes, Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Bermuda, the British Virgin Islands, Cayman Islands, Curacao, Dominica, the Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Nicaragua, St. Kitts and Nevis, St. Lucia, St. Martin, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, Turks and Caicos Islands and Venezuela.

Mr. Speaker, in November 1996, 21 members of the Caribbean Financial Action Task Force, entered into a memorandum of understanding, and that MOU now serves as the basis for the goals and work of the CFATF. In this document CFATF members agreed:

1. To adopt and implement the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.
2. To endorse and implement the CFATF 40 recommendations and later the nine special recommendations on terrorist financing.

3. To fulfil the obligations expressed in what is known as the Kingston Declaration, and where applicable, in the plan of action in the Summit of the Americas.
4. To adopt and implement any other measures for the prevention and control of money laundering of the proceeds of all serious crimes as defined by the laws of each member state.

2.05 p.m.

Mr. Speaker, by virtue of Trinidad and Tobago being a signatory to the MOU and its membership in CFATF, we are therefore duty bound to honour our commitment to enact laws that would give life and meaning to the recommendations of the Financial Action Task Force.

Recommendation 26 of the FATF bears particular significance to the debate today, as it requires all countries to establish a body that will serve as a national centre that would collect, analyse and disseminate any suspicious activity report and other information regarding potential money laundering and drug-related activity that can lead to terrorist financing.

Mr. Speaker, the Financial Intelligence Unit of Trinidad and Tobago sought to establish by statute, a department within the Ministry of Finance to be called the Financial Intelligence Unit. Under section 8, the FIU has the primary responsibility:

“...for the collection of financial intelligence and information and the analysis, dissemination, and exchange of such financial intelligence and information among law enforcement authorities, financial institutions and listed business in Trinidad and Tobago and internationally.”

Mr. Speaker, the sharing of information is of critical importance, because there are some smaller member states in Caricom that may be more vulnerable than Trinidad and Tobago. Having regard to the size, and what drives the economy, one only has to look outside and see what has happened to the Antigua and Barbuda economy in the wake of the Allen Stanford disaster. We have a duty in Trinidad and Tobago because we are the centrepiece of the Caribbean and we are the most southerly of the Caribbean Isles, and given our closeness to South America and the established linkages we have with North America, we are a major transshipment point, not just for drugs and illegal substances, but also for money. That is why the Financial Intelligence Unit was set up to monitor and detect when there is suspicious activity and share that information, after it is collected and analysed to share financial intelligence with other countries and other agencies.

Now, the term “listed business” outside of banks, is one that is of relevance to today’s debate, because what this amendment seeks to do is to introduce a supervisory jurisdiction in the FIU, because you can collect, analyse and disseminate, but for real financial intelligence to be useful in the fight against crime and to prevent money laundering, one has to have some monitoring mechanism to monitor, supervise and regulate certain types of businesses that have become prone and conducive to cash dealings. Mr. Speaker, what are some of these businesses?

Mr. Speaker, real estate. In our region, there are persons who come out of nowhere and they purchase prime properties, and no one asks the question, “Well, where did that money come from?” In fact, in Trinidad and Tobago, we have situations where people have purchased properties, and these properties run into hundreds of thousands of dollars if not, millions.

Mrs. Gopee-Scoon: Ask the Member for Chaguanas West!

Sen. The Hon. A. Ramlogan: The Member for Point Fortin said that she has one such—

Mrs. Gopee-Scoon: Mr. Speaker, apart from the fact that the Member is imputing improper motives, it is an entirely erroneous statement, and I would like the Member to withdraw it please.

Miss Hospedales: Withdraw it!

Mr. Sharma: Nonsense!

Sen. The Hon. A. Ramlogan: Well, I do not know that it is imputing improper motives to say that the hon. Member for Point Fortin has such but—

Mr. Speaker: Talk does bring—but I understand what she said. *[Interruption]* Members, could I have your attention? I would like Members to avoid the crosstalk, because that is what brings responses that could be very injurious to people’s conduct and good character. So, I would like the Attorney General—I know that you have made a remark that apparently offended the hon. Member for Point Fortin, and I would like you not to proceed along that line. If she feels sufficiently aggrieved, if you would be kind enough to withdraw those remarks and let us move on.

Sen. The Hon. A. Ramlogan: I withdraw the remark that the hon. Member for Point Fortin owns a property that may be worth a million dollars, if that makes her happy.

Mr. Speaker, we live in a country and in a region where cash dealings in the real estate market is a medium and a vehicle through which dirty money can be cleaned up and put back into the system, because no one monitors who is buying property, where they get that money from and, more importantly, the fact that they buy it and sell it back very quickly.

Recently, you would have seen that the People's Partnership administration took a step to auction off certain properties. I was amazed when I saw the cost of those properties. Amazed! How could it be in a country like ours, that a man who does not have a payslip; a man who does not have a proven legitimate source of income; and an organization that is not known to be involved in legitimate, commercial and entrepreneurial activity, could be buying properties all over the country willy-nilly, and costing millions of dollars?

You see, Mr. Speaker, outside of that, when these properties are bought, in some cases, they are bought for the purpose of reselling, because that is how you clean up the money. So when someone asks, "Where you get that money from?" You say, "Well, look, ah sell meh property." What no one asks is, where did you get the money to buy the property that you sell in the first place? Do you understand, Member for Point Fortin?

Motor vehicle sales; money or value transfer services. Mr. Speaker, no one is regulating the money transfer industry. How much money is leaving our country or coming into this country via that mechanism of money transfer? It has become a useful substitute and a convenient alternative for wire transfer using the banks.

Gaming houses, pool betting, national lotteries and online betting games: Mr. Speaker, you know, there are some persons who placed a lot of money and consistently bet on a certain number. "Dey mind ah mark," in local parlance. They "mind" that mark because the mathematical balance of probabilities is such that "the mark bound to buss" or you must call the number. When that number calls, they do not mind losing. You could lose, because if you bet \$100,000 that you get through illegal activities, and you bet it every day and one day "the mark buss" and you win, that is legitimate money. Nobody knows that you have spent X amount of money to earn and win the jackpot, but you win the jackpot and then you say, "Ah ha, ah could buy ah property", and the property you buy, there is where you get the money from. So it is another way to clean up the dirty money.

Jewellers and private members clubs: For example, when a gold chain is snatched off a man's neck that was passed down from generations or that he worked hard to buy, where is it going? Is the gold being melted and is it appearing

from or in pawn shops? Are we looking into it? The persons who are snatching people's chains and thieving gold chains and grabbing their emblems off their vehicles and so on, if they do not have anywhere to sell these things and there is no market for them, then that will suck the blood out of the tree of crime; it sucks the blood out of the system.

Accountants, attorneys-at-law and other independent legal professionals—art dealers, trust and company service providers: Mr. Speaker, this is a very important step, and I am proud that the People's Partnership is prepared to take it.

When you travel to rural parts of the country, sometimes you see individuals who have accumulated such tangible wealth that the ostentatious manner of their lifestyles and their standard of living leaves you in awe and amazement, because these are the same individuals who have no jobs and no source of income. It is no secret, for example, that a number of persons who have been suspected of being involved in the drug and narcotic trade have suddenly appeared as the owners of big beach houses that they have converted into hotels.

Supermarkets: There are supermarkets and retail/wholesale stores—whether it is clothing, supermarket or whatever you want—have 20 and 30 persons employed and nobody knows how they paying those persons. If you stand and watch, nobody is going to buy. So one wonders where they are getting the money to pay their staff.

You have the supermarket business where big supermarkets are selling food items and other items next to nothing. Sometimes you talk to some of the genuine competitors and they are closed down. They say to you, "Listen, this is what I am buying this for and this is what I am selling it for, and that fellow is selling it for X price." When one checks it, he is either selling it for the cost price to make no profit or the cost price plus a little two per cent. It is inherently incredible, and it makes no economic sense. What they are concerned about is having a huge supermarket. So people would see many cars in the car park and people buying and they are purchasing plenty to generate the perception, the idea and the impression, that they have money because they have big business.

In some cases, I am advised there are some persons who are involved in the illegal criminal activity, and they have five and six maxi taxis on the road and people are working them. People and working them and they say, "Well, look, ah getting money to fund my lifestyles, because ah have maxi taxis on de road."

Mr. Speaker, FATF mandates a country to ensure that these listed businesses are subjected to an effective system of monitoring to ensure compliance with the requirements to combat money laundering and terrorist financing. It is only when

a jurisdiction has a functioning effective system and supervisory regime for financial institutions and listed business, that it can say it has protection and safeguard against the risk of financial crime and, in particular, money laundering and terrorist financing.

Mr. Speaker, the crux of this matter and what prompts this amendment is to be found in section 34 of the Proceeds of Crime Act. Section 34 mandated that the FIU shall be the supervisory authority for financial institutions and listed businesses. So the Proceeds of Crime Act stipulates that the FIU shall be the supervisory authority. The problem is that the FIU Act, when it listed the functions of the FIU, did not list amongst its function, that of a supervisory function over listed businesses and financial institutions as it were.

Mr. Speaker, this amendment really is to facilitate what is an inchoate state of the law whereby the Proceeds of Crime Act sought to invest a statutory duty and responsibility and impose it on the FIU, but the FIU Act itself, as a parent and governing Act could not receive or accommodate such power, because the parent Act did not list among its functions, powers and duties of the FIU, a supervisory jurisdiction. So this amendment will allow for the expanded remit and jurisdiction of the FIU to create a supervisory jurisdiction where none existed before.

2.20 p.m.

Mr. Speaker, this amendment is one that is an integral part of the Government's fight against crime, because we are fighting crime not just on the ground and we are not just interested in bringing down the unacceptable homicide rate, but we are also interested in fighting crime at the white-collar level, that is why we brought the Anti-Corruption Bill, which is now before a Joint Select Committee. But the idea is, if you do not catch the criminals in the act of committing the crime, if you are able to prevent the criminals from tasting and enjoying the fruits of the crime then we will stop the lifeblood that is driving this criminal activity.

So, Mr. Speaker, it is the approach of this Government towards solving the crime in this country, to destroy and attack the very tree from which the poisonous fruit of crime has sprung. We intend to attack that, unlike the previous administration where their approach seemed to have been to fertilize the tree by treating them as community leaders and fertilizing them, as the learned Member from Diego Martin Central says—fertilize the tree—by taking them to Crowne Plaza and feeding them—feeding them, giving them breakfast with the Prime Minister—“breakfasses” with the Prime Minister and elevating their status as

community leaders. That is fertilizing the tree of crime. This Government says no to that; we want to chop down that tree.

You see, Mr. Speaker, if they cannot enjoy and taste the fruit of the crime, the crime will stop. Money laundering is where they take the illegitimate proceeds of criminal activity through a series of activities and try to convert the illegitimate funds in their possession as though they appeared and sprung from a legitimate source. And this has the potential, Mr. Speaker, to destabilize the financial sector, to affect the country's economic development and to derail the financial services industry as a whole.

Mr. Speaker, when that money is laundered, it sustains the existing criminal enterprise, but it also allows for the criminal enterprise to expand—to diversify its operations. That is why certain organizations that are suspected of being involved in criminal activity, when they could provide meals, when they could treat the young people nice, that is how they induce and entice them into their organization so that the money is being used to sustain criminal activity and to expand and develop the criminal enterprise.

When a gang leader goes out to a night club and carries about 15 young men with him and he takes out a wad of money, about \$20,000 in cash and slams it down and says bring drinks for everybody, bring food for everybody, you are getting food, drinks, girls and a good time. They are inspired, they are inspired and they look up to that person as a mentor in awe and amazement and that person moves into hero worship status and that in part is what is attracting the young people, because the gang leaders and the drug traffickers, what they drive, what they wear, where they go, how much they spend and the company they keep, is what is influencing the youths to go with them and choose a life of crime because they are showing and demonstrating by their ostentatious lifestyle that crime pays.

Mr. Speaker, Trinidad and Tobago is in a very peculiar position. We are located geopolitically between the illicit drug-producing countries and illicit drug-consuming countries, South and North America, and this increases our vulnerability to money laundering. It is therefore imperative that we take steps to deal with this in an effective manner and to counter the measures that the criminals are putting in place to constantly bob and weave and outmanoeuvre the system. You tell them that they should declare their source of funds when they are making a deposit in the bank—no problem—we go down the road in the mall and we do it in a little Western Union money transfer—no big deal.

You see, Mr. Speaker, if we are to effectively deal with crime, we need to strengthen the mechanisms to pursue money laundering offences and to unearth

the financing of crime. If we stop the financing of crime it will help us to solve the crime problem.

Now, Mr. Speaker, this is not just about money laundering, it is also about curtailing the financing that is going into financing terrorist activities. We must not forget that Trinidad and Tobago for a small country has had the blemish of having one of its citizens convicted in the United States of America recently on terrorist related offences, for blowing up a plane. We must not forget the storming of this very Parliament in the attempted insurrection and we are seeing what is coming out now in the commission of enquiry that is dealing with that. The commission of enquiry incidentally, many criticized it, and today, the decision of this Government to announce and introduce that commission of enquiry is already bearing fruit. They criticized that commission of enquiry. The PNM never wanted a commission of enquiry into the attempted coup of July 1990—never wanted it.

You know, Mr. Speaker, financing of terrorism is the lifeblood of terrorist activities. The methods and practices of terrorism in all its forms and manifestations are aimed at the destruction of fundamental human rights, freedoms that we enjoy and the very concept of democracy. It threatens our territorial integrity, our very sovereignty, the security of the State, and destabilizes legitimately constituted governments. Who can forget when the drug cartel in Colombia was so brazen and boldfaced that it unashamedly offered to pay off the national debt of the country, if the Government would leave them alone to run the drug trade? That is how bad it is. That is how bad it is.

You see, Mr. Speaker, if the terrorists have no access to funding then that would compromise their ability to threaten national security. So this amendment will safeguard the integrity of both the public and private sector, the banks, all of the listed businesses; protect them from abuse and misuse and exploitation. It would put an end to the manipulation that is taking place whereby they get around and bob and weave and get around all the laws. It will introduce and increase their level of transparency in the financial system and it will assist in the investigation and prosecution of money laundering and terrorist financing offences. It will also, I hope, assist in the recovery of assets that are gained from illicit crime and activity. The sector that the FIU will supervise has been unregulated and unmonitored for far too long, Mr. Speaker, and this amendment will bring us in line and into compliance with the FATF recommendations.

Mr. Speaker, the cross-border aspects of money laundering and terrorist financing—compliance with global standards for the combating of money laundering and terrorist financing is imperative. The cross-border transactions, Mr. Speaker, are very very important. There are people who are leaving to go to

Tobago on the ferry, and toting bags of money and “man” flying to Tobago to meet them and collect them, and they are going.

So we have to be very careful and we have to monitor the activities of the criminals because the money from crime—There are criminals in this country who own more property outside of Trinidad than they own in Trinidad because they understand now that the banks regulations and when this comes you may see a capital flight. But we have to monitor it because we have linkages and have deepened our relationship with other international law enforcement agencies, and those agencies, and the ones that also share financial intelligence information with the Government of Trinidad and Tobago and its security agencies. So we will track the movement of that money and we will be able to trace those funds and if you cannot account for them and you do not have a legitimate source you will have to explain why you should not be charged and prosecuted.

2.30 p.m.

Mr. Speaker, permit me to say for the record what a gamble and huge risk the former administration took with this country’s economic and reputational viability, because we find ourselves in an unenviable and embarrassing position as a result of the failure to introduce this amendment when the Proceeds of Crime Bill was passed and the Financial Intelligence Unit should have been, concurrently almost, amended.

In 2005 there was a mutual evaluation carried out on Trinidad and Tobago by CFATF, and in 2007 Trinidad and Tobago was found to be partially compliant or non-compliant with 15 out of 16 key and core recommendations—15 out of 16. Trinidad and Tobago was subsequently found to be partially compliant and non-compliant on 26 other FATF recommendations; 15 out of 16 and then 26. Among the reasons given for this non-compliant rating was the failure of the Government to develop the legislative framework and architecture to give life and meaning to the FATF recommendations.

Mr. Sharma: Another failure of the PNM!

Sen. The Hon. A. Ramlogan: The legislation was not brought to Parliament until 2009. Remember the mutual evaluation that highlighted our deficiencies was conducted in 2005; so in 2005 they knew that this country was deficient with respect to its non-compliance with FATF recommendations.

They took four years, knowing that the country’s international image was at stake, knowing the economic repercussions and implications for the country; from 2005—2009 they did nothing about it. It was only in 2009 that they finally

Financial Intelligence Unit (Amdt.) Bill
[SEN. THE HON. A. RAMLOGAN]

Wednesday, February 09, 2011

brought legislation and introduced the Financial Intelligence Act of Trinidad and Tobago. It was brought to this Parliament in 2009, but they knew that they had to do that since 2005. What were you doing for four years? [*Desk thumping*] For four years, while they were wining and dining the gang leaders, and treating them as community leaders, all that time they refused to bring legislation to comply with the Financial Action Task Force recommendations, and they put this country's international reputation and economic viability at grave risk.

Mr. Sharma: The PNM really has no intelligence!

Dr. Moonilal: What was David "East" doing?

Sen. The Hon. A. Ramlogan: Mr. Speaker, one would have thought that the threat of international economic sanctions that were looming large over Trinidad and Tobago—I know my learned friend, the hon. Member for Diego Martin North/East—[*Interruption*]

Mr. Sharma: "Do not say 'learned'; yuh spoiling dat word."

Sen. The Hon. A. Ramlogan:—quick to talk, yes, my friend—not learned—quick to speak about blacklisting. I want the hon. Member to say why they took four years to bring that legislation. He may be very familiar with the concept of blacklisting, because they almost got this country blacklisted. That is the reality. [*Crosstalk*]

It seems as though a smokescreen was created to give the appearance of compliance, when, in truth and in fact, they lacked the political will to comply with the FATF recommendations; that is the reality. Permit me to explain what I mean by this.

When that mutual evaluation exercise was conducted on Trinidad and Tobago in 2005, four years later they brought the FIU Act, but that Act mandated they must have a director in place. The section which governs the appointment of a director to the FIU is section 3 subsection (2). Subsection (2) reads as follows:

"The FIU shall consist of such number of suitably qualified public officers including a Director and Deputy Director as may be necessary for the performance of its function and may include—

- (a) a public officer appointed, assigned, seconded or transferred from another ministry or statutory corporation to the FIU."

So to be transferred to serve in the FIU you must be a public officer serving in a ministry or a statutory corporation. That means the Public Service Commission appoints you or a second category:

“(b) officers and other persons appointed on contract by the Permanent Secretary of the Ministry of Finance.”

That is what the law requires.

So in other words, to be eligible to be appointed either a director or deputy director of the FIU, the law they brought to this House belatedly, after four years, had within its contemplation, that you must be a serving public officer, someone appointed by the Public Service Commission or you could be seconded or transferred or, alternatively, you must be a public officer on contract, appointed to serve under the hand of the Permanent Secretary in the Ministry of Finance. Those were the two categories.

They knew that the FATF recommendations were about dealing with money laundering and terrorist financing; they knew that. They took four years to bring the Act. They knew in the law that they passed, with their majority in Parliament, this was required. They also knew that if they appointed a director and operationalized that FIU, that could have had implications for certain relationships they may have enjoyed at that time.

We must not forget that it took this Government to issue a summons for sale to sell the properties belonging to the Jamaat al Muslimeen. [*Desk thumping*] We must ask the question, why they did not do it? We must ask that question in light of the allegations referred to in the affidavit of Mr. Bakr and the fact that Justice Rajendra Narine, as he then was, asked the police to investigate the matter, because there was the allegation of a political conspiracy and a political deal attached whereby, in exchange for support, they would work the marginal seats and intimidate voters and, in exchange for that, they would not enforce the judgment that the State already had in its hand.

We sold those properties in the short space of six months, and they were there for eight years and did not do it. What did they do when they passed the law? Having passed the law, they could have appointed a director or deputy director. This is what they did. You could appoint a director or a deputy director, and the person must be a public officer. The PNM Cabinet took a decision on February 25, 2010, to appoint an individual, Mr. David West who was, at the time, working in the Ministry of the Attorney General on a consultancy arrangement and who was a private practitioner. With a little, clever, fancy footwork, they appointed him, not Director, not Deputy Director, because the law would not have supported such an appointment—hear this one, “Director Designate”.

Mr. Sharma: What a shame!

Sen. The Hon. A. Ramlogan: The law that you passed made no provision for Director Designate. It made provision for a director and deputy director. You could even appoint someone to act as director or deputy director. You could appoint someone to act, but they could not appoint Mr. West to act, because he was not a serving public officer with a contract from the Permanent Secretary in the Ministry of Finance. They could not appoint him to act. They could not appoint him in a permanent substantive post. So what did they do? They sidestepped, they bobbed and they weaved and came up with the not-so-clever, disingenuous method of appointing him a Director Designate.

More than that, having appointing him Director Designate, they proceeded thereafter—correspondence I saw at my Ministry was not signed by the Director Designate. The correspondence is signed by Mr. West, Director. Letters I have in my possession, August 25, 2010, letters to the Permanent Secretary in the Ministry of Finance; letters of September 01, 2010. When you are appointed to act in an office, the convention is that when you sign your name, you put your name and “Ag.”—“not Attorney General, doh get tie up; doh get any ambitions there.” [Laughter] You put “Ag” to show that it is an acting appointment that you have.

This man could not put “Ag.”.

Mr. Sharma: That is mischief in public office.

Sen. The Hon. A. Ramlogan: He could not put Ag. because he was never appointed to act, and he could not put “DIG”, because somebody “might ah dig” and found out what was really going on. He was Director Designate. A director designate in law could never sign as director. You never appointed a director. You put the man in the unenviable and embarrassing position where he was not a director, he was not a deputy director, he was not acting, he was not fish, fowl or cockroach. “So all yuh string him up and leave him there to sign falsely that he was director.” He was signing in the capacity of director, when he was not. [Crosstalk] That is what they caused, and they never did anything about it.

That was why I made the point, they wanted to give the appearance that something was being done, because we were going to be blacklisted, but nothing was, in fact, done. They created a smokescreen, but behind that they continued to wine and dine the gang leaders in Crowne Plaza, with the Prime Minister of the day, whilst the security services had to watch them. “De same man dey run down, de same man dey running down last week and last month, de same police have to stand guard now while they eat food with knife and fork, with the Prime Minister of the country in Crowne Plaza.” And they want this country to forget that. The country will never forget or forgive you for what you did, never. [Desk thumping]

You see, Mr. Speaker, more than that, they did not just create a smokescreen, but they undermined the very foundation and integrity of the legislation. Because the law required an independent person to be the director of the FIU, that is why it says a public officer; an independent person who could not really be compromised.

Look at what they did poor Mr. West; he is a good “fella”; I have nothing against him; I know him. He is a very competent “fella”, but poor Mr. West. He had a private practice. He had resigned from the public service. He was a consultant at the Ministry of the Attorney General. He was a consultant selected by the former Attorney General, brought in there. While he had his private practice and was a consultant in the Ministry of the Attorney General in the Central Authority, he was given responsibility as Director Designate of the FIU.

“So he reporting to the Attorney General, who is de boss, and he have access to all the sensitive financial and intelligence information.” Connect the dots and see; if that is not a conflict of interest, I do not know what is.

“If I, as Attorney General, were to pick, were to pluck and handpick a private practice person, a lawyer from private practice, gih dem a contract, come and take a consultancy wuk; gih dem a little 30, 40 grand a month. He eh have to come to work eight to four, because he have he private practice to run, and while that going on, I say, ‘Ey, ting running real good; I go gih you a next wuk, FIU Director Designate, DIG, and you dig so.’ So he wine to de side and he wine to de next side and he remain in the middle too.” He had the best, not of two worlds, but of three worlds.

2.45 p.m.

The conflict of interest—the conflict of interest, Mr. Speaker, undermined the very essence and spirit of this legislation. And that is what they did. That is what they did.

You see, Mr. Speaker, eventually when they introduced the legislation—They introduced the FIU legislation in May 2009, and in the middle of the debate on June 3, under the disguise that they wanted to listen to the Opposition, they halted the debate. Convenient! And the debate was not reconvened until the end of September, beginning of October. So that even when they brought it, they brought but as they were about to finally overtake the bull cart, they were easing up on the X and they were dipping, they were dipping on brakes, because they were reluctant, for some reason to pass the law with teeth, to deal with financing of terrorism and money laundering.

You see, Mr. Speaker, eventually the debate was reconvened in September/October, and then it was rushed through Parliament in a matter of days. But what they did not say and reveal to the Parliament at that time, was that they had a plenary session of the Financial Action Task Force that was convened in Paris from October 14 to 16, and Trinidad and Tobago was going to be blacklisted.

That was eventually the only reason they even brought the legislation. Since 2005 you know we were not complying. You waited four years but even then it was not any charity, or pangs of conscience that prompted them to bring it, it was the fact that they were on the brink of the precipice and the country would have been blacklisted. When they eventually brought it, that is what they did.

You see, Mr. Speaker, apart from undermining the Financial Intelligence Unit, what they did further was this: Section 15 of the Financial Intelligence Unit Act provided that the responsibility of investigating these reports—this reports of suspicious activity and so on—was placed on the shoulders of the Commissioner of Police. And under the PNM the reports were submitted for investigation to the financial investigations branch which did not operate under the Commissioner of Police.

This is what the people have to understand in this country. They keep saying, “Do talk bout we; no, we have to talk about all yuh”. We must remind this country what you did. After they took four years to bring the legislation, and they made a director designate, which an illegal appointment, after they did that, they then took the responsibility away from the Commissioner of Police—this is for investigating the reports—they took it away from the police service and they put the investigation of those reports, to be done by the financial investigation branch, which was housed not with the police service but the illegal entity called SAUTT.

SAUTT’s director at the time reported directly to the Prime Minister. So the independent office of the Commissioner of Police could not investigate those financial reports. So when financial intelligence came about and suspicious financial activity was detected, instead of the Commissioner of Police investigating it, that was going through SAUTT direct to the hon. Member for San Fernando East.

So they could then pick and choose what they wanted to investigate, who they wanted to investigate, why they wanted to investigate them, and how much they want to investigate them. It was arbitrary.

Why did you take this, even though the law that you passed in this Parliament, you passed the law that says in section 15 that the responsibility for investigating these reports is that of the Commissioner of Police? I want to ask my learned friends on the other side, why did you remove it from the Commissioner of Police and put it in the illegal entity called SAUTT that you again never brought legislation to this House to regularize? That is what you must answer.

As if that was not enough, the Counter Drug Crime Task Force, which was responsible for conducting investigations under the Proceeds of Crime Act, was dissolved by their Cabinet in 2010. They dissolved it. The Counter-Drug Crime Task Force—counter drug; that means you are against drugs—they dissolved it and they placed it with the organizational structure of the infamous SAUTT, you see.

So everything that was independent to have the ultimate puppet master, the ultimate puppet master to have him in the back, controlling everything, and practising the art of ventriloquism, what they did, was to constantly tie one more string to each of his fingers through the entity of SAUTT. That is why they created SAUTT. You took the Commissioner of Police out of the picture, you took the Counter Drug Crime Task Force out of the picture, is it any wonder that crime mushroomed and skyrocketed to the astronomical proportion that it did under the PNM?

Mr. Speaker, the Counter Drug Crime Task Force had been operating as a de facto finance intelligence unit for years. And that Counter Drug Crime Task Force had been internationally recognized as an effective agency. Their advice and expertise was sought by other jurisdictions; even when the FIU itself was in its infancy, and its embryonic stage. So, Mr. Speaker, is it any wonder that in the last 10 years there has not been a single conviction for money laundering in this country?

Mr. Speaker, whilst the former Government was engineering schemes to ensure that all financial investigations were under their control, Trinidad and Tobago's international reputation was being sullied. A gap, a chasm of international unease was growing, and Trinidad and Tobago's reticence to join globally, to join the global fight against global crime, money laundering and terrorist financing, was noted with concern by many persons. People were talking about this country, "bad talking" the country; wondering why we did not want to fight drug trafficking, money laundering, and financing of terrorism.

In February 2010, under the PNM, Trinidad and Tobago was placed by the FATF on a list of countries with strategic AMLCFT deficiencies; in February, under the PNM. They knew about it.

Mr. Speaker, this is what we inherited. Because they will be quick to say, “Well, you and in power for nine months and you now come”. Mr. Speaker, to unravel the complicated and convoluted mess, and the structures they have created within SAUTT, bypassing the police service and setting up all sorts of parallels—any time the PNM wanted to avoid the law they created a parallel structure. Anytime! They did not like the public service, and the independent service commission, they created special multi-purpose companies to bypass it. They did not like anybody in a particular position, brought a contract worker. That is how they did it.

The Central Authority is a position, the head of the Central Authority, that position is a position on the establishment of the public service. They did not fill it, but they had somebody on a consultancy private arrangement from private practice.

They mastered, and they were masters of the art of the science and technology of corruption. They corrupted the system. Masters in the art of deception. Telling the whole world that you appoint a director and omitting the word “designate”, and omitting to tell the whole world that you made an illegal appointment! Illegal appointment. And covering it up by having the man signing as director. Covering it up! And you have the unmitigated gall and temerity to cast aspersions on us on this side of the House!

Mr. Speaker, our Caricom neighbours experience a lack—Mr. Speaker we have been brought to the brink of the precipice because of their own inaction and as a responsible Government we now have to clean up the mess.

2.55 p.m.

Mr. Speaker, the herculean efforts of the hon. Ministry of National Security who sits in the other place, who had to go and meet with the FATF officials and explain that we are a new Government, this is what we have inherited and we are now moving expeditiously and assiduously to try and put things in place. Mr. Speaker, they set up interviews and all sorts of things but they did not understand the legislation that they themselves passed. In the other place they asked the question, “Well you had interviews and we hear you eh want to appoint nobody from the interviews” and this and that.

Mr. Speaker, if they did not understand the legislation that they passed how could you trust the process that they created? *[Interruption]* They compromised the integrity of the process. They compromised it. They betrayed the very legislation that they brought to this House—and that is a matter of such great moment and significance to this country. If this country, if this administration did not detect and pick up this problem and start to unravel it by meeting with FATF and taking steps to comply—let me tell you what would have happened and what the experience of our Caribbean neighbours has been.

Countries that did not comply experienced a lack of growth in their financial sector, a decrease in foreign investment and business activity, increased unemployment, a decline in government revenue and a loss of competitive edge in doing business during the period they were blacklisted. Let me cite a few examples. In the Bahamas the number of registered banks fell from 415 in 1999 to 317 in mid 2002, the number of offshore banks in the Bahamas declined from 72 at the end of 1998 to a mere 18 in December 2000. In Grenada offshore banks closed up shop, packed up and migrated. In St. Kitts and Nevis incorporations fell by almost half—50 per cent drop—customers complained about the taint of doing business with a blacklisted jurisdiction. A mere public advisory could have such deleterious consequences that in Antigua and Barbuda the number of licensed banks were reduced from 58 in 1997 to 22 in 2001 when FATF made a pronouncement, a public advisory on the strategic deficiencies in that jurisdiction.

Mr. Speaker, we refuse to gamble with the economic and reputational viability of our country as the former government did. We have chosen to take the deliberate action to free ourselves from this international fiasco and quagmire that the former government has created for this country. We have taken vigorous steps to implement the recommendations and this amendment is one such step. Cabinet in 2010 appointed an inter-ministerial committee comprising the Minister of Justice, the Minister of Finance, the Minister of National Security and the Minister of Legal Affairs to look into the administrative, legal and legislative hurdles that we have to cross and we are now preparing a comprehensive document to take to Cabinet so that we can in fact comply with all of the recommendations.

Mr. Speaker, in accordance with those international obligations we have already drafted regulations under the Anti-Terrorism Act—done. *[Desk thumping]* Regulations under the Financial Intelligence Unit Act—done, already drafted. *[Desk thumping]* Amendment to the Financial Intelligence Unit Act to create a

supervisory jurisdiction and by the time this debate is done—done. [*Desk thumping*] In so much as they are asking about the director, we did not appoint a director designate and have him sign as director to mislead and fool the whole world. We are not going to do that. We have appointed, someone to act in that position so that we can cross these administrative, legal and legislative hurdles until we streamline and rationalize the FIU. We did not take somebody from private practice and “gih dem ah wuk.” We have appointed eminent attorney-at-law and public officer in the person of the Registrar General of this country, Ms. Susan Francois. [*Desk thumping*]

Ms. Susan Francois is a distinguished career public servant who is an attorney of the highest calibre. Ms. Francois attained her Bachelor of Laws (LLB) degree in 1981 at the Hugh Wooding Law School—1981 to 1983—and pursued her Masters in Corporate and Commercial Law, 2006 to 2008. A lecturer at the Hugh Wooding Law School, a certified mediator and I personally took the opportunity to speak to her references and those referees were the hon. Justice Rolston Nelson, Judge in the Caribbean Court of Justice and the hon. Madam Justice Charmaine Pemberton, Judge of the High Court of Justice and I am pleased to announce the appointment of Ms. Susan Francois as Acting Director of the Financial Intelligence Unit of Trinidad and Tobago [*Desk thumping*] in furtherance of our objective of complying.

Mr. Speaker, in November 2010 to comply with recommendation 31 of the FATF Cabinet reconstituted—another step we took, all of this we have been doing; since we have discovered this problem we have been doing all of this and since 2010 we reconstituted the defunct national Anti-Money Laundering and Counter Financing of Terrorism Committee. We have reactivated that. This committee seeks to bring together all key government entities to advise on the policies and strategies that are necessary to combat money laundering and terrorist financing. The committee is constituted by key stakeholders—and look at the persons we put: the Commissioner of Police; the Comptroller of Customs and Excise; the DPP and other regulatory and supervisory agencies within the state apparatus such as the Central Bank and the Securities and Exchange Commission.

Mr. Speaker, we have embarked on a national risk assessment to identify the risk and vulnerabilities of Trinidad and Tobago for money laundering and terrorist financing so that we can come back to this House with a stronger legislative regime. We will be coming back to this House.

Mr. Speaker: Hon. Member, you have 10 more minutes.

Sen. The Hon. A. Ramlogan: Thank you, Mr. Speaker. We will be coming back to this House in a short space of time with amendments to beef up and to strengthen the FIU because there was a clause for a one-year review and that one-year review is probably going to expire today or tomorrow. That is the state of unreadiness!

Mrs. Gopee-Scoon: [*Inaudible*]

Sen. The Hon. A. Ramlogan: Yes.

Mrs. Gopee-Scoon: Are you admitting it?

Sen. The Hon. A. Ramlogan: No, no. I am not admitting it, it is a fact. [*Interruption*] Mr. Speaker, there was nothing to review. They dismantled, dismembered and undermined the very law that they put in place so there was nothing to review. We have inherited their mess and we now will have to listen to them quarrel and complain, moan and groan about the fact that we have to take a push broom and clean it up. That is the reality! [*Interruption*]

They who were there for eight years will have the gall to say, “Well, why all yuh take so long? We take eight years and aint do nothing, all yuh take eight months and do all this, why all yuh didn’t do more?” That is the cry and complaint, Mr. Speaker.

Mr. Speaker, the Government recognizes the deleterious effects of money laundering and the financial integrity and stability of our economy and the impact it can have on national security. To that end we are committed towards implementing a rigorous AML and CFT regime to create a more secure, a more transparent, a more accountable local, regional and global financial system and this amendment is the first step in the journey in the right direction to reengineer and change direction so that Trinidad and Tobago could become FATF compliant and we can therefore avoid the misery and frustration of the position that they have left us in.

Mr. Speaker, I thank you and ask the support of this House. I beg to move.

Question proposed.

Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Mr. Speaker. Before I begin I would like to ask for your protection from the Member for Fyzabad. [*Crosstalk*] Mr. Speaker, the presentation we have just been treated to by the Attorney General was wholly unnecessary. [*Desk thumping*]

Approximately one month ago I raised a matter on the Motion for the Adjournment in this Parliament with respect to the question of Trinidad and Tobago being placed on a list of non-compliant countries within the jurisdiction of the Financial Action Task Force. At that time the Member for Chaguanas West, the Attorney General, the Minister of Finance and sundry others engaged in a series of denials and screaming. I was threatened with the Committee of Privileges for not speaking the truth; I was told that I was misrepresenting the facts; I was told that Trinidad and Tobago was not on any list and so on.

Mr. Speaker, subsequent to that I had the opportunity to raise the matter again during the debate on a Finance Bill and I was able to read into the record correspondence from a foreign financial institution that had made the decision to stop treating with residents and nationals of Trinidad and Tobago because of the fact that we were not compliant with FATF's requirements. The response from the Government at that time was a little more muted. By then Government had decided to face reality and concede that Trinidad and Tobago was in serious difficulty in terms of our systems and procedures for dealing with money laundering and terrorist financing.

Let me now put this debate into context because the Attorney General has failed to present this Bill—now, this is not the first time. On the last occasion that the Attorney General spoke I gave him three points out of 10, because he had attempted on that occasion to do a presentation of the legislation we were dealing with. I think I was the Bail Bill or something, I cannot recall what it was. He had attempted, so he got three, prior to that I had given him one, today I give him zero. [*Desk thumping*] He has retrogressed. [*Interruption*] No, zero, minus one for noise. [*Interruption*] No, minus one!

Mr. Speaker, let me present the Bill. Let me explain its intent, [*Desk thumping*] its effect, the reason why we are here and why we have to pass this legislation quickly. I want to repeat what I said on the last occasion, that the PNM stands ready and willing to meet at anytime in order to correct any deficiency that may exist within our Anti-Money Laundering and Counter Terrorist Financing procedures, rules, regulations and laws in order to get us out of this mess.

Hon. Member: You put us in.

Mr. C. Imbert: No, that you put us in.

3.10p.m.

The Bill before the House, Mr. Speaker, has two clauses and I am very disappointed, and I will say it again, that when the Attorney General was in

private practice he acquired a reputation for being a legal luminary. I know some people will not agree with me. I know the jury is out on that. But in my view the Attorney General was quite successful in certain constitutional matters, and acquired a reputation for being a skilled attorney, if only in that particular area of public law.

But the Bill before the Parliament, Mr. Speaker, has two clauses, one of which is the title, so it does not count. So we have one substantive clause in this Bill. And what this clause does is that it ties up a lacuna in the Financial Intelligence Unit of Trinidad and Tobago Act, to make it expressly clear that the head of the Financial Intelligence Unit or the Financial Intelligence Unit itself can perform and exercise the functions given to it under the Proceeds of Crime Act 2000, the Proceeds of Crime (Amdt.) Act 2009 and the Anti-Terrorism Act 2005.

Let me digress, Mr. Speaker, when you look at these dates the Proceeds of Crime (Amdt.) Act was brought to this Parliament, debated and passed under a PNM administration in 2009. [*Desk thumping*] The Anti-Terrorism Act was brought to this Parliament, debated and passed under a PNM administration in 2005. And therefore, the groundwork for making us compliant with FATF was in progress since 2005 when it became apparent that there were certain things happening in the international community and Trinidad and Tobago had to take steps to deal with counter-terrorist financing and anti-money laundering, the proceeds of crime.

In the last two years, Mr. Speaker, we have come to this place on many occasions to amend the Proceeds of Crime Act and to enact the Financial Intelligence Unit of Trinidad and Tobago Act. This is all part of the compliance requirements to make sure that we are not disadvantaged because of the reporting that FATF is doing. Let me also place into the record, again, the true facts.

For the first time on the February 18, 2010—for the first time, FATF —issues a public statement—I am choosing my words very carefully—for the first time on February 18, 2010, FATF issued a public statement which listed a number of countries which had deficiencies with respect to anti-money laundering and counter financing of terrorism. The acronym is AMLCFT.

The countries were Antigua and Barbuda, Azerbaijan, Bolivia, Greece, Indonesia, Kenya, Morocco, Myanmar, Nepal, Nigeria, Paraguay, Qatar, Sri Lanka, Sudan, Syria, Trinidad and Tobago, Thailand, Turkey, Ukraine and Yemen. Those were the countries listed in the bulletin or the public statement made by the Financial Action Task Force, on February 18, 2010. And the

comment made about Trinidad and Tobago on February 18, 2010, was that Trinidad and Tobago has demonstrated progress in improving its anti-money laundering, counter financing of terrorism regime. However, the Financial Action Task Force has determined that certain strategic deficiencies remain. And this is the operative word, Mr. Speaker, or the operative phrase, that came into the public domain for the first time. Trinidad and Tobago has made a high level political commitment to work with the FATF and CFATF, which is the Caribbean Financial Action Task Force, to address these deficiencies, including; by implementing adequate procedures to identify and freeze terrorist assets without delay, special recommendation 3; implementing adequate procedures for the confiscation of funds related to money laundering; recommendation 3; ensuring—this is the most important thing as it relates to this debate—ensuring a fully operational and effectively functioning Financial Intelligence Unit including supervisory powers, recommendation 26.

Therefore, Mr. Speaker, for the first time on February 18, 2010 Trinidad and Tobago were publicly identified as being deficient and publicly identified as having made a high level political commitment, and that is a fact. The Government—the PNM Government did make a high level political commitment to the Financial Action Task Force in February of 2010. And the commitment was, that within the shortest possible time we as a country would implement adequate procedures to identify and freeze terrorist assets, we as a country would implement adequate procedures for the confiscating of funds relating to money laundering, and we as a country would have a fully operational and effectively functioning FIU. That is the commitment this country Trinidad and Tobago made February 2010. February 2010 being just two or three months before the general election of May 2010.

In order to get the show on the road, Mr. Speaker, what the Minister of Finance did in consultation with the Attorney General, was to request Mr. David West who at that time was functioning as the Central Authority under the agreements we have with other countries with respect to extradition—
[*Interruption*]

Dr. Moonilal: Designate.

Mr. C. Imbert: Mr. Speaker, the Member for Oropouche East has no idea what he is talking about. I am simply introducing Mr. West's credentials. At that time Mr. West was functioning as the Central Authority for extradition matters. You see, Mr. Speaker, this country has a number of agreements, multilateral agreements with respect to crime, and one of the agreements deals with

extradition matters. When a country like the United States, for example, which has made a request for extradition—which we all know about, in fact it was in the papers yesterday or today the latest development with respect to that matter.

When the United States make an extradition request they make it to the Central Authority, the Office of the Central Authority, and the Central Authority will then process the request and take steps to ensure that whatever is required to be done in Trinidad and Tobago in order to allow the extradition is done. So, Mr. West was functioning as the Central Authority at the time, Mr. Speaker. Mr. West, therefore, was closely aligned to the Ministry of the Attorney General at the time. And the PNM Government thought—and it was practical common sense—that if you already have an experienced attorney-at-law already functioning in mutual criminal assistance matters, dealing with money laundering and terrorist financing and dealing with extradition et cetera, et cetera, et cetera, already having the contact, the necessary contact with international agencies, with foreign countries and so on, that it would be easy for Mr. West to accept the assignment to establish a Financial Intelligence Unit. And that is what Mr. West was asked to do, to establish the Financial Intelligence Unit, not to be its permanent director, as the Attorney General has misled this House to believe.

Mr. Speaker, Mr. West was not intended to be the permanent manager for the FIU. His job was simply to ensure that staff were recruited, that an office was procured, procedures with the local banks and financial institutions were establish and agreed to, if possible, to report suspicious transactions, and his job was essentially to drive the process to ensure that a Financial Intelligence Unit was up and running in the shortest possible time.

3.20 p.m.

It was consequent on the high level political commitment that we gave in February 2010 that Mr. West was asked to assist in the establishment of the Financial Intelligence Unit. You see, the Attorney General's speech was very, very long on rhetoric. In fact, we were treated to a barrage of rhetoric, filibustering. All that he said there he could have said in 10 minutes. Wild allegations, scandalous statements, none of which are relevant to the task at hand—none of which are relevant! [*Desk thumping*] Because let us look at what happened in June.

In February 2010 the PNM government was in office. In February 2010, at a FATF meeting, the PNM government made a commitment that Trinidad and Tobago, as a country—because these organizations do not recognize governments, you know; governments come, governments go. They look at countries. So in

February 2010, Trinidad and Tobago, as a country, made a high-level political commitment to establish a Financial Intelligence Unit and other things.

What happened next? FATF met again, or it did a review of compliance and it issued another public statement on June 25, 2010. I am reading from it now, and this is taken off the FATF website for anybody who wants to know the source. The words are a little different, because in February 2010 what they say is that we have demonstrated progress and we have made a high-level commitment. In June 2010, they remind us that in February 2010, Trinidad and Tobago made a high-level political commitment to work with the FATF—listen to it—we made a commitment in February to work with the FATF and the CFATF to address our deficiencies. What does it say in June 2010?

“...however, the FATF has determined that certain strategic deficiencies remain.”

And they go on to say:

“Trinidad and Tobago should continue to work on implementing its action plan to address these deficiencies.”

And they speak again about “ensuring a fully operational and effectively functioning FIU, including supervisory powers.”

Now, the Government had just come in—election in May; Cabinet appointed in June, I think. So that they would not have been able to realistically deal with the June 2010 bulletin. But let us go to October 22, 2010 now. FATF again issues a public statement:

“Improving Global AML/CFT Compliance: update on-going process.”

So they updated in June; they now update in October. What does it say about Trinidad and Tobago? Same thing!

“In February 2010, Trinidad and Tobago made a high-level political commitment to work with the FATF and the CFATF to address its strategic...deficiencies...however, the FATF has determined that certain strategic...deficiencies remain.”

Trinidad and Tobago is encouraged to address its remaining deficiencies, and so on. So, in June, the Government had just come in, but what happened in October? I came to this Parliament in January and I read out this October statement, which is when I was faced with a barrage of threats and criticism and all sorts of screaming from the other side: “It is not true! We not on any list! No!”

January, Mr. Speaker; now we are here in February. Why are we here? The Attorney General would not tell you. We are here because another deadline approaches. Let me refresh your memory.

Dr. Rowley: We are here on a Wednesday.

Mr. C. Imbert: You see? We are here on a Wednesday. We get the Bill at short notice; we are told the Government intends to pass it through all its stages. It has all the distinguishing features of an emergency.

Let us look at the dates when FATF does its compliance review: February 2010, June—*[Interruption]* Mr. Speaker, would you protect me from the Member for—

Mr. Speaker: Yes. Hon. Members, could we have silence to allow the Member to speak?

Mr. C. Imbert: Thank you very much. So in February 2010, there was a public statement on compliance; June 2010, public statement on compliance; October 2010, public statement on compliance, and you know how bureaucratic these organizations are. They probably want to go on holiday in August; it is a European-based organization so that their dates are set very carefully.

So where are we now? February 2010. So, obviously, since the FATF reports in February of every year, they are going to report in February 2011. In fact, I am sure the FATF meeting is going to take place in a few days.

Dr. Gopeesingh: You have no moral authority.

Mr. C. Imbert: Mr. Speaker—

Mr. Speaker: Please, please, please.

Mr. C. Imbert: I do not know why the Member for Caroni East is so uptight. Facts are facts. You cannot run from—

Dr. Gopeesingh: What you all did then?

Mr. C. Imbert: Mr. Speaker, Mr. Speaker—

Mr. Speaker: Let us avoid the crosstalk. Everybody will have a chance to speak. The Member for Diego Martin North/East is on his legs. Let us listen in silence. Continue.

Mr. C. Imbert: Thank you very much, Mr. Speaker. Facts are facts. FATF gave us a “bligh” in June of 2010. They said, “new government, okay, we will give you a bligh.” They did not give us a “bligh” in October 2010. They put our name up

on the website. They will not give us a “bligh” this month for sure. We are going to be out there in big and bold, that we have not established the Financial Intelligence Unit and no staff of any significance has been recruited; no consultation has been held with the banks; no systems have been put in place, and so on.

So once again Trinidad and Tobago is going to be listed. You could call it a blacklist; you could call it a grey list; you could call it a watch list, it “doh” matter. Even the Attorney General has conceded today for the first time—a far cry from what he said the last time I brought up this matter—that the consequences of not dealing with the FATF requirements are severe. For the first time—he did not admit it last month—he has indicated that there are serious consequences to Trinidad and Tobago being placed by the FATF on a watch list. Let us call it a watch list to make everybody happy.

He has indicated that when you are on a watch list or on a list, for that matter, certain countries will not deal with you; certain financial institutions will not deal with you; certain multilateral corporations will not do business in your country. I have in my hand, statements made in the other place on this matter and I am advised—and I am reading from the *Hansard*:

“The United States has threatened to impose action on any countries who are on the FATF list in terms of taking action against bank accounts or not handling any business that comes from anyone resident in a country on the list.”

And this is reportedly a statement coming from the Secretary of the Treasury of the United States of America.

Now, I had already indicated a month ago that certain financial institutions in the United States have already decided they will not maintain accounts for residents and citizens of Trinidad and Tobago nor will they open new accounts for residents and citizens of Trinidad and Tobago. It is not widespread yet, but it is growing. Now we have the Secretary of the Treasury making a statement that they will take action against countries that are not compliant with the FATF recommendations.

Let me just digress a little bit. I do wish that in January when I brought this matter—I believe it was in January; it might have been December, I am not sure, but it was at least in January or no later than then. I do wish the Government had acted with dispatch. We told them we would meet any time, any place, in order to settle this matter. They have waited more than a month to come and bring this

one-clause Bill which certainly could have been drafted in an hour and certainly could have been before us long ago. We could have been dealing with this on Friday, for example. Rather than dealing with the Data Protection Bill we could have dealt with the FIU Bill on Friday. Yes, my colleague from Diego Martin Central says it does give one the impression that they are asleep, or at least it could lead one to the conclusion that they are dragging their feet. But the fact of the matter is, as I said, the Attorney General was long on rhetoric. He made all sorts of statements about drug dealers, and so on.

I was looking at an article in a Barbados newspaper this morning, February 09, 2011, Bridgetown, Barbados.

“Royal Navy withdrawal causes Caribbean worry.

Caribbean countries are concerned about the impact Britain’s decision to pull its naval warships from the region will have on the drug fight. The UK Guardian newspaper reported on Monday that the government will abandon its warship patrols of the Caribbean for the first time since the Second World War, because of the Royal Navy’s funding crisis. It’s first time defence chiefs have had to abandon an existing overseas mission because of the budget squeeze.”

It goes on to speak about the British government giving reasons why they are pulling their navy out of the region, and commentary from various Caribbean countries in terms of what this will do for the drug interdiction effort in Trinidad and Tobago.

That is why I have to come to the conclusion that this Government is not serious about certain matters. I know you have made certain rulings on this matter, which were discussed at a parliamentary conference, I am told. But the withdrawal of the Royal Navy from the Caribbean Sea makes it even more imperative—now that the Government has decided to no longer proceed with the acquisition of offshore patrol vessels it makes it more imperative that the Government get serious about giving us the naval capability to deal with the proceeds of crime, with money laundering, terrorism financing, through the sale and distribution of illegal narcotics.

This is just an example of what countries will do to you when you interfere with them. I see the Member for Pointe-a-Pierre shaking his head. He knows. The Member for Pointe-a-Pierre has been a negotiator with foreign companies, multinational companies, and he knows the things they will do to you if they feel that you have given them the shaft, if I could use that expression.

I would not be surprised if the withdrawal of the Royal Navy from the Caribbean Sea is not a reaction to our renegeing as a country on the contract we had with the British government for the acquisition of offshore patrol vessels. I would not be surprised. In international circles they call this “leverage”. Minister of Foreign Affairs, this is called “leverage”. So now that the British navy is pulling out, who is going to patrol our waters? Who is going to secure our borders so that we are not subject to international money launderers, international terrorists and narco-traffickers? I put that to the Government on the other side. Are you going to use the water taxis to deal with the scourge of illegal drugs in Trinidad and Tobago, and the attendant money laundering that comes with it?

This is just an aside, Mr. Speaker.

Mr. Roberts: Mr. Speaker, I tried my best, but Standing Order 36(3), please.

Mr. Speaker: Yes. I think the Member is making en passant reference. I do not think he will be going there, because I will stop him. Continue.

Mr. C. Imbert: Well, Mr. Speaker, I was just getting warmed up, so I await your stoppage. The Attorney General spoke about wanting to chop down the tree of crime. I took notes. The UNC Government wants to chop down the tree of crime. He spoke about money laundering; he spoke about gangs with dirty money attracting young people; he spoke about drugs with dirty money attracting young people. So all I am doing, since the Government has expressed its legitimate concerns about drugs with dirty money attracting young people, I am simply sending a warning to the Government who may not have read this article, who may not be aware that the Royal Navy is pulling out of the Caribbean Sea and that some of the protection that we now have will no longer be available to us, and that now we may see an increased presence of narco-traffickers within the Caribbean Sea that would have dirty money, as in the words of the Attorney General, to attract young people. Have I made myself quite clear now, Member for D’Abadie/O’Meara?

3.35 p.m.

The fact is, the (FATF) is going to meet this month, February 2011, to review Trinidad and Tobago’s compliance—we will not be compliant. Fortunately, with the passage of this legislation we will make one more step towards eventual compliance, but there is a lot to be done. I will be most happy to make a copy of this document available to the Government, because you see, the Partnership told the country, they could run the country, that they had all the answers, yes, better

than the PNM; that they had the necessary skills, that they knew everything, that they were professional; that they were rising. They told the country all sorts of things, and therefore, I cannot accept and the country will not accept eight months later, the Attorney General telling us, it is a new Government and this is why eight months after June of 2010, they have done nothing to deal with our non-compliance with the Financial Action Task Force.

As I said—yes, giving out hampers, putting on Santa hats, holding fetes in the Diplomatic Centre and even political party caucuses in the Diplomatic Centre, I am told; flying to Brooklyn, Queens, and New York. Flying to London, feting up and down, one dollar fete in Rienzi Complex, that is what the Partnership has been doing for the last eight months, but what they have not been doing is what is contained in this document published by the International Monetary Fund, July 2004, and the name of the document is— I will give you a copy.— Financial Intelligence Units: An Overview IMF World Bank 2004, and the steps in establishing a Financial Intelligence Unit are on page 5. The document has over 134 pages, plus appendices but you do not have to go far, you just have to go to page 5, and it is headlined Steps in Establishing an FIU. As I said, Mr. Speaker, I will make this document available to the acting Leader of Government Business pro tem, or whatever he is over there, and I shall read:

“The establishment of an FIU signals the determination of country authorities to heighten the priority they accord to combating financial and other crimes in the country, and to cooperating with other countries in this regard.”

That is the opening statement on page 5.

Page 6—Key Decisions:

“Political support is necessary to ensure the success of the FIU.”

Not dollar fete, not liming in Queens.

Mr. Dookeran: Could the Member state the date of that report?.

Mr. C. Imbert: Yes, I said July 2004.

Mr. Dookeran: Oh, you said it. Sorry.

Mr. C. Imbert: Yes, I said July 2004.

“Political support is necessary to ensure the success of the FIU. Such support is needed not only to secure the adoption of law establishing the FIU but also, on continuing basis, to ensure that the FIU receives sufficient budgetary resources to achieve its objectives.

Among the key elements...are the following:”—the establishment of—“the basic objectives to be pursued by the FIU; authority and functions necessary.... any functions the FIU will be required to exercise in addition to the core functions; the means to ensure operational autonomy and accountability of the FIU; the basic transaction reporting requirements: who reports and what is reported; the... size of the FIU (after the start-up) in terms of budget or staff; the role of the FIU in relation to other national agencies;...the location of the FIU in the administration, its autonomy...” and so on.

On page 7, Mr. Speaker, another important factor—

“In many countries, it has been found productive to discuss the proposed FIU and the draft law with the representatives of the segments of the private sector that will be most directly affected by the establishment of the new AML/CFT...”—

The reason is, these people would be most directly affected by the establishment of the new anti-money laundering regime.

“Most of the information to be provided to the FIU will come from the private sector and most of the private sector will come from the financial sector.

Early consultations with the private sector will also provide an opportunity for the authorities to highlight the benefits of the new system...”

Financing of an FIU.

“To be able to achieve its objectives, an FIU needs resources commensurate with its size, and the amount of data it is expected to receive, process and disseminate.”

And under our law I think we put it at \$60,000 or US\$10,000 or thereabouts, any transaction of that amount or more must be reported to the reporting agency and any suspicious transactions must be reported. So all of this, recruitment of staff, consultation with the private sector, establishment of an office, establishment of protocols and internal controls, should have been done between June 2010 and February 2011.

It has not been done, we only heard today that the Attorney General has appointed the current Registrar General, who is a very busy person, so I assume that the Registrar General would be taking a leave of absence or something like that. I happen to know the individual in question, and I cannot and do not wish to question the competence of the person. I do know who she is, I know of her and therefore, I would not question the appointment, but the fact of the matter is, the Registrar General has a lot of work to do. The Registrar General is in charge of

the Companies Registry, the Land Registry and a number of other important government functions and departments.

It will be impossible for the Registrar General to do both jobs, absolutely impossible. The only way this can be done quickly and effectively is either the Registrar General takes leave of absence or somebody else who has more time at their disposal or can be easily replaced on a temporary basis is put to head the FIU as the acting or interim director.

The Attorney General also did not concede that he terminated the services of Mr. David West in August 2010. So you had September, October, November, December, January and February, six months. Why did it take six months after the termination of the appointment of Mr. West, which the Attorney General described as illegal? I am not going to get into that. My understanding is that Mr. West's job was to establish the FIU, not to run it, but I would not quibble over those points. Why did it take six months between the dismissal or termination of Mr. West's assignment to appoint an overburdened public servant to act as the interim director of the FIU? Why six months? What has been happening in this Government for the last six months? What have you been doing? And that is what the Attorney General has to tell us? He dismissed—he fired Mr. West, in August; what did he do between August and February? [*Interruption*] Sure, as long as your question is reasonable.

Dr. Gopeesingh: I want to ask the hon. Member for Diego Martin/North East, what did your government do, when you passed the Bill in June 2009 to February 2010? What you did in those eight months that you had to set up the FIU Unit and appoint a director? You did nothing during those eight months. So I just want to make it clear.

3.45 p.m.

Mr. C. Imbert: Mr. Speaker, I will not give way to the Member for Caroni East in this debate again. He seems to be in wonderland, like *Alice in Wonderland*, or maybe *Gulliver's Travels*. You know there is a movie in the cinema now about *Gulliver's Travels*—"some fella gets cast away at sea and wakes up on a strange island where they have little people." [*Crosstalk*]

The fact of the matter is, Mr. Speaker, on May 24, 2010, the population made a determination on that. The PPG or the UNC Government—whatever you want to call it; you could call it what you want, it is a UNC government—was elected on May 24, 2010, and from May 25, 2010 the population of Trinidad and Tobago expected the Government to behave like a Government. [*Desk thumping*] "Don't

Financial Intelligence Unit (Amdt.) Bill
[MR. IMBERT]

Wednesday, February 09, 2011

sit there crying like a baby.” We on this side are no longer in office. It is not our job to establish a financial intelligence unit. When Trinidad and Tobago—Mr. Speaker, there is now a noise to the back of me, a noise to the front of me. Protection, Mr. Speaker.

Mr. Speaker: Yes. You have my full protection. Could you allow the Member for Diego Martin North/East to speak in silence? Please! Could you continue.

Mr. C. Imbert: Mr. Speaker, you know perception is reality, but in this particular case reality is also perception. The partnership or the UNC Government can continue to fool themselves into believing that they are not the Government of Trinidad and Tobago. They can continue to delude themselves into believing that they do not have responsibility to govern this country. They can fool themselves into thinking that the Financial Action Task Force believes that the PNM is still in office. They could fool themselves into believing that, you know. But when—Mr. Speaker, every week is the same thing. [*Crosstalk*]

Mr. Speaker: Please!

Mr. C. Imbert: Mr. Speaker, what is going on here?

Mr. Speaker: Could I ask that we allow the Member to speak in silence? I do not want to order anybody out of the Chamber. I can do so for the rest of the evening and the rest of the day. So I want Members to at least observe the Standing Order that deals with silence when a Member is on his legs. If you want to interrupt, point of the order or elucidation if the Member gives way. But outside of that, let us be silent when a Member is speaking. Continue, hon. Member.

Mr. C. Imbert: Thank you, Mr. Speaker. [*Interruption*] Again? “All yuh doh listen to de Speaker.” When Trinidad and Tobago, as a country, appears before the Financial Action Task Force later this month—maybe tomorrow, it could be—I do not think that they will have the audacity to tell the FATF: we are a new Government, we have not had the time to advertise for a Director of the FIU for the last eight or nine months, we do not know what to do, this thing is complicated. I do not think they will have the audacity to tell the Financial Action Task Force that. What they will do is to go and beg for more time and try to explain away why, having dismissed the director designate, or what you want to call him, of the FIU in August 2010, they did nothing for six months. They will have to explain that. They will have to explain why for eight months—everybody knew about this legislation. That is the hard part about it, you know. We had—Mr. Speaker, the Member for Lopinot/Bon Air West is continuing behind me. [*Crosstalk*] I am asking for your protection.

Mr. Speaker: You have my protection. Continue.

Mr. C. Imbert: I am not sure if your protection is working.

Mr. Speaker: Members, please.

Mr. C. Imbert: Mr. Speaker, this Parliament was convened on numerous—the barrage continues behind me; continuously making noise behind me.

Mr. Speaker: May I appeal again to Members. Continue, please.

Mr. C. Imbert: Mr. Speaker, the Member for Chaguanas West, too—a constant stream of interruptions.

Mr. Indarsingh: Irrelevance!

Mr. C. Imbert: Now we have the Member for Couva South joining in. Anybody else? Anybody else want to join in?

Dr. Douglas: You are wasting time. You are stalling for time.

Mr. C. Imbert: The Member for Lopinot/Bon Air West is carrying on a conversation with me, Mr. Speaker. Mr. Speaker, come on. You have to deal with them.

Mr. McLeod: You are wasting the Parliament's time. [*Crosstalk*]

Mr. Speaker: I am allowing you to continue to speak with my protection. Could you allow the Member to speak, please? Continue.

Mr. C. Imbert: Thank you. Mr. Speaker, we came into this Parliament on several occasions in 2009. We debated the Proceeds of Crime (Amdt.) Bill, we debated the Financial Intelligence Unit Bill, and the Members opposite were very loud in their criticism of the government of that time in terms of dealing with these issues in a timely manner. These matters that I am speaking about now were ventilated at length.

Mr. Speaker: Yes, I know you have some injury time to enjoy, but the speaking time of the hon. Member for Diego Martin North/East has expired.

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

Question put and agreed to.

Mr. C. Imbert: Thank you, Mr. Speaker, and I would like to thank hon. Members opposite, especially the Member for Lopinot, sorry, D'Abadie/O'Meara—how could I make a mistake like that?—for moving the extension because I know he wants to hear what I have to say. The fact of the matter is that all of the problems

that would occur, the watch listing, the grey listing, blacklisting, whatever you want to call it, all of this was well known to people in this Parliament. When I go through the *Hansard*, there were several debates on the Proceeds of Crime (Amdt.) Bills, there were several debates on the Financial Intelligence Unit. We were at it for months. We were trying to meet deadlines, trying to resolve the issues, trying to make sure that Trinidad and Tobago was compliant, and every one of them over there who was in the Parliament at the time, such as the Member for Oropouche East and the Member for Chaguaramas West—

Mr. Warner: Do not call me.

Mr. C. Imbert: Yes, you were there. Every one of them who was there was very familiar with the issues. Every one of them knew that Trinidad and Tobago had made a high-level commitment in February 2010, to establish an FIU before the end of 2010. Every one of them knew that. So they cannot come into this Parliament now and say it is a new Government and they did not know what to do, it is a mess and it is complicated. What is complicated about placing an ad in the daily newspapers—[*Desk thumping*] It does not have to be a full page ad, it could be a quarter page—advertising for interested persons to apply for the position of the Director of Financial Intelligence Unit, the position of Deputy Director and all of the other initial staff in that unit? Why did it take eight months? They knew! It is not that they did not, they knew! Why did it take them eight months, before I had to come into this Parliament and raise this as a very serious issue of national importance, and then they started to move? What have they done? They hurried through some interviews, they aborted the interviews, and now as I said, they have appointed an overworked public servant, giving the lady for whom I have great respect, twice as much work to do. It does not make any sense.

You took eight months to do that? Those are not the actions of a responsible government, and if everything that the Attorney General has told us is true—let us put it another way. If the Attorney General truly believes everything he said about mollycoddling gang members and taking them down to Crowne Plaza, and whatever, dealing with community leaders, if he believes all of that; if he believes that people are laundering drug money through real estate transactions; if the Attorney General and the Government believe that gangs are laundering money; if the Attorney General and the Government believe that gangs are associated with terrorists who are trying to pass dirty money through Trinidad and Tobago, if he believes that; if he believes that gangs and other criminal elements are laundering

the proceeds of drug trafficking throughout Trinidad and Tobago, why has the Government let all of these things that—because they did not stop on May 24, 2010 if that was happening. It is a hypothetical question I am posing. If all of this was going on prior to May 24, 2010 and it did not stop on May 25th, what has occurred between May 2010 and February 2011 in terms of dealing with these issues?

The biggest problem that I have is: why have the consultations not been held with the banks and the financial institutions? The regulations were prepared and published before the general election. I hear the Attorney General talking about regulations. I was a member of the Legislative Review Committee. I looked at the regulations for the Financial Intelligence Unit's activities. We signed off on them and they were published. What has happened in terms of holding meetings with the banks between June 2010 and February 2011? It is the banks and the financial institutions that have to report to the FIU with respect to transactions. It is a detailed and complex reporting regime. The banks now have to set up systems.

Anytime a transaction is in excess of \$60,000, you have to report it. Anytime a wire transfer—all of them know this, you know; pretending that they do not know. Anytime a wire transfer is over a certain amount—in some countries it is US \$1,000, because what they have discovered is that these terrorists, in order to launder money, they send transfers of US \$1,000 100 times for the day. So they would send wire transfers of US \$1,000, making a transaction of \$100,000. They would do that every working day. So that in one month they would launder \$2 million and that is one person doing it. A whole series of people could be doing that, sending wire transfers all over the place. So the banks now have to put procedures in place, that when wire transfers are being done that you cannot accept a wire transfer that does not originate from the account of the sender. Third party wire transfers, for example, will now be put under scrutiny.

I wonder if the Members opposite have any idea of what needs to be done.

Mr. Warner: Tell us.

Mr. C. Imbert: I am telling you, yes, because you are obviously too lazy to do your work. [*Desk thumping*]

Mr. Speaker: Let us not go there.

Mr. C. Imbert: Mr. Speaker!

Mr. Speaker: No, no, no. Let us not go there. You are going good. Do not go there, please.

Mr. C. Imbert: Mr. Speaker, I will apologize and withdraw that remark if any Member on the other side believes it was thrown at them. That was not it. That lazy remark was thrown at the Government as a whole, not at any person. But I withdraw and apologize anyhow. It is okay, Mr. Speaker. I accept your ruling. But the fact of the matter is—Mr. Speaker, the Member for Lopinot/Bon Air West has started up again. [*Crosstalk*]

Mr. Speaker, I was told the other day about a person trying—

Mr. Speaker: Let us avoid the crosstalk. If the Chief Whip and the Leader of the House wish to confer you can do it behind the Chair, but please, allow the Member to continue.

Mr. C. Imbert: I was told the other day about an account holder, a person with a bank account in Trinidad and Tobago, trying to send a transfer to another bank in the United States, but making a request of a third party, a second bank that they did business with. Let us hypothetically say this person has their main bank account in Republic Bank—hypothetical—but they also have some money in Royal Bank and they want to send it to City Bank in New York, I was told with respect to a transaction like that, just one month ago, that the foreign bank, City Bank in this case—this hypothetical example—refused to accept the wire transfer because it did not come from the primary account of the person in question, it came from a third party bank. They sent it back and this is what is happening because we are not compliant with the FATF regulations.

4.00 p.m.

I wonder if Members opposite understand that now, if you try to open an account in a foreign country, you are going to have to get references. In the past—I can personally attest to this, 30 years ago, let me get the date right, when I was not in politics, I recalled walking into a bank in Miami and opening an account, a small account of \$2000, and all I was required to do was to present my passport, that is all, 30 years ago. No, I have not gone to Miami since. But, Mr. Speaker now, if any Member of this House or any citizen of Trinidad and Tobago or a resident of Trinidad and Tobago attempts to go and open an account in the United States,—it does not have to be Miami, it could be anywhere—you know what you have to get now? You have to get at least two or three references from reputable organisations in Trinidad and Tobago which the bank is going to check to make sure that they are real people. In other words, where previously 30 years ago, in 1981, I could have just walked into a bank in the United States and opened an account within an hour or two, but now it may take you two to three weeks, a

month, three months, while the foreign institution checks your credentials. And this is happening within the Caribbean as well.

If you try to open a bank account in Jamaica now try to open a bank account in Jamaica and you will find out for yourself. You have to do the same thing. You have to get references from a minister of religion in Trinidad and Tobago, from a bank manager and various other things and they then go and check your identity to make sure you are who you say you are and that the money that you are putting into that account is clean money and not dirty money. All of this is happening because Trinidad and Tobago is on this list of non-compliant countries. And the fact of the matter is, Mr. Speaker, that we are on a list that is really a kind of mid-level list, it is not a high level list but you know what happens if you stay on that list for too long, Mr. Speaker, and you do not deal with the issues then you end up on a next list.

I just want to read into the record, Mr. Speaker, a public statement made by the Financial Action Task Force (FATF) in February, 2010. They published a list of countries with strategic anti-money laundering counter financing of terrorism deficiencies that have not committed to an action plan developed with the FATF to address key deficiencies as of February 2010. The FATF called on the member states to consider the risks arising from the deficiencies associated with each jurisdiction. The countries were Angola, the Republic of Korea, Ecuador and Ethiopia. Mr. Speaker, these countries are on this list, this February 2010 list, that is a real blacklist and I am sure the Member for—

Mr. Roberts: Thank you, hon. Member, for giving way. I have listened to you very carefully. Is it your position now, having stated that Trinidad and Tobago was, in fact, on a list and now that we are on a mid-level list, that you would like to withdraw your statement made in this honourable House sometime in January, where you said on three different occasions, we are on a blacklist when a blacklist is a specifically defined list?

Mr. C. Imbert: Certainly not. When I spoke, Mr. Speaker, on the finance legislation, I defined what a blacklist is. A blacklist is a list of persons or organizations with whom you should do no business. We are on a list, and organizations in the United States are already refusing to do business with us. So as far as they are concerned—Mr. Speaker, I do not want to read back into the record, the letters that I have been given from persons who have attempted to open accounts in the United States in December, where they say that Trinidad and Tobago is on a list of countries with whom they can no longer do business.

Mr. Speaker, I am listening to the Member for D'Abadie/O'Meara but you have to understand, this is serious business. If you want to get into a color scheme, there are shades of blacklist in this thing. We are already on a form of blacklist. We are on a list of countries and because we are on that list, banks and financial institutions are refusing to treat with residents and citizens of Trinidad and Tobago. Let me repeat—nonsense—I have heard the Member for Chaguanas East say that already. I am sure they have received correspondence from their constituents who have been denied banking privileges in the United States. I am sure they get it and he is coming here and saying nonsense, you know it is true. But the fact of matter is, Mr. Speaker, the Secretary of the Treasury has issued a public statement that they will impose action on any country that is on the FATF list. The point that I am making, is the longer we are on this list, the worse it gets for us.

So, we are here in the Parliament today, eight or nine months have elapsed, one month has elapsed since I raised the matter in the Parliament and the Government denied it. We are here today to amend the Financial Intelligence Unit Act to deal with, what I call, a lacuna in the law, in terms of giving the FIU supervisory powers over banks and financial institutions. This should have been done a long time ago but it is here, no problem.

I heard the Attorney General speak about regulations; bring them. If they are negative resolutions, we would not impede their progress unless there is something very bizarre inside of them. I heard the Attorney General speak about regulations with respect to proceeds of crime, bring them too. I assume they are by negative resolutions, again, if there is nothing outlandish inside of them, we will not impede their progress. Mr. Speaker. I heard about amendments to various pieces of legislation: proceeds of crime, terrorist financing, financial institution; bring all. We will sit—we said it before—we will sit here any time, any hour, any place to deal with these matters.

Anything that deals with legislation, we on this side will do what we have to do and we will support the measures wholeheartedly, unless as I said, there is something outlandish in them. There is nothing outlandish in this, that is for sure. Given the clearing up of some ambiguity with respect to whether the FIU can supervise institutions or not, that is routine and straightforward and, therefore, we would just like to get this out of the way as quickly as possible. But this is only the beginning.

I heard the Attorney General speak about appointing the current Registrar General; that is just the beginning too. As I said, it is a serious matter. The lady

has a very important job. There is no way she can do these two jobs at the same time.

Mr. Warner: Calder Hart did five.

Mr. C. Imbert: Yeah, all right and you all quarrelled about it.

Hon. Member: So you see the same thing. Exchange.

Mr. C. Imbert: I mean that is not a response to a serious problem. I would suggest that if Ms. Francois is going to be put to establish the FIU, let her take a six month leave of absence from the Registrar General's Office. I notice the Minister of Finance nodding his head, let that be done immediately.

And the first thing that should be done, Mr. Speaker, is to advertise for the key positions, get a director on board or maybe Ms. Francois can start doing the work herself. Develop an organizational structure—these things are very basic—develop employment protocols and procedures; develop reporting mechanisms because, Mr. Speaker, this organization is going to be handling sensitive, critical, private and personal information.

The Members opposite are making a set of noise but there are Members opposite who do transactions in excess of \$10,000 probably on a daily basis, Member for Chaguanas West? I see he is laughing. This is serious business. Every single transaction that you do, Member for Chaguanas West, is going to the FIU because a red flag will come up—this is a suspicious transaction that is cash transactions. If you do it by wire transfer, I think the limit is US \$2000. *[Interruption]* No problem, no problem.

The fact is, Mr. Speaker, that this FIU will be handling thousands of reports in terms of people's personal and private banking information. The people who are going to be in this FIU will see the names, addresses and all the personal details of the people who hold these accounts. The FIU has powers to go into a bank and request further information to determine the identity, bona fides of all the people involved.

4.10p.m.

Therefore, like the Security Intelligence Agency, you need to do background checks on the persons that you are putting into operational positions in the Financial Intelligence Unit, because you will be dealing with people's private financial information, which could be used to blackmail people. It could be used to send to kidnappers.

When we had a kidnapping problem in this country, mercifully that has abated, but when there was a serious kidnapping problem in this country, I was told that there were people working in commercial banks who had been enlisted by kidnapers, who were feeding banking information to kidnapers. So that they would—I see the Member for Chaguanas West nodding his head—the kidnapers, get a list of high net worth individuals, so they would see this one has \$10 million; \$5 million; \$1 million; \$200,000; \$55 million; \$23 million; \$100 million; whatever, and they would then target those people.

I hope the Members opposite realize the exact same thing can happen with respect to the Financial Intelligence Unit, but this is something that is going to be every single day. Every single day hundreds of reports are going to be generated with respect to financial transactions. Therefore, the custody and the confidentiality of those records are paramount, because this information could be used by criminals. All I am asking is that we do not have another Reshmi Ramnarine when you are establishing this FIU, because you have to establish it quickly; fast. Make sure you do your credit checks. Check the known alliances and associations of the people involved. You get proper character references. You look at them carefully to make sure that they are fit and proper persons to run the Financial Intelligence Unit.

The other thing that has to be looked at is the training of these people, because someone may be doing legitimate transactions like the Member for Chaguanas West. I use the Member for Chaguanas as an example. Why not? The Member for Chaguanas West may be doing legitimate transactions every day. “Ah US \$10,000 going some way” or some other place, based on one of the many multiple companies that the Member for Chaguanas West is involved in. What the staff of this FIU have to be trained to do is to determine what is a genuine transaction and what is a crooked transaction, because if they are going to take all—because some agencies adopt that approach; all bad—that would mean that every day the Member for Chaguanas West might be called in by the FIU to explain: “What is this \$10,000 for? What is that \$5,000 for? What is that \$15,000 for?”
[*Interruption*]

Putting all jokes aside, this report was done in 2004; it was. A Financial Intelligence Unit should have been established in this country long ago. That is a fact. Nobody is denying that. I would have spoken for 10 minutes if the Attorney General had not gone on a rampage but I am glad I spoke, because I have been able to put things in perspective.

I want repeat, we on this side will support any measure that the Government takes to deal with the monitoring of suspicious financial transactions; any measure, and we are prepared to meet Monday to Sunday to pass legislation. Yes, I am making a commitment again. We are prepared to meet Monday to Sunday to pass regulations, to amend legislation, to meet in committee, whatever you want. We will be here to deal with that for you, but I am asking the Government that when you set up this Financial Intelligence Unit, get a good understanding of the private and personal information it will handle, and make sure that the people who are put to run this organization are not party hacks. That is the biggest mistake you could make. [*Interruption*] I am just saying, it happens in all governments.

Make sure that the persons—[*Interruption*] very funny. After that Ramnarine story, you have to be “brass face” to tell me that. Make sure that you do not populate the Financial Intelligence United with party hacks, with misfits, with unqualified people, with people who are not confidential, with people who are in financial difficulty and so on. Make sure there is a proper screening process and there is a proper review mechanism, and that the FIU can therefore withstand the scrutiny of the FATF. The Financial Action Task Force is not just going to take our word for it; they are going to send a mission here. When we tell them that we have set up the FIU and it is working, they are going to send a team here to check with the banks to see what the protocols are, to see what the feedback mechanism is, to see whether we are effectively monitoring money laundering.

I am glad for this opportunity, Mr. Speaker, to give an overview of the tasks that fall to us as a country, and this is something that we as a country have to deal with. I would ask the other side, you could politic all you want, you could carry on, “gallery” and “pappyshow” all you want, but this is too serious to be left to the whims and fancies of persons who just want to parade inside of this Parliament. This is a matter that needs a bipartisan approach and needs the support of every single Member of this Parliament. Thank you, Mr. Speaker.

The Minister of Education (Hon. Dr. Tim Gopeesingh): Mr. Speaker, it is important to respond to some of the statements and the hysteria that had been created by the Member for Diego Martin North/East, not giving the true facts of what existed prior to us coming into Government. Basically, he has no moral authority to indicate that our Government had not been able to do anything for this. I would demonstrate why they do not have any moral authority to speak about it.

The first issue, he just admitted that they had the recommendations. The FATF discussions and the book they presented was since 2004. Since 2004, they had all

these recommendations from the Egmont Group for the Financial Action Task Force. What did they do between 2004 and having demitted office and having been thrown out of office in May 2010?

They took five years to bring on any issue or any relevant legislation related to the FATF and the Caribbean Financial Action Task Force. The first time you brought any matter on this, since 2004, was in June 2009; five years after. “And dey coming” to question what we did in eight months when they had five years to deal with this matter? They have no moral authority to do so, and I will substantiate what I am saying.

They had a Green Paper on the Financial System of Trinidad and Tobago in 2002. In 2004, they produced a White Paper on the Financial System of Trinidad and Tobago. In that White Paper, they identified that it was necessary to do a number of things that will bring this country into alignment with what was supposed to have been happening. I want to the read page xiv of the Reform of the Financial System of Trinidad and Tobago, A White Paper by the Ministry of Finance, in June 2004.

“General recommendations

1. Legislative framework: The legislative framework should be upgraded to ensure a sound legal basis for all areas of financial sector activity. This framework should encompass rules—that are in conformity with international best practice—for information disclosure, prudential requirements, mergers and acquisitions, electronic finance and standards for corporate governance, as well as rules to safeguard against money laundering and financing of terrorism.”

That was 2004, a White Paper by the then government; their administration. They knew that they had to do something to safeguard against money laundering and financing of terrorism. The first time they brought any legislation was in 2009, five years, on the eve of this country being described as on the blacklist. Do you know what they did? They tried to hustle three pieces of legislation. They tried to hustle the Financial Intelligence Unit Regulations, the Proceeds of Crime Act and the Financial Obligations Regulations. The Member for Diego North/East would remember very distinctly, when it was the eve of having these things, Trinidad and Tobago blacklisted, they tried to rush three pieces of legislation, which I just mentioned. It took them five years from 2004, where their own White Paper suggested that they have to do this.

The Member for Diego Martin North/East admitted a while ago that they were aware of the FATF Recommendations and the CFATF Recommendations, based on the Egmont Group, and they did nothing for five years. They tried to rush this piece of legislation on the eve of us being blacklisted and they have the audacity and temerity to say that we are bringing this on the eve of our country being blacklisted. They had five years, plus and they did not bring the piece of legislation until June 2009, and they rushed through three pieces of legislation. Within one week they tried to rush through three pieces of legislation. They have the “brass face” and temerity to speak about it. They speak about us having something to do. They were notified about it in February.

In October we were notified about it again. Even then, in June 2009, we passed the piece of legislation on the Financial Intelligence Unit, the Proceeds of Crime Act and the Financial Obligations Regulations. They had eight months, between June 2009 and February 2010, when he said they were alerted to it again and it is the first time they are understanding what FATF was saying. It was not the first time. He admitted in 2004. How can he come and say that it is the first time in February 2010, they were now being serious about what FATF was telling them, but they passed the legislation in June 2009 and they had eight months?

They knew that they had to set up an FIU. What did they do? They knew that they had eight months during their time from June to February. When he talks about all we have to do is to simply put out an advertisement in the newspaper on “so and so” and we will get it done, why did they not do it from June 2009, when they passed the legislation to even up to February, March, April, or May? They had almost one year to do it. Why did they not put out the information in the newspaper? How could you stand there without any moral authority and speak about this Government not being able to do it? That proves the point, that they only want to speak on that side and they have no justification and moral authority to say anything about this Government. I have demonstrated quite amply.

First of all, they had five years from 2004 to 2009, to bring legislation. They brought the legislation five years after. [*Interruption*]

Mr. Speaker: Member for Diego Martin North/East, you sought my protection—

Mr. Imbert: I apologize.

Mr. Speaker:—and I gave you my protection. Now that you have completed your contribution, could you remain silent and allow the hon. Member for Caroni East, the Minister of Education, to make his contribution?

Hon. Dr. T. Gopeesingh: Thank you, Mr. Speaker. That is not the only thing. They knew from their White Paper that they had to do a number of other things for financial sector reform in this country. I want to go through some of these, to show that they had no desire to do anything with regard to anti-money laundering, anti-terrorism and all the areas under the financial system.

The second point they had on the Green Paper was that financial reporting standards should be—

“All companies that are engaged in the provision of financial products and services should be required to adopt the IFRS.

Regulatory and supervisory system: in order to give effect to the integrated regulation and supervision of the financial sector, a single Regulatory Authority with the necessary powers and authority should be established.”

In 2004 their White Paper stated that. In 2010, passed; six years. Up to May 2010, six years later, they had not produced any single regulatory financial authority in this country and they want to talk.

The next thing they spoke about in this White Paper was the regime of taxation.

“The taxation regime for the financial sector should be reviewed to ensure that the sector is competitive...”

What did they do about the tax regime and regulations?

“Competition policy: The development of a competition policy for the financial services sector should be expedited.”

4.25 p.m.

Mr. Speaker, “rules to protect consumers”, they did nothing about that. So the point here, they knew from since they came into office, 2001, when they stole government, government was stolen by them, and all this information coming to them along the way 2004, and they knew they had to bring on financial regulations, and did absolutely nothing. So for six years they did nothing, took five years 2004—2009, and then when we passed the regulations in June 2009, they had almost nine to ten months, and they did nothing again. Therefore, they stand guilty, Mr. Speaker. And they want to say that we speak about them all the time, but it is necessary to correct the mischief that they try to create on the other

side. [*Desk thumping*] On a daily basis they try to create mischief and if we do not get up here and tell them what they were supposed to do, and they did not do it, they cannot have any moral authority to tell us anything on this side.

Mr. Speaker, and you know when we passed this Bill in June 2009, Act No. 11:09 when we look at clause 21 of this Bill, and we analyze this Bill, do you know why they were afraid to bring on any other thing, Mr. Speaker, clause 21(2):

“Where a person is—

- (a) a member of the Board of Directors;
- (b) the Chief Executive Officer or other officer; or
- (c) the owner or partner,

of a financial institution or listed business, and that person knowingly authorized or acquiesced in the failure to provide the additional information required, the person commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.

- (3) Where the offence is committed jointly by members of the Board or officers of a financial institution or listed business, they may be tried jointly or severally.”

Mr. Speaker, they cannot tell the people of this country that in their nine years, 2001—2010, who have they held for money laundering, for anti-terrorism, and for any issues related to massive drug busts or anything? Which person in this country that the last government has been able to prosecute for anti-money laundering and they want to—Mr. Speaker, not one.

And you know what happened. They were the government, when the police found cocaine down at a pier, at a port down in the west. They are the ones who knew that cocaine was in a diplomatic bag at the airport leaving Trinidad. Do you know what they did? They prosecuted a low person. There was a diplomatic bag found on the runway. Mr. Speaker, they have no moral authority—who can they say that they have prosecuted? [*Desk thumping*] When the Monos Island drug bust came on, at \$700 million worth of cocaine, who did they hold? They held some low minions, seven or eight of them. Where is the big master of this drug bust, Mr. Speaker?

And at the same time another warehouse was burnt somewhere along the Churchill Roosevelt Highway, what did they do about it? Because they had things to hide, Mr. Speaker. And this is why they never wanted this piece of legislation, and this is why they did nothing about setting up the FIU, and they did not [*Desk thumping*], have any director to be appointed, Mr. Speaker. They have no moral authority to talk about anything as far as this is concerned. Mr. Speaker, they cannot hide from the fact that they knew what was happening in terms of their Financial Regulations—let me just find it here, Mr. Speaker, in terms of what was told to them by the INCSR, Mr. Speaker—

Mr. Speaker: Hon. Member, I think it is a good time for us to pause. We will suspend the sitting for tea and we shall resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Hon. Dr. T. Gopeesingh: Thank you very much, Mr. Speaker. Before we took the break, I was moving to the point where the Member for Diego Martin North/East indicated that it was only in February they began to be warned by FATF about what was happening in the country in terms of anti-money laundering and anti-terrorism, and what they were doing and what they did not do for, the number of years that they were in government. For him to come and say that that was the first time and although admitting that in 2004, it was brought to their attention, it seems as though he forgot that it was in 2004 it was brought to their attention. [*Cross talk*] So it was economical with the truth. So he knew that it was brought to their attention in 2004 and then kept saying that it was only in February 2010 that they began to have some knowledge of what was going on from FATF.

Mr. Speaker, do you know that that administration never thought that this was going to be an important aspect and never decided to heed anything about anti-terrorism and anti-money laundering? In 2006, they had an Act to amend the Financial Institutions Act 1993. There is a Financial Institutions Act, 1993, Nos. 3. In 2006 there was a Bill that they brought to look at mergers and acquisitions. Although they were warned in 2004 by FATF, they brought an amendment to the Financial Institutions Act in 2006 and they never did anything about the anti-terrorism and anti-money laundering, that is the first.

The second, they even came back in 2008, Mr. Speaker, and brought on another Financial Institutions Act with over a hundred and twenty something

clauses, and nothing in those clauses had anything do with anti-money laundering and anti-terrorism. For them to come and accuse us with the eight months saying that we did nothing, Mr. Speaker, they have no credibility.

The Member for Diego Martin North/East, his whole statement and his whole argument is fallacious and without credibility, and they on that side do not have any credibility in terms of telling us what we were supposed to be doing. [*Desk thumping*] They lack credibility on all these issues. They want to tell us certain things and they try to put blame on us, when the blame falls with them. And they keep saying that we have to go back and talk about what they were doing, we have to go back, and show them what they had not done over the number of years.

Let me just state that I want to report here—speak through this, Mr. Speaker. In the June 2009 debate on this Financial Institutions Act, we brought to their attention what, the US Department of State, the INCSR, Bureau of International Narcotics and Law Enforcement Affairs, had to tell this country; we brought it to their attention then during the debate, Mr. Speaker. What it said? The INCSR, speaking about major money laundering countries “has named Trinidad and Tobago as one of the major money-laundering countries.” In 2009 that government was told that. It is shameless, as my colleague said. They were warned by INCSR in 2009 about this anti-money laundering and anti-terrorism issue and do you know how Trinidad was quoted as? —“as one of the major money laundering countries”, Trinidad and Tobago was named: “Jurisdictions of Primary Concern are those that are identified pursuant to INCSR reporting requirements, as major money-laundering country...” under PNM.

Hon. Member: In records here under the PNM?

Hon. Dr. T. Gopeesingh: Under the PNM.

5.05 p.m.

Trinidad and Tobago is a jurisdiction of concern. The US Bureau of International Narcotics and Law Enforcement Affairs told Trinidad and Tobago, Mr. Speaker, in 2009—the PNM government—that Trinidad and Tobago is a jurisdiction of concern. They have other jurisdictions monitored. The reasons Trinidad and Tobago has been put into that category are because of; one, failure to criminalize money laundering. What an indictment on that PNM government—failure to criminalize money laundering. So when I made that statement that they had failed to convict anybody on any money laundering for nine years that they were in Government—not one. The INCSR (Bureau of International Narcotics and Law Enforcement Affairs) told the PNM Government, the reasons Trinidad and

Tobago has been put into that category are because of “failure to criminalize money laundering”; second, “lack of effective monitoring of cross-border currency movement”. So people were moving money to and fro—and I will come to that in a while how money was leaving Trinidad. “No reporting requirements for large transactions”—the PNM government was told this, Mr. Speaker, in 2009. What did they do about it? Nothing! They were also told, “No requirement to maintain financial records over a specific period of time”—the government had no records of this, Mr. Speaker.

“Well-established nonbank financial systems, especially where regulation, supervision, and monitoring, are absent”. What an indictment on that government, for nine years from 2001—eight years during that time when they were told; eight years, they did nothing, but they brought an amendment to the Financial Institutions Act of 1993, they did nothing about it; they brought a Financial Institutions Act, 2008 and they did nothing about it, and they brought the amendment to the 2008 Act in 2009 for the first time trying to rush it through, after they were warned.

Mr. Speaker, they also spoke of: “Lack of or weak bank regulatory controls...where the monetary or bank supervisory authority is understaffed, under-skilled or uncommitted”. That is what that last Government was told. For eight years they were speaking about financial regulations and commitment to the country to bring on a single regulatory financial system or legislative framework, and this is what has been said about them after eight years of governance, Mr. Speaker? This is a shame on that administration, that PNM government.

Mr. Speaker, they had done nothing about insider trading. The Securities and Exchange Commission was supposed to have regulated that. A lot of money laundering takes place through that. Mr. Speaker, when they had the opportunity to do something, they covered up a story.

When RBTT of Trinidad and Tobago was in the process of the knowledge that RBC of Canada was going to buy it over, shares were being sold at a certain value in the national market, suddenly shares were bought out by insiders at a particular value knowing that when RBC came to take over the share value would be higher.

People made millions with the insider trading information; only a few people knew about it. It was reported to that government, the PNM administration, and there was an investigation which showed that there was insider trading on which was supposed to have been conviction. They did nothing about it, Mr. Speaker. That is your PNM government who turned a blind eye to it, and they covered up; they covered up corruption; they covered up money laundering; they covered up financial transactions for their friends and their supporters.

I want to read what was being said even at a national level, at the highest level in the country at that time, by the Governor of the Central Bank it is an indictment on that government, the PNM administration at that time. This is what the Governor of the Central Bank said in 2008, on money laundering and terrorist financing when he gave opening remarks at an anti-money laundering and terrorism programme, hosted by the Toronto Centre, the World Bank and the Central Bank of Trinidad and Tobago. On June 2, 2008, this is what he said:

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

This is the Head of the Central Bank who is supposed to be setting monetary policies for the government, indicating that the government obviously has not seen money laundering and terrorist financing as major challenges. This comes from the head of the banking sector, with supervision and monitoring and control of the financial banks and the non bank financial institutions.

Mr. Speaker he said:

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

The Governor of the Central Bank is admitting, as a regulator of financial and non financial institutions that they have not raised the level of awareness sufficiently and this is one of the reasons, Mr. Speaker, there have been no prosecutions, and no arrest for money laundering within Trinidad and Tobago and even the wider Caribbean, and over the last eight or nine years under their rule. Imagine the Governor of the Central Bank is telling you that “we in the Caribbean do not see money laundering and terrorist financing as major challenges”. The Government did not see it at that time, the Governor of the Central Bank did not see it at that time, so it was of no concern to them. For them to come and accuse us of something we have to be rushing a piece of legislation to get a director appointed, Mr. Speaker; there is no credibility—how can the population believe anything that they are saying? Mr. Speaker, untruths, and unmitigated falsifiers of veracities emerge from that side! [*Crosstalk*]

Mrs. Gopee-Scoon: Deceptive!

Hon. T. Gopeesingh: Unmitigated falsifiers of veracities. [*Laughter*]

Hon. Member: Send the dictionary on that side.

Mrs. Gopee-Scoon: Falsifications! [*Crosstalk*]

Hon. T. Gopeesingh: Mr. Speaker, to tell you how that PNM administration had no desire to do anything about the Bill we are amending today, about anti-money laundering and anti-terrorism, I want to quote from a Central Bank Report of 2007 which speaks about the financial systems surveillance by the Central Bank which is supervision of licensed financial institutions, and pension plans. The 2007 Central Bank report said: 31 on-site examinations were completed during the year, 10 licensed financial institutions, 16 insurance companies and five pension plans. That is what the Central Bank did, reporting in the annual financial report of 2007, and if we go to 2009 report we will see more, but I remembered this and this is why I have come back to it.

Mr. Speaker, this is what Central Bank has done. Do you know how many of these insurance companies there are in Trinidad? They said they looked at 10 licensed financial institutions, 16 insurance companies and five pension plans. As far as the Central Bank report on insurance and pensions in 2005, you have 2140 salesmen, agents and brokers and adjusters. Self-administered pension fund plans, 92; insured pension fund plans, 105; and pension fund plans to be wound up in 2006, 10; and the Central Bank has only been able to supervise five pension plans.

5.15 p.m.

What does that state? What does it tell you? People are getting away with anything in this country or were getting away with anything in this country from these financial institutions and non-banking financial institutions, and nothing could have been done, and nothing was done by that administration.

Mr. Speaker, the Central Bank did not have the capacity, supervisory or monitoring capabilities to do anything about it, and the then government continued to turn a blind eye. This is responsible for the debacle of the Clico matter and HCU matter, because they failed to put any legislative framework in place to deal with the non-banking financial institutions, credit unions and mutual funds where a lot of money is being siphoned off for money laundering and, not certainly for anti-terrorism type of transactions, but money laundering more so than others.

So it gives a sordid state of affairs that existed with that administration and regime in their inability to deal with anything from a financial perspective. They allowed the flourishing of widespread corruption to take place. [*Crosstalk*] Of course, they allowed it. They even compounded things and made it worse

With respect to financial institutions, what did they do with the Freedom of Information Act? They removed the Central Bank from the Freedom of

Information Act, so you cannot get any information on the Central Bank, and the Central Bank is supposed to be the monitoring and the supervisory authority under this Bill to look at the whole question of money laundering and anti-terrorism type of transactions. The Central Bank is supposed to be doing that together with the FIU. The Central Bank was removed from the Freedom of Information Act and also some of the banks were removed from the Freedom of Information Act—FCB Merchant and Trust Company, at least four of the FCB branches had been removed from the Freedom of Information Act.

If you are a bank and you are supposed to be looking at financial transactions to pick up areas where there are suspicious financial activities, how can anyone get information when it is removed from the Freedom of Information Act? That government did it! They deliberately went and removed the Central Bank and these banks from the Freedom of Information Act. In fact, they removed 15 state enterprises and special purpose companies from the Freedom of Information Act, so you cannot get any information. What they had to hide? They were hiding things and they did not want the general public to get to know about these things, and a whole heap of companies were removed, like Nidco. When we questioned the corruption in Nidco with the \$2 billion that was given over a period of time—not Nidco, CEPEP—and then, of course, all these other companies. A whole heap of them; 15 of them were removed. So when they removed financial institutions and the Central Bank from the Freedom of Information Act, what is this telling this country? Corruption! Something to hide!

I have given you instances where the Securities and Exchange Commission found areas where there was insider trading where there would have been corruption, and they did not do anything about it. They swept it under the carpet. The Central Bank was telling them that these things were happening and that it did not have the mechanism, and they did not do anything about it as well.

I come now to the point of board of directors and so on. Mr. Speaker, what we have witnessed over the last nine years under that administration is the massive cost overruns on almost every project that they undertook.

Mrs. Gopee-Scoon: How did you reach there?

Hon. Dr. T. Gopeesingh: How am I reaching there?

Mrs. Gopee-Scoon: Yeah!

Hon. Dr. T. Gopeesingh: I am going to tell you how I am going to reach there. Do you know what these cost overruns were amounting to? Money being

padding up in terms of the construction sector—and people getting money and sending the money away and laundering it. There are many board directors and chairmen of boards—I am not calling names. You all know who have left this country. At least, three chairmen of boards have left this country, and it is widespread knowledge. This has been spoken about already. Calder Hart left the country and he cannot be found; you have Davanand Ramlal from T&TEC and Uthara Rao from the EMBD.

What has happened to the cost overruns of billions of dollars which we have spoken about on this side already on the state enterprises and special purpose companies? How much money was allowed to be sent abroad on money laundering? This Government is guilty of hiding the fact and allowing money laundering to take place before their eyes. They saw it happening before their eyes, and they did not do anything about it. They did not even come with a piece of legislation for eight years, because they facilitated money laundering. Whose pockets did it go into? Where did it go? If we do a search now we are going to see a significant number of the persons who sat on some of the state boards and state enterprises, you are going to find that they were guilty of money laundering, but they never decided to do anything about it. They filibustered, and they had three pieces of legislation amending the 1993 FIU Act. They did it in 2005, 2006, 2008 and 2009, and not one of the Bills had anything to do with money laundering and anti-terrorism. Why did they allow that to happen?

Mrs. Gopee-Scoon: Thank you Member for giving way. You keep saying that we did nothing at all until 2005. You know that there was an FIU in place from 1997, so they were operating under Cabinet authority. There was no legal framework, but they were operating and monitoring transactions. In addition to which, the POCA of 2000 was also in place monitoring financial institutions. Think about what you are saying.

Hon. Dr. T. Gopeesingh: They said they did nothing about it, because they were allowing the—what was the area they had? A central drug something, under a different thing, but it was being run by SAUTT, which is an illegal authority. It was reporting to SAUTT as the Attorney General said in his presentation. Even though you had a unit, what did the unit do? Who they arrested and convicted? Not a person for nine years, and we know that billions of dollars left this country.

They had the opportunity to put proper legislation in place on anti-terrorism and anti-money laundering on three occasions, and do you know what they

brought? They brought mergers and acquisitions under the FIU Act and so on. They had opportunities to deal with it and they never dealt with it. For them to make the statement that they were not told about it and they really did not have to do anything about it until February 2010, when they themselves admitted that in 2004, the Financial Action Task Force—I have the Bills here—the Bill to amend the FIU Act 1993; the FIU Act, 2008 and Act No. 11 of 2009. That is the first time you brought on anything to do with money laundering and anti-terrorism.

Mr. Speaker, for the Member for Diego Martin North/East to say that correspondence from foreign financial institutions was not complaint, and it was only brought to their attention in February 2010, is a mischievous statement. We say that it is not the truth, and they were hiding something.

They said that the government conceded they were in difficulty in February 2010, but they were in difficulty from since 2004 when they spoke about it. So he is making another statement without any foundation, and trying to move away from the truth. He said that we have to pass the Bill quickly. They had eight years to pass the Bill, and then from July 2009 to May 2010 they had to set up the structure, appoint a director and they did not do anything about that; absolutely nothing. Now, he is saying that the PNM stands ready to help us. This is the position that they have put us in. They have put us in this position.

Mr. Speaker, I think I have demonstrated quite convincingly that the PNM administration from 2001—2009 had absolutely no intention of doing anything, particularly about money laundering. They brought three Bills hurriedly in 2009 after they were warned about it on a number of occasions. They had the opportunity to deal with it on three occasions when they had to amend the FIU Act, and they did not do anything. They allowed money laundering to take place before their eyes; they covered up and they turned a blind eye to it, and they possibly must have facilitated some of it as well.

Thank you very much. [*Desk thumping*]

Miss Alicia Hospedales (*Arouca/Maloney*): Mr. Speaker, thank you. It is a pleasure for me to contribute to this debate on the Financial Intelligence Unit of Trinidad and Tobago (Amdt.) Bill, 2011. Mr. Speaker, we have been trying to listen to the hon. Attorney General and the Member for Caroni East who presented to us a lot of inaccurate information today, all in the name of saying that they are debating or presenting information on this particular Bill.

Mr. Speaker, once again, the Member for Caroni East and the hon. Attorney General came to this House to cast aspersions on the previous PNM administration. What they failed to tell us is that they were sleeping on the job for

the past nine months. Why I am saying that they were sleeping on the job for the past nine months is, because it was only when the Member for Diego Martin North/East came to the House in January this year, and stated his concerns about Trinidad and Tobago being on a list—a grey list or blacklist—and that it would have created problems for trade and businessmen who wanted to buy and import things from overseas that the Members on the other side rushed to bring this Bill to the House today. Mr. Speaker, you know, this is really another example of the “coalition of the incompetent’s” irresponsibility in governance.

The hon. Attorney General came here and sought to further cast blame on the previous PNM administration, and stated that Members of the then PNM government were masters of the art and technology of corruption. Mr. Speaker, I would like you to tell us, how would you describe the actions of high profile officials who present false information regarding the qualifications of a person who was appointed to head an intelligence agency? [*Desk thumping*]

How would you describe the actions of officials who bypassed procurement procedures to distribute contracts for projects? How would you describe the behaviour of an individual who falsified documents to bring law-abiding persons into disrepute with the law? Mr. Speaker, masters of the art and technology of corruption. [*Desk thumping*] This is a good description that was provided by the hon. Attorney General of the actions of Members on that side.

5.30 p.m.

Mr. Speaker, the Member for Caroni East talked about the authority and what moral authority—he talked about moral authority and I would like to ask what moral authority does the hon. Attorney General or even the Member for Caroni East have talking about hiring practices, talking about the previous PMN administration. Mr. Speaker, when these Members talk about moral authority and moral—what did the Attorney General say?—he talked about moral rights, but, Mr. Speaker, they cannot talk to us about moral authority or moral rights when they have the Reshmi Ramnarine fiasco hanging over their heads.

Mr. Speaker, the Member for Caroni East—[*Interruption*—Mr. Speaker, I beg your protection from the Member for La Horquetta/Talparo.

Mr. Speaker: If you are disturbing, I will ask you to desist and allow the Member for Arouca/Maloney to make her contribution in silence. Could you continue?

Miss A. Hospedales: Mr. Speaker, you know both the Member for Caroni East and the Attorney General again continue to talk about what the People’s

National Movement did and what they did not know and did not do, et cetera, et cetera, but these Members did not even know that they needed to fully establish and staff the Financial Intelligence Unit, as well as, engage financial institutions in discussions or in a series of consultations over the last few months. They did not know that, so they have been talking about what we did not do and what we could have done and what we should have done, but they have not been speaking about what they did not do in the last nine months and what they should have been doing and what they ought to be doing.

Mr. Speaker, it is only when the Member for Diego Martin North/ East again, raised the concerns that these Members knew or got an idea of what they should be doing. The Member for Caroni East made reference to the 2009 International Narcotics Controls Strategy Report, making several inaccurate statements about the PNM administration and why the country was placed on the INCRS report or list.

Mr. Speaker, what the Member failed to tell us or tell this House is that Trinidad and Tobago would have been placed on the INCRS list because of its vulnerability to narcotics related to money laundering and this is confirmed by the United Nations Office on Drugs and Crime and the Latin America and the Caribbean Region of the World Bank in 2007, and what they stated is that the Caribbean has been susceptible—not just Trinidad and Tobago but the entire Caribbean has been susceptible to money laundering for a number of reasons and one of the reasons they give was offshore financial services and including our location which causes us to be at the heart of a major transshipment point. So, Mr. Speaker, when the Member for Caroni East comes to this House it is very very very important to tell him that he need to ensure that he is presenting accurate information to this House.

Mr. Speaker, the Bill that is before us today is one out of a series of legislation that was drafted under the People's National Movement administration to institute a comprehensive regime to detect and deter to all forms of money laundering and terrorism financing and to provide for the confiscation of the proceeds of illicit activities. So, Mr. Speaker, when the Member for Caroni East and even the Attorney General stand here and say that the People's National Movement has done nothing, they need to apologize to Members of this House and to the general population because they have misinformed everyone; they have not told the truth. They have not told the truth. *[Interruption]* Well as the Member for Point Fortin said, what number of apology would that be, Mr. Speaker? I guess we have lost count. Mr. Speaker, it is the recognition of the detrimental effects of money

laundering as well as terrorist financing that has led the People's National Movement to Government in the past, to take steps to become compliant with the recommendations made by the Financial Action Task Force and, Mr. Speaker, this caused us to work diligently to ensure that the FATF recommendations were implemented. [*Crosstalk*]

Mr. Speaker, for the information of the Members of the House—who are disturbing me—I would like them—the Members of this House who are disturbing me, I would like to tell them that—I would like to inform them.

[*Crosstalk*]

Mr. Speaker: Member for Arouca/Maloney, I want to give you my full protection. I would ask Members on both sides—both sides to give you their fullest attention and also the back, everyone, okay, to give you their fullest attention. Okay? Continue.

Miss A. Hospedales: Thank you, Mr. Speaker. Mr. Speaker, it is only when they give me their fullest attention—their full attention, would they learn something today. [*Desk thumping*] So, Mr. Speaker, as I was saying the Financial Action Task Force (FATF), is an intergovernmental body whose purpose is for the development and promotion of national and international policies to combat money laundering and terrorist financing. Mr. Speaker, in 1990, forty recommendations were put forward by FATF and between the period 1990 to 2003 there were significant revisions to the recommendations and during that period as well there were nine recommendations that were added with respect to terrorist financing. So, Mr. Speaker, this created a new comprehensive framework for combating money laundering and terrorist financing and these 40+9 recommendations were then, adopted and accepted.

Mr. Speaker, even though Trinidad and Tobago is not a member of FATF, we are a member of CFATF, which is the Caribbean Financial Action Task Force and as a member of CFATF, we have also adopted—we were required or are required to implement the 40+9 recommends. In November 1996, what would have happened is that Trinidad and Tobago together with a number of other member states, entered into a memorandum of understanding and agreed to adopt and implement the 1998 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and to endorse and implement the forty recommendations, and as we said it is now 40+9.

Mr. Speaker, apart from this, what happens under the CFATF body is that there is a mutual evaluation programme and you know the Attorney General did not

inform this House about the evaluation programme. This is a primary instrument by the CFATF which monitors the progress made by member countries in implementing the FATF recommendations and each member country, is examined in turn by the CFATF on the basis of an on-site visit conducted by a small team, which comprises of legal, financial, as well as persons in the law enforcement fields from other countries.

5.40 p.m.

Mr. Speaker, the purpose of the visit is to draw up a report assessing the extent to which the evaluated country has moved forward in implementing an effective system to consider money laundering and terrorist financing, and to highlight areas in which further progress may still be required.

One of the things the hon. Attorney General did not tell us was when we were due for another evaluation. Could the Attorney General tell us if this evaluation is due to be held this month and, as we heard earlier, is it due to be held this Friday? That is why they are rushing this Bill through the House, Member for Point Fortin, to ensure that when the evaluation team arrives they would have passed significant amendments to the Bill.

For the information of both Members who spoke on the other side, under the PNM there were significant actions undertaken to ensure that we became compliant with the FATF recommendations. We brought legislation to this House: the Proceeds of Crime Bill and we also brought the Financial Intelligence Unit Bill and we began the process of regulating and bringing other enforcement measures, to give effect to the requirements of the recommendations made by the FATF. We formally established the Financial Intelligence Unit which has the responsibility for receiving and requesting, analysis and dissemination of suspicious transactions or activity, reports and other information regarding potential money laundering or terrorist financing activities. We also formulated a comprehensive list of business or professions that could conduct money laundering activities.

The hon. Attorney General took note of this and highlighted some of these businesses as well as professions. Just to name a few: motor vehicle sales, gaming houses, independent legal professions and whole betting. We also ensured that the jurisdiction of magistrates in dealing with the specified money laundering or terrorist financing was made clear, in order to avoid challenges by offenders. We also ensured that the Attorney General was empowered to enter into an agreement with any foreign State, on behalf of the government or of Trinidad and Tobago, for reciprocal sharing of the proceeds of property confiscated, forfeited or seized,

either under the Proceeds of Crime (Amdt.) Act or by foreign States. So, again, when the Member for Caroni East and the Attorney General come here and say that we have done nothing, they need to apologize to this House.

The implementation of these areas identified resulted in our satisfying of recommendations 26—32 of the FATF recommendations, together with the amendments to extend the definition. So we satisfied the recommendations to extend definitions, to widen the range of businesses that were under obligation to keep records and disclose suspicious transactions and so on. All these things were done by a prudent PNM administration. [*Desk thumping*]

The PNM administration exercised due diligence in putting measures in place to combat crime. Mr. Speaker, our efforts sought to improve our credibility and accountability before these international bodies. Today we are faced with a different scenario. We are faced with a crisis, an urgent matter of public importance, because the Government has put us in a position where Trinidad and Tobago has been found on a grey list, because they have failed to comply with the recommendations late last year.

I do not know, but for some reason they were in slumber for nine months, they did not know exactly what they needed to have done and, as a result of that, they are now rushing to ensure that they are in some way compliant with some of the recommendations.

What they did not tell us was because they have been placed on a grey list or blacklist, as stated by some Members, they basically caused Trinidad and Tobago to be placed in a position of threats, especially when it comes to our trade relations, as I said earlier. This occurs with complying countries, so many of these countries could refuse to engage in trade relations with Trinidad and Tobago. In particular, persons in the Americas are threatening to impose action on any country on the grey list or blacklist by seizing accounts or not handling any business that comes from persons resident in that country. This creates a major problem for business in Trinidad and Tobago, for trade in this country.

The Members on the other side seem to be in denial. When the Member for Diego Martin North/East presented this information and expressed his concern to this honourable House about Trinidad and Tobago being on a grey list and the fact this the Americas are refusing to conduct business with business persons in this country, they said, “No, that is not true.” So they denied the fact that this was actually happening, until they went and checked for themselves and recognized that it was a critical piece of legislation which they needed to bring and they needed to act swiftly.

Mr. Speaker, again, who will these businessmen blame when they recognize that the accounts are blocked and they cannot conduct the business they intended? They are not going to blame the PNM, because we are on this side. They are certainly going to blame the Government, because they have refused to implement the recommendations. They have refused to take action. They have refused to do anything. We on this side all know the answer to that question. They are in denial; they have done nothing and they are now trying to save face.

The Government tries to make us believe that they are serious about combating money laundering and terrorist financing, but what I recognize from reading is that one of the recommendations made by FATF was that countries should try their best to reduce or limit the avenues for money laundering and terrorist financing. Mr. Speaker, FATF experienced a great measure of concern regarding free trade zones and the lack of monitoring for these trade zones.

In September 2010, we heard the Minister of Finance announce with exuberance that they were going to implement free trade zones in Trinidad and Tobago. FATF recognizes that these free trade zones are major hubs for money laundering and terrorist financing. They stated that they create opportunities for money laundering and terrorist financing, because they attract abuse by illicit actors.

Could the Government tell us that they are able to boost confidence and give assurances that they will put adequate safeguards in place to provide adequate oversight, that they would be able to strengthen adequate oversight as it relates to free trade zones? Could they give us the assurance or the confidence that they would strengthen procedures to inspect goods and register legal entities? Could they assure us that they would put systems in place to ensure adequate coordination and cooperation between free trade zones and the Customs Department? We know the answer. They cannot boost confidence, because people no longer believe what they say. Members of the population no longer believe what they say. They have literally switched off from listening to them.
[*Interruption*]

Miss Ramdial: Mr. Speaker, point of order, please, Standing Order 43(1).

Mr. Speaker: No, I overrule that.

Miss A. Hospedales: Mr. Speaker, again, no one believes what they are saying and, as a result, they cannot boost confidence that they are going to put the measures in place with respect to ensuring that there is proper oversight for the free trade zones and that they are not hubs for money laundering and terrorist financing.

Financial Intelligence Unit (Amdt.) Bill
[MISS HOSPEDALES]

Wednesday, February 09, 2011

As it relates to boosting confidence, we have heard that they have failed to apologize to the country. [*Crosstalk*] They have failed to apologize for numerous reasons; we can list these reasons [*Crosstalk*] and the list will go on and on and on.

Mr. Speaker: Order, please!

Miss A. Hospedales: We have heard them frequently say, “We do not know why.” They do not know why they should tell the truth. They do not know why they should provide the population with an apology for the incompetence that they have so displayed over the last few months.

They do not know why the contracts of 1,112 workers in the public service were not renewed. They do not know why a further 3,746 contract workers are currently being terrorized because any day they could be on the bread line. They do not know why. [*Interruption*]

Mr. Speaker: I think you should try to tie all those points to the Financial Intelligence Unit. I do not know where you are going, but if you could focus on the subject, the question, please.

Miss A. Hospedales: Mr. Speaker, I am trying to show that there is need for credibility on the part of the Government, there is need for the Government to boost confidence in the economy, to boost confidence in the people of the Trinidad and Tobago, to cause people to have peace of mind that if they implement the free trade zones, they are not exposing the country to money laundering and terrorist financing. That is what I was talking about.

Mr. Speaker: I would like you not to introduce irrelevant matters and make them relevant. [*Laughter*] Focus on the Bill, please.

Miss A. Hospedales: Mr. Speaker, the amendment to the Bill before us seeks to expand the remit of the Financial Intelligence Unit to allow it to provide for a supervisory role. The hon. Attorney General told us this afternoon that Ms. Susan Francois is now appointed to head the Financial Intelligence Unit. Could the Attorney General tell us whether the unit has a full complement of staff? Could the Attorney General tell us the date these persons assumed duty? Could the Attorney General also tell us when will this country become a member of the Egmont Group? [*Crosstalk*]

Mr. Speaker: Order!

Miss A. Hospedales: For the information of Members of this House, this is a group of Financial Intelligence Units that most serious countries belong to. We would like to have answers to these questions. When will we become a member of the Egmont Group? Why are we not yet a member of this group? If the Member could answer these things, it would be excellent for us.

Another thing is that the Government needs to, again, ensure that it boost the confidence of members of the population in the Financial Intelligence Unit and in the fact that they are putting measures in place to combat money laundering and terrorism financing.

In closing, [*Desk thumping*] the Government needs to move with urgency to ensure that Trinidad and Tobago is compliant with the recommendations of FATF and to ensure that we are no long on the grey list or that we do not slip further onto a blacklist. They need to restore our image internationally. They have done so much to damage our international image. [*Crosstalk*] Yes, they have done so much. [*Crosstalk*]

Mr. Speaker: Order, please!

Miss A. Hospedales: We have the HCU issue and so many other issues that we have before us as a country, that have placed Trinidad and Tobago as a laughing stock of the world. It is time that the Government take steps to ensure that our image internationally is restored in a positive way.

Mr. Speaker, thank you.

5.55 p.m.

The Minister of Justice (Hon. Herbert Volney): Thank you, Mr. Speaker. I rise this evening to contribute briefly to the debate in this honourable House on the amendment to the Financial Intelligence Unit of Trinidad and Tobago Act, 2009. Mr. Speaker, I wish to refer to the manual of the International Monetary Fund and World Bank Manual, 2004, and briefly to quote from it.

Over the years countries have established FIUs—that is Financial Intelligence Units—for the general purpose of combating money laundering and have general given them the three core functions that are part of the accepted definition of an FIU. The administrative arrangements by which these functions are carried out however, vary considerably from country to country. These variations arise from different country's circumstances, together with the lack of an internationally accepted model for the functions of an FIU in the

early 1990s when the first such units were established.

For example. Mr. Speaker, in some countries the function of the FIU as an additional tool for law enforcement organizations in combating money laundering and associated crimes was emphasized and this led to the establishment of the FIU in an investigative or prosecutorial agency.

Mr. Speaker, when the Financial Intelligence Unit of Trinidad and Tobago was established, it was established much like a toothless tiger. [*Interruption*] Absolutely. It one of those examples of a project started by the last government that was incomplete, just are as many other projects and bits and pieces of legislation that we have met on coming into Government,

that we now have to correct and to put in proper order so that it can function effectively to carry out the mandate and intention of the legislation.

That Act, that is to say, the 2009 Act established the Financial Intelligence Unit to implement the anti-money laundering policies of the Financial Action Task Force. One of the main objectives of the task force, Mr. Speaker, was to develop and provide international policies to combat money laundering and terrorist financing.

To this end, the FIU is also governed by the Proceeds of Crime Act, 2009, the Anti-Terrorism Act, 2005, and its amendment in 2010 and the Financial Obligations Regulations, 2010. All of these pieces of legislation serve to protect Trinidad and Tobago and its citizens from those persons who would seek to profit from illegal and nefarious activity and to confiscate the benefits of crimes such as drug trafficking, terrorism, Mr. Speaker, and money laundering.

FIUs must retain sufficient independence to accomplish their objectives without due interference or influence. Currently, the Financial Intelligence Unit of Trinidad and Tobago Act, 2009 only empowers the FIU to collect, analyze, disseminate and exchange financial intelligence and information.

However, the proposed amendment, Mr. Speaker, shall essentially expand the power of the FIU, that the FIU possesses, enabling it to carry out a more supervisory role which had been delegated to it under the Proceeds of Crime Act, 2009 which sought to make them the supervisory authority for listed businesses and certain categories of financial institutions.

The first amendment is at section 8 of the Financial Intelligence Unit Act, 2009, which seeks to amend subsection (1) by inserting after the word “internationally—Mr.

Speaker, I pause in order to find—thank you so much—the additional words inserted in the other place. That is by inserting after the word “internationally”, the words “and shall exercise the functions given to it under the Proceeds of Act, 2000, the Proceeds of Crime (Amdt.) Act, 2009 and the Anti-Terrorism Act, 2005.

In order to empower this Unit to conduct any function, which may be delegated to it in the future, the amendment has been crafted wide enough to support this in terms of empowering that unit to carry out any other function given to it under other written law.

The second amendment to the Bill is a mere correction, Mr. Speaker, in terms of cross-referencing at section 8(3)(d), deleting the words “53(3)” and substituting “55(3)” instead.

This simple amendment, Mr. Speaker, is to correct a drafting error and thus make the section comprehensible as under the Proceeds of Crime Act referred to in the section there is in fact no section 53 subsection “(3)”. Correcting the cross-reference error now, properly enables the Financial Intelligence Unit to set reporting standards to be followed by Financial Institutions of listed businesses in accordance with section 55(3) of the Proceeds of Crime Act.

This Government has made the fight against money laundering and financing of terrorism and other serious crimes a priority. It has, by this measure, Mr. Speaker, put teeth into legislation that bites. It is no longer legislation that has been crafted, whether in error or otherwise as a “pappy-show” to the world, because, formerly, it was unworkable, it was of no use, it could not have justified its existence. That is precisely the reason why it is, it fell foul. And we in this country fell afoul of certain international obligations under the FATF and CFATF.

The People’s Partnership Government having come into office, and having identified the shortcomings of the legislation has now taken the next logical and proper step forward. It takes time, Mr. Speaker, to identify shortfalls in certain bits of legislation. This has been looked at by experts within the ministries, a number of ministries, and we have been trying through an exchange between ministries of finding the right type of body for Trinidad and Tobago, one that will be effective in its operations.

6.05 p.m.

It may have taken some time, but the point of the matter is that we are getting it right now and that is why this legislation is before the House. It is unfortunate, yes, that we have been placed on a list, but that fact, there is blame to go all over.

Financial Intelligence Unit (Amdt.) Bill
[HON. H. VOLNEY]

Wednesday, February 09, 2011

The point of the matter is that we are dealing with it, Mr. Speaker. I am encouraged to hear the contributions on the other side that have been focused on that issue. It is encouraging to see that there are patriots on the other side who realize that coming to this honourable House and seeking to put down Trinidad and Tobago is wrong. It is very wrong!

In this Parliament we are about moving the country forward, not chastising the good name of institutions in the country. I do not understand what the Member for Arouca/Maloney is speaking about, that we need to bring back confidence into the country. Trinidad and Tobago is more confident a country than it has been in the last 10 years. [*Desk thumping*] Everywhere you go, you see people driving new cars, you see people—all the fetes are overflowing, that is an indication that people are happy in this country. [*Laughter and desk thumping*] The life is good. We have restored confidence in the land. [*Interruption*] So I do not understand what the Member for Arouca/Maloney is saying. She does not seem to be living in Trinidad and Tobago, maybe she needs to come out of Arouca and come to St. Joseph and see what is happening in St. Joseph. [*Desk thumping*] I do not understand the Member, but let me get back. I want to keep focused on the goal in front of me. [*Crosstalk*]

Mr. Speaker: Please!

Hon. H. Volney: Criminal acts such as drug trafficking, smuggling, human trafficking, corruption and firearms and arms smuggling generate sizeable profits for criminals and gangs engaged in such illicit activity. For these persons to benefit at will from their proceeds of crime, it is customary that they hide the illicit origin of these funds as using the profits from their illegal business activity can alert law enforcement officials and they, therefore, run the risk of facing criminal prosecution, hence the process of money laundering was conceived to disguise the origins of proceeds from criminal activity.

As long ago as the earlier period in government of the United National Congress between 1995/1996 and 2002, the then government found all this nefarious criminal activity going on in Trinidad and Tobago and passed the Proceeds of Crime Act. It was not a perfect bit of legislation and needed support, as for example, with the Financial Intelligence Unit legislation that came many years after the anti-terrorism legislation. Of course, it could be said that that was piloted by the People's National Movement, they were the government of the day, that was their duty to do it and we would not take it from them. We would not begrudge the government for doing its work. But when we do our work here we

expect that they would acknowledge that there is good in what we are doing, that does not come from that side. [*Desk thumping*]

Every week we come here—we are the Government and we are governing this country. [*Desk thumping*] Mr. Speaker, every week I sit here and I hear those on that side talking about, “we must get on with governing.” We have been governing. When you look at the list of achievements of this Government in the eight—nine months that we are here, we have achieved more in those months than they did in eight years and they must learn to recognize it and that is why the people of the country are happy today. [*Continuous desk thumping*] They are confident.

So I do not have to silence the other side. I want to hear contributions. That is what a debate is about, Mr. Speaker. When I listen to speaker after speaker on the other side, I hear absolutely nothing but grudging. The Members cannot come to terms with May 24, 2010.

Hon. Member: That is right! [*Desk thumping*]

Hon. H. Volney: It is like what we call a “tabanca” that they cannot get over. [*Desk thumping*]

Now, Mr. Speaker, because money laundering schemes make it quite difficult to detect origin of assets, corruption is also a source of concern as it generates sizeable amounts of assets which could be laundered. Persons or organizations, who solicit, collect or provide funds to support terrorist acts or organizations also seek to conceal terrorist financing. Similar techniques are utilized for both money laundering and the financing of terrorism whereby an individual or entity both seek to use the financial sector for illegitimate purposes.

Therefore, I am very happy to stand here—I can assure the national community as I stand here that in 2002 when the government of the day did not lose but were forfeited of government, what happened then, is that the assault on corruption, on money laundering, on financing of terrorist behaviour stopped and it went into freeze mode until the then PNM government woke up in 2005 and then they passed bits and pieces of legislation. But as the Member of Tobago East would tell you, there is a saying in Tobago, “don’t start something you cannot finish” and that is what they have been doing. They have been doing window dressing by passing certain bits of legislation that have no effective use. The Member, Mr. Speaker—[*Interruption*] Let me continue. [*Laughter*]

Mr. Speaker, I am aware as I stand here as a Member of a Cabinet appointed ministerial subcommittee of the amount of work that has gone into celebrating on this issue of bringing this legislation in its correct mode to Parliament to correct the problems that we have with the legislation. It matters not to us that we have reached on a list, we recognized the fact, but the point is that we have to correct the problems of the past, which is what we are doing in this legislative exercise today. Unfortunately, those on that side are not privy to enough of the information that they would like to know, which is, that there is good news, but the good news when it comes to correcting the wrong here has come on the backs of many hard-working, legal and public officers of this country who have been quietly assembled and have worked, have advised the Government on the way forward. We have looked at it and this measure is but one of a compendium of other measures, some of which have come to the notice and are on the floor of this honourable House that would work towards putting teeth into POCA, putting teeth into the Financial Intelligence Unit.

We have a director, we have an office, we have an acting deputy director or a deputy director as it is; the source of the staff has virtually—but I am not at liberty to say how—been identified from within, so that very soon we would have a functioning and effective Financial Intelligence Unit in Trinidad and Tobago and this is but one of the measures of which I spoke. Mr. Speaker, I do so with great pride in this day that we in this country are making a big step forward with this simple amendment to the law that those on that side neglected to do, but which we are doing today and I support the measure and the country can feel very proud that at last we have a proper and would have a proper functioning Financial Intelligence Unit. We intend to put those money launderers behind bars and we intend, Mr. Speaker, very shortly to take the sweet honey of crime from them, so that when there is no gain for them by engaging in money laundering they would stay away from it. They would go back to earning a living like those of us inside of here, by the sweat of our brow.

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

Dr. Keith Rowley (*Diego Martin West*): Mr. Speaker, I do not propose to be very long and I did not propose to enter this debate, but I must for the sake of the record and for the sake of clarity and to ensure that this Government does not further traumatize the people of Trinidad and Tobago.

Mr. Speaker, what really caught my attention was the bluster of the Attorney General who reminded me of an old Irish joke about a “fella” who walked on the pavement outside where dogs were passing and then he came in with his hand full

of some soft stuff and said, “look what I almost stepped into outside.” You see, Mr. Speaker, the Attorney General of Trinidad and Tobago is making a habit of not telling the people the truth and we object to that. [*Desk thumping*] The Ministry of the Attorney General—

Hon. Ramlogan: Mr. Speaker, the Member of Diego Martin West is doing more than imputing improper motives in making such a boldfaced and shameless statement.

Mr. Speaker: Member for Diego Martin West and Leader of the Opposition, when you assume that a Member is not telling the truth, the only thing that you are not saying is that he is lying. That is unparliamentary and I would like you to really be careful where you are going and you cannot impute improper motives to a Member of either House. I think, for instance, that you have done just that by what you have said. So I would ask you to withdraw that statement and be very careful. We do not want Members to be imputing or making personal reflections on the conduct or character of any Member of the Houses of Parliament. So, on that note, could you kindly withdraw that statement when you alleged that the Attorney General has a habit of not talking the truth. That is unparliamentary.

6.20p.m.

Dr. K. Rowley: Mr. Speaker, I withdraw the statement and I will start up my contribution with a clean page. Statement withdrawn! Mr. Speaker, I was forced to enter this debate to respond to what has been put on the record by the Attorney General. I will give you one example. And it is not an accidental statement, because I heard him make the statement in the other place on Tuesday, and I thought that was his Tuesday statement. But he came to this House and he makes the same statement on Wednesday, and whether it is true or not let me just tell you what he said and what I know the facts to be, and you will determine if he is speaking the truth or not and I would not use the unparliamentary word “lie.”

Mr. Speaker, the Attorney General said that he introduced into his presentation the subject of the Muslimeen property. I took note. He said, they did nothing in eight years. [*Crosstalk*] He said they did nothing in eight years; we sold the property in six short months. We sold the property in six short months. Mr. Speaker, anybody who lives in Trinidad and Tobago and who subscribes to the principle of accuracy, correctness and truth, would know that when the Government of the day, the PNM, sought to take action against the Muslimeen by way of getting them to forfeit their property or get the property sold to pay the State, after it was determined how much the State was owed—that was a long

drawn out process in public view in Trinidad and Tobago—eventually by way of the court, it was determined that the Muslimeen owed the people of Trinidad and Tobago, I think it was \$30 something million. The Government then proceeded to get that money by selling their property. The Muslimeen then went to court to prevent the Government from putting their property for auction. The Government prosecuted that matter all the way to the Privy Council. It was at the Privy Council where the Muslimeen reasoned as to why their property should not be sold became a big issue, because, as the Muslimeen argued, they had made some arrangement with the PNM and as a result of that the court should not now cause them to have their properties sold because the arrangement involved a quid proquo, whereby they would retain their property or whatever else and the Government would not enforce action against them.

The Privy Council ruled that that defence of the Muslimeen could not stand. This is a long legal process. That was how the matter ended up back before Justice Narine. Justice Narine was the last post after the Privy Council had ruled because the Government of Trinidad and Tobago, over a period of years, over the tenure of at least two Attorney Generals pursued this matter vigorously. And by the time it got to the point where Justice Narine made his ruling, it was only then, only then that State of Trinidad and Tobago was in a position to put the properties up for auction. Mr. Speaker, those are the facts.

It just so happened that a new Government came into office about that time and they picked up where the previous Government had, by a long process, prosecuted this matter because the Muslimeen did not accept it lying down that all properties would be sold. They fought it all the way. [*Desk thumping*] They fought it through the courts all the way. And eventually the final ruling came from Justice Narine. This new Government then proceeded to take steps to put the property up for auction; I do not want to go in this debate to determine what happened. We all know what happened then. But we did not cover ourselves in glory in getting for the State, right, the best value that could have been had, because we know what happened there.

So when the Attorney General of Trinidad and Tobago, a lawyer who, obviously, would have seen these proceedings passing through the public domain reported on a daily basis, knowing what happened with the Government, knowing what happened with the Muslimeen, knowing what happened with the Privy Council, knowing what happened at Justice Narine's court and comes here and says, the previous Government did nothing and it is in six months this

Government sought to get the country's pound of flesh; that is the kind of thing you get from the Attorney General of Trinidad and Tobago.

Mr. Speaker, it is a good thing that we have strictures on parliamentary language, otherwise the descriptions on the Attorney General would have made a mouthful. He makes a habit of doing that. You cannot take anything that the Attorney General says. Mr. Speaker, he accuses the PNM and says whenever—oh the PNM made a career of breaking the law and fostering corruption and whenever the PNM wanted to do that we created parallel institutions.

Only last week we had a debate in this House, Mr. Speaker, and without reopening the debate, the point that was made in this House was that the National Crime Commission was a parallel to the Integrity Commission. Who did that? Who created a parallel organization to the Integrity Commission? And all it was meant to do was to remove the DPP from having a say in who should be charged and who should not be charged, because the Attorney General wants to make a name for himself to tell people who to charge. He went to the other place, and in the most shocking representation, took public issue with the independent office of the Director of Public Prosecutions contrary to the spirit of our Constitution. *[Interruption]*

Miss. Cox: Shame! Shame man! Shame! *[Crosstalk]*

Dr. K. Rowley: Our Constitution created the office of DPP specifically to prevent any person from directing him as to who he should charge, what he should stop, which case he should stop; that independence of the DPP. It is the first time since I have been in this country I have seen an Attorney General taking issue with the DPP saying, that I as Attorney General, I think that this should be done. But, Mr. Speaker—*[Interruption]* Mr. Speaker I will ignore him.

Mr. Speaker: Order! Order! Order!

Dr. K. Rowley: Mr. Speaker, when that happens and you see the creation of a commission without the DPP it does not take many brain cells to understand why he piloted that piece of legislation to cut the DPP out. Obviously if he had that tool in his hand he would have gone and done whatever he wanted. That is what he is saying. I am simply putting people on notice in this country that we have an Attorney General in office who is a danger to good order in Trinidad and Tobago. *[Desk thumping]*

From where he sits a lot of things would pass his desk; from the way he talks, the minute he sees anything that looks like a news item, his eyes light up and he

“gone to buss a mark” on it. That is unbecoming of the holder of the office of Attorney General. The Attorney General might be a member of a party, nothing wrong with that. He might be an aggressive member of the party, nothing wrong with that, he might be hateful to another party, something wrong with that, because hate is a bad thing, it will consume you. But, Mr. Speaker, when you are holding public office and your job requires you to act in the interest of all our citizens and to protect us as the country’s chief law enforcement officer, legal officer, the conduct of the Attorney General should be a matter of concern to all the people of Trinidad and Tobago to all—[*Desk thumping*]
—whether you are a PNM, UNC, PP.

I will tell you all something, it was Emperor Haile Selassie who said, when Italy invaded Ethiopia and nobody came to his assistance, “Today for me, tomorrow for you.” Encourage him. Encourage him in his misconduct, and one of these days in his attempt to make himself covered in glory he will do the same thing to all of you, all of you. Mr. Speaker, I say no more on that except, Mr. Speaker— [*Interruption*]

Mr. Sharma: Mr. Speaker, 36(5), the Leader of the Opposition is imputing improper motives on the Attorney General and is irrelevant.

Mr. Speaker: I understand the Member for Diego Martin West is moving on. But all I wish to say again, and I repeat for all Members, is that if you wish to raise issues surrounding conduct of any Member of this honourable House please do so on a substantive motion. I will not permit any further interventions on the personal reflections or conduct or character of any Member of this House. This is my last warning, I will not permit it. Bring a substantive motion and deal with whoever you wish to deal with. So I take your point, Member for Fyzabad, and I rule accordingly, that that should never be permitted by me again. I will not permit it. Continue, Member.

6.30 p.m.

Dr. K. Rowley: Thank you, Mr. Speaker. We move on. The Bill before us is an interesting Bill. I do not want to go over what it means in terms of the effect that it should have and would have on serious aspects of our economic activity. I want to focus on one thing. But before I go there, I think it is opportune for me to start with the last Member, the Member for St. Joseph, who says it is wrong to put down the country and to put people down. In a fit of indignation he spoke about it being wrong. I want to take issue with the content as presented on a particular

statement made by the Member for Caroni East and the statement is this. He was talking about persons who serve on state boards.

I served on a state board once; I was on the WASA board and I used to be paid \$121 a month as a stipend and \$100 travelling. But it was never about the money otherwise I would never have done that. I probably could have won that in a “wappie game” in half an hour, if my hand was in. But it was out of a sense of duty that I owe this country something; this country that has been so good to me in terms of giving me the opportunity to move from a primary school “barefoot” boy to a university where I was head of a department and a quality of life which I aspired to and achieved. But I always felt along the way that I owed this country something. So when I was called upon to serve on the WASA Board, I did it out of a sense of duty, and I am sure a lot of the people—the vast majority of people—who agree to serve on state boards harbour similar sentiments. I am sure there are a few who see it as the opportunity to get something, but I am sure they might be in the minority. The vast majority of the people who serve on state boards are decent, law-abiding citizens who think that they are contributing to national development.

Therefore, I want to take serious umbrage on their behalf, because they were not in this House when the Member for Caroni East got up and said, “if you look at the state enterprise boards, you will find that they are all guilty of money laundering.”

How could a Member of Parliament of Trinidad and Tobago get up and make a statement like that in the House and put that on the record? That is going to end up on the Internet; it is going to go around the world, telling the world that the state enterprise sector, which is probably the largest economic block in this country, is populated by people who are all engaged in money laundering, in other words, criminals.

That is what he has said, that the people who served on state enterprise boards under the last government were all criminals. It is that kind of thinking that caused one of our most successful citizens, Mr. Arthur Lok Jack, to have called a press conference to defend his name from that kind of attack from this Government, because all they have done is attack, attack, attack; blame, blame, blame, to try and score political points. How could a Member of this House do that? And if this House is to preserve any dignity and be worthy of the name of the highest court in the land, I think my friend from Caroni East should once again apologize to the people who cannot defend themselves. [*Desk thumping*]

I do not know what evidence he would have had. I do not know what information he would have had. I do not know on what basis a Minister of Government will make a statement like that, to label all the men and women, young and old, who would have served on state boards in the last eight years, as criminals engaged in money laundering. Is there no limit to which they will not sink? I know you keep saying that you want to raise the tenor of this House and I am sure you missed that. Because I am sure, had that registered on you, I know you would not accept that as worthy of this House.

We heard the Attorney General make a big carrying on in a wayside speech about the illegal action of the PNM government in hiring David West and he spent a lot of his presentation on what he termed to be the illegal action of the government in hiring David West, and so on. My colleague, the Member for Diego Martin North/East, I think, dealt with that quite comprehensively and I want to associate myself with everything the Member for Diego Martin North/East said, because he quite comprehensively dealt with that matter.

Just to put it in perspective, I want to take us back a little bit into how this whole question of a public officer heading the FIU came about. Clause 3 of the Bill came to this Lower House. We debated it, and when it was passed in this House—and I think it was passed unanimously—it went up there. Clause 3 said that the unit would have staff—s-t-a-f-f. When it got to the Senate, the issue as to the director and deputy director became a very contentious issue, and a Member of the Opposition then had this to say. He said that the director and the deputy director of this unit be appointed by His Excellency on the joint advice of the Prime Minister and the Leader of the Opposition. That was the position of the Opposition, and they gave good reason, and they pointed out how important it was. The Opposition then went on to say:

“Under no circumstances are we prepared to leave that is in the hands of a Minister of Finance and a Cabinet and to put anybody on contract.”

And without bringing you into the debate, Mr. Speaker, that speaker was Sen. Wade Mark, the Leader of the Opposition in the Senate. The Opposition’s position went on to be:

“We are dealing with a very sensitive office and here we are not prepared—”

And he said:

“—we are going to break on this one—to allow any Cabinet to appoint any director and any deputy director of the FIU. We are saying this is too important a matter. It involves the lives, safety and security of hundreds of thousands of

people and we are not prepared to allow a political body, like the Cabinet, to take that responsibility to appoint any director and any deputy director.

We are saying to have balances and to have checks we must put that in the hands of His Excellency on the joint advice of the Prime Minister and the Leader of the Opposition.”

This evening we are told that the previous government committed a huge sin by putting David West, albeit in a holding position, while we put the unit in place, and that was so wrong and that the law said that only public officers should hold the position and, therefore, the presence of David West was quite wrong. That is true. Section 2 of the Financial Institution Unit says:

“The FIU shall consist of such number of suitably qualified public officers, including a Director and Deputy Director...”

But, again, to understand what went on there, you will remember—because Mr. Speaker, you were there. You will remember that in October 2009—it was Tuesday, October 06, 2009—when this matter came up in the other place and after a lot of contentious interjection by a number of Senators, clause 3 was deferred. So contentious was this matter that the Senate could not come to any consensus on it. It was deferred. Then later on it was reintroduced, and this is what was said—because, you see, the Attorney General told us this evening that an appointment has been made to the directorship of the FIU and he nods his head in agreement. But I want to ask the Attorney General: when did the Public Service Commission make that appointment? I hope when he winds up he will tell us when the Public Service Commission made that appointment, because, you see, I am hearing the Leader of Government Business asking if they have to make it, and I am hearing the Attorney General saying, no, they do not.

Dr. Moonilal: You heard wrong.

Dr. K. Rowley: All right, good, I heard wrong.

Mr. Speaker, it was in December—and I will tell you exactly when. It was in December an advertisement went out for the position of Director of the FIU—in December 2010, under this Government. So a process was started and this process came out of the legislation which required that the director and or deputy director be hired by the Public Service Commission. So in December, advertisement; interviews were held on January 06 and 07, 2011 for persons who applied. A panel was put in place under this Government and let me tell you who the panel was.

The panel was the deputy permanent secretary in the Ministry of Finance—a six-person panel—director of intelligence of SAUTT; consultant to the Government on the FIU; another consultant to the Government on the FIU; a representative from the Ministry of Finance and one from the Central Bank. The permanent secretary was Mr. Michael Mendes; the director of SAUTT was a Mr. Stephen Sookram—it says—the two consultants to the Government were a Mr. Donald Semesky and a Mr. Alberto Lozano Vila. The Ministry of Finance had a representative in the name of Miss Jill Harriet and the Central Bank had a Miss Wendy Hosein.

These six people interviewed the applicants for the position of director, because up to that point the Government knew what to do and the Government knew that the appointment had to be made by the Public Service Commission. Three persons were shortlisted and when I look at the names of the three persons who were shortlisted at the end of that process, none of them is Susan Francois.

I would like the Attorney General to explain to me, how come the Government could put a process in place in keeping with the requirement of the law, in acknowledgment that the appointment is to be made by the Public Service Commission and of the three people who were shortlisted, none of them is the name he called here this evening. I want to put that against the background of what the Prime Minister told us recently when she was wiggling her way out of the Ramnarine mud. The Prime Minister had this to say. She gave the country the assurance, and these were her words:

“There is only one way forward from this. We should commit ourselves to learn from this and create systems that would ensure that something like this should never occur again.”

What she is referring to was the catastrophic, deliberate attempt to hire Reshmi Ramnarine as head of the SIA.

6.45 p.m.

That matter is still with us, but in treating with the fallout from that, this is the assurance that the Prime Minister gave the country. Of course, you cannot give that assurance having not admitted how it happened or who did what, but those were her words. And she went on to say, “How we do that is by implementing a more rigorous selection process in the appointment of a director of the SSA.” She went on further to say, “you do not need another misstep from your Government. Mr. Speaker, with respect to that, I say that there are several prospective candidates who are being considered to take up the post of director of the SSA... and we will make

an announcement”, shortly. But she ended by saying, “we will ensure that in all our action merit trumps political affiliation. Our people deserve no less.”

Those were the words of the Prime Minister of Trinidad and Tobago only last week, giving the country a commitment that the snafu, the fiasco, the favouritism, the scandal, the debacle of the Reshmi Ramnarine appointment will never happen again because now we will do it properly.

I want the Attorney General confirm to me this evening that the words of the Prime Minister are anything but words. How did you have a process? How did you have a process where you set about putting six senior people—four public officials, two foreigners who are consultants to the Government—to conduct interviews? Interestingly enough, the three people who were shortlisted, I do not think they are public officers. No they are not. So the process—the same way he got on this afternoon about the PNM not acknowledging that Mr. West should not have gone there because the positions are reserved for public officers, if you know that, why then did you have a process where you were screening people, shortlisting people and coming to a point where you had three persons shortlisted and none of them are public officers?

He is correct, that is what the law calls for, that they have to be public officers and you may recall, Mr. Speaker, that was a big debate in the other place and there was an amendment in the other place which came back to this House and if there is any doubt as to what Parliament intended, you go back to the spoken word recorded in the *Hansard* and this is what was said in the Senate when it was asked that clause 3 stand part of the Bill. I told you a while ago that the Leader of the Opposition in the Senate then had a very strong position, and he said that under no circumstances should it be allowed to go that way and other Senators had something to say—and this is what Sen. Mariano Browne, speaking for the Government said in the Senate:

“Given the difficulties with regard to the questions which were raised with regard to the appointment of the director and deputy director, we suggest that these positions be made public officers which would be fulfilled under the recruitment provisions of the Public Service Commission.”

That is what was put to the Parliament and it is in that context I am asking the Attorney General to tell me, when did the Public Service Commission get involved in the process that resulted in the selection of Ms. Susan Francois? Please help us and tell us that.

Hon. Ramlogan: May I, on a point of clarification, because I am taking notes to respond to you? Could you tell us when the Public Service Commission got involved in the appointment of Mr. David West, Sir?

Dr. Moonilal: Help us.

Dr. K. Rowley: If I knew that was the question you were going to ask me, I was not going to give way. I am not in any way interested with what happened with Mr. West now. What I am interested in now, today, the Attorney General of Trinidad and Tobago told this country that an appointment has been made of a certain Ms. Susan Francois. I do not know who she is. What I do know is that she is not one of the persons shortlisted by the process that the very Government put in place and the follow-up question is this: since Ms. Susan Francois was not selected by the process that you put in place in December and in January, who selected her? [*Desk thumping*] How was she selected? Because if she was selected by the Public Service Commission as required by the law, which I am now paying attention to, the Public Service Commission would have advertised the position, and my information at my office is that Ms. Francois never even applied. That is my information; that she has never even applied for the position.

So here you have, Mr. Speaker, a process that the Prime Minister says will be rigorous and meritorious, and an ad goes out for the position of director of Financial Intelligence Unit, high paying job, serious appointment, and a person who did not even apply, the Attorney General tells us has got the job, and persons who have applied and were shortlisted and expect the job, they are now hearing from the Attorney General that somebody else got the job. This is Reshmi Ramnarine all over again. The only difference is this, that Reshmi Ramnarine was not qualified but she wanted the job and the Prime Minister could not say no. In this case, a process was in place, the person might be qualified but the process had been aborted, no advertisement as per the requirement of the Public Service Commission and until he tells me that the appointment he spoke to this afternoon was made by the Public Service Commission, this Government stands accused again of repeating the Reshmi Ramnarine arrangement. [*Desk thumping*] Because if the Government is to observe the law—in the context of his bluster this evening, he had a lot to say about the appointment of David West. The Member for Diego Martin North/East explained how David West came to be in that position. He also pointed out, as I will point out, that the position of filling the post of director the law of Trinidad and Tobago requires that the appointment be made by the Public Service Commission. If it was made differently before— [*Interruption*]

Hon. Ramlogan: Mr. Speaker.

Dr. K. Rowley: Not now. On your own timing, on your winding up, I just gave way and you abused it. I am not giving way. I gave way and you abused it. As the Attorney General you have—let me not say anything. So, I am not here trying to resurrect anything post what is before us now. If it turns out— and it does not turn out you know. The very appointment of David West is in this context that it did not have to be a public officer. I suspect that the only reason the panel put in place by this Government, the six-man panel, that interviewed and shortlisted non-public officers, the reason that happened is because the restriction to public officers was not known to them, otherwise, one has to assume—did they know that the job was restricted to public officers yet, it was advertised openly and you shortlisted non-public officers? That should tell you that there was some ambiguity. And if they were seized of the *Hansard* debate that you are very familiar with, Mr. Speaker, and we all are familiar with here, those of us who know what went on in the Parliament, you would understand how long and tedious the debate was—

Dr. Moonilal: Thank you, very much, Leader of the Opposition for giving way. I am really following the argument and some of the issues that you raised. I just wanted for my clarification to point me in the direction of the law, the parent Act for the provisions to appoint a director pursuant to the Public Service Commission you said earlier. Just point me so that I can follow. Thank you.

Dr. K. Rowley: Mr. Speaker, I do not want to carry on a kindergarten class here this evening. The very fact that I conceded that the Attorney General is right, when he says that section 3(2) of the Financial Intelligence Unit Act says: “The FIU shall consist of such number of suitably qualified public officers including a Director”—public officer means something and anybody who knows about the public service will understand what public officer means.

6.55 p.m.

“Public officer” cannot be anything but a person who holds a position by suitable authority, appointed by the relevant body or commission in the public service. That makes a public officer. And that is why the law went on to be expansive and say it may also include public officers with appointment and assignment transferred from other ministries. Paragraph (b) goes further and says: “officers and other persons appointed on contract by the Permanent Secretary of the Ministry of Finance.”

In other words, if the Leader of Government Business accepts what the true meaning of “public officer” is, he will know that such a person to carry that title has to properly appointed by a duly authorized authority. Okay?

Dr. Moonilal: So it is not in the Act?

Dr. K. Rowley: If you want to debate it—that is why I went to the *Hansard*—I took you to what Parliament meant when the law was passed. When the amendment came from the Senate—because it was the Independent Senators who created that amendment and they all stood their grounds. I can tell you. This is what the Attorney General had to say. The Attorney General in October, in the Senate—[*Interruption*]

Dr. Moonilal: 2009?

Dr. K. Rowley: Yes. When he came to the Lower House and this issue of public officers came up there was opposition to it because people saw that you were limiting detachment from which you could select such a person. This is what Mr. Imbert had to say in the Lower House. He said:

“With respect the clause 3”—which is the clause that deals with the director—“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.”

When he was moving the amendment he said, in subclause—while I am looking for that, Mr. Speaker, I would tell you, the Government having taken that position as to the spirit and letter of the law, the former Member for Tabaquite, Mr. Ramesh Lawrence Maharaj, interjected and said this:

“I regret to say that I do not agree with the amendment to limit this unit to public officers”—and for your benefit, public officer is somebody appointed by the Public Service Commission—“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 or not suitably qualified or do not have necessary expertise, you would now have to train them...”

If I may say so, although the public service would have persons of great ability, this is a specialized field.”

He ended by saying:

“I am sorry if I sound too emotional”—and he had a lot more to say in between—“but this is wrong; this is wrong. I am sure if it was explained to Members in the other place, they would understand and that it has to be otherwise.”

The Attorney General responded by saying:

“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”—meaning the Lower 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...to make a concession for this Bill to be passed in the other place.”

In other words, not a single Independent Senator was prepared to vote for the legislation, if we did not confine the catchment of officers to public officers. The Government reluctantly agreed and that is how public officers become the pool of the catchments.

Dr. Moonilal: Thank you very much, Leader of the Opposition, for giving way. I also remember the debate. I was in the House and remember the contribution of the then Member for Tabaquite. Is the Member agreeing that the person to be appointed director should be, according to the law, a qualified public officer, but the person that becomes the director has to be a qualified public officer, but that appointment is not to be done by the Public Service Commission according to the law, and that would have facilitated the former government appointing someone who was neither a public officer nor appointed by the Public Service Commission?

Dr. K. Rowley: Mr. Speaker, I really do not understand what he is trying to tell me.

Dr. Moonilal: How did David West occupy it?

Dr. K. Rowley: Mr. David West occupied it in the context that the Government put—David West was heading another department. They were creating the FIU. David West was given the assignment to do it, but the FIU under the law is required to be staffed by a director and the process of appointing a

Financial Intelligence Unit (Amdt.) Bill
[Dr. Rowley]

Wednesday, February 09, 2011

director is what is before us. If the Government wants to argue with that, that is not my argument. I conceded that a public officer—I agree with the Attorney General. The main point of my argument has to do with, you set out to select the person by virtue of a process of advertisements and—

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

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Miss M. Mc Donald*]

Question put and agreed to.

Dr. K. Rowley: Mr. Speaker, I expect that we will get matters of interpretation. I said I was not going to be long, but I simply want to make the point that the Government cannot take one position today and another one tomorrow in a process that is unknowing. Because if the Government knew that what they are trying to say, now that I have raised this matter, is what it should be, then on what basis was the post advertised and an interview panel put to work, if not to put proper process in place? That is why I want the Government to engage me. I am not a lawyer, so I am not going to go any further in trying to interpret law that as far as I am concerned is very clear. Section 2(a) and (b) is very clear. The Government could debate that if they wish. But the Government went on to put a process in place, within the context of my understanding, that they had to advertise the position, persons had to apply, a panel was put in place, they were screening people, they got to the point of selecting three persons, shortlisted, and the process died. My question is very simple: who killed the process?

I know the process died only when I came here this afternoon. It was the Attorney General who volunteered to us, that the process has already generated, and Ms. Susan Francois and I happen to know that she was not one of the persons shortlisted. So I am not going to get into any legal fancy footwork with the Government. I want the Government to answer this simple question: where did Susan Francois come from? [*Desk thumping*] By what process? Who selected her?

Mr. Warner: Me.

Dr. K. Rowley: I know you would if you could. That might even be true you know. Let the record show that the Member for Chaguanas West said he selected her, but I know he is just joking. Somebody else did and until we get the answer for that, I stand by my position that the selection of an officer who is by law to be selected by the Public Service Commission—

Dr. Moonilal: No, not by law.

Dr. K. Rowley: Okay. I want to get away from the law. How did you select Susan Francois? Tell me the process you used. Who else in the public service had the opportunity to know you were doing that and that it was confined to the public service? And the people that you screened and shortlisted, did they know that you were just playing around with them? Did they know that? The three persons who were shortlisted, did they know that they were just a window dressing and somewhere along the way the process would be aborted? Tell us how Susan Francois was selected.

I rest my case, Mr. Speaker. [*Desk thumping*]

The Minister of Foreign Affairs (Hon. Dr. Surujrattan Rambachan): Thank you very much, Mr. Speaker, for the opportunity to join in this debate. Throughout this debate, we have been taken on several journeys by our friends on the opposite Bench. And in particular this afternoon, the distinguished Member for Diego Martin North/East, in some of his closing statements, sought to make the population believe or sought to cast an aspersion that this Government was not governing, that this Government was not doing its work. In fact, he asked the question: what have we been doing?

Mr. Speaker, it is very clear that one of the things we have been doing is exactly why are here this afternoon. We are beginning to set the platform for governance in Trinidad and Tobago, so that the business of this country can be carried out for the benefit of the citizens of this country.

Mr. Speaker, the Members on the opposite side would want to have the population believe that this Government is not working, that this Government is not doing. They are trying to get the population to fall into a false belief, by using the old strategy that the more you repeat something that people are going to believe it and they are going to fall for that psychology. Unfortunately, the people of this country are much more intelligent than that. The people of this country know that this Government is capable of running this country and that is why on May 24, 2010 they voted for Kamla Persad-Bissessar and the 29 of us on this side, and gave us mandate to govern this country. [*Desk thumping*]

Mr. Speaker, I therefore have to answer in a sense what this Government has been doing, and as I said, we have been preparing this country for good governance and this is why we are here today to deal with this matter. They accused us of not doing anything about this matter, but my hon. colleague, the Member for Caroni East,

demonstrated that from 2004 to 2009—that is the time they took to bring the legislation to Parliament and then had eight months, and after that to do something, but they did nothing. They did nothing. Then they have the audacity to question whether we are doing anything, when we have come before this Parliament with the amendments to the Bill, ready in fact, to do what we need to do in order to ensure that this country has the respect, this country maintains its integrity when it comes to financial matters in the interest of the country.

Mr. Speaker, if they really want to know what we have been doing, we have been putting together boards of directors in this country. If you look at the boards of directors, you would see that on no two boards you have the same people. On every one of our board of directors are different persons. That is also an approach we have taken to ensure that the integrity of the way those organizations are managed will not be compromised, so you do not have interlocking directorates or people like the UDeCott situation, like the Calder Hart situation, like the Annisette situation, sitting on so many different boards altogether, able perhaps to manipulate the finances of this country and the finances of those organizations in private and personal interest.

Our Prime Minister and the Members of this Government have made it clear that we would have boards of directors, but we would avoid interlocking directorates. This is the extent to which we want to protect the interest of this country, and especially, the financial interest of those organizations.

7.10 p.m.

Mr. Speaker, we have been creating a platform for economic growth in this country. This is why the IDB is prepared to do business with this country like it has never done business with this country before. [*Desk thumping*] And they said so yesterday when they met. This is why they are prepared to lend us money way above, they have never lent us before, and at 1.13 per cent. Because they see in this Government, the ability to manage the finances of this country and the ability to grow this country and the ability to return this country to economic growth away from the economic decline that had started under the previous administration. [*Desk thumping*]

If they asked the question: what we have been doing? This is what we have been doing. We have been correcting the economic foundations. We have been correcting the ills of mismanagement that have been left by the former administration. This is what we have been doing in this country and we have been doing it rather successfully.

So they want our supporters and they want this country to believe that this Government is not governing. And they feel that if they say that enough times, people are going to believe it. Hey, wake up! Wake up! You thought we would not be here after six months, we are here. And look well, we are here to stay, we are going to stay and stay and stay. [*Desk thumping*] We are going to outrun the bunny also. We are here to stay and our supporters know we are here to stay and the public knows we are here to stay and they want us to stay because they know that we are doing the job that they put us here to do. Let me just assure my friends on the other side, and, by extension, the members of the country, we are the Government, we know that, we know our responsibilities and we are going to carry out those responsibilities and we are going to do them well.

Mr. Speaker, the hon. Leader of the Opposition made a lot of fuss this evening about the appointment of the director. But for the sake of the records, I want to put on the record, from the Financial Intelligence Unit of Trinidad and Tobago Act, 2009, Part II, Establishment and Staff of the Financial Intelligence Unit, section 3, subsections (2)(a) and (b):

“(2) The FIU shall consist of such number of suitably qualified public officers including a Director and Deputy Director as may be necessary, for the performance of its functions and may include—

- (a) public officers,”—listen carefully—“appointed, assigned, seconded or transferred from another Ministry or statutory corporation to the FIU; and
- (b) officers and other persons appointed on contract by the Permanent Secretary of the Minister of Finance.”

I did not see Public Service Commission here and I am reading the entire section of the law and not half of the law.

Dr. Gopeesingh: Convenience to move away from the truth.

Hon. Dr. S. Rambachan: If you talk about integrity, let us have integrity and let us read the whole law, what the law states and not half of the law. Let us not cast aspersions on good, decent public servants like Ms. Susan Francois. Let us not draw her name into this domain. Let us have respect for people who come forward as public servants to do justice on behalf of this country and to serve with dignity in this country. [*Desk thumping*] You know Valentine’s Day is coming, let us have some love for the public servants in this country. Dr. Fuad Khan knows a lot about that.

Mr. Speaker, it has come to light therefore, that a loophole exists with regard to the amendments to the Proceeds of Crime Act or what we call POCA, and the law, as exists at present, does not ensure that the Financial Intelligence Unit can fulfil the overarching supervisory role over implementation of the Proceeds of Crime Act on other pieces of legislation. That is the problem, it is a loophole in the law. And as at present, the legislation governing the FIU does not empower it to carry out functions now envisioned by the amended Proceeds of Crime Act (POCA).

So the Bill in clause 2 seeks to solve this problem, simply by the insertion of words “and shall exercise any other function given to it by any other written law”. In other words, what has come to us now from the other place, at the end of section 8(1) of the Financial Intelligence Act, 2009, it says what has to be inserted after the word “internationally” the words “and shall exercise the functions given to it under the Proceeds of Crime Act, 2000, the Proceeds of Crime (Amdt.) Act, 2009 and the Anti-Terrorism Act, 2005.” And the enactment, therefore, of this provision will ensure that wherever in the future, a role envisioned for the FIU in other anti-crime legislation, that unit will be fully empowered to discharge any such role. And my good friend, the Member for St. Joseph, my learned Justice, tells me I got it right and I am not at lawyer. And if I can understand it, I do not see why people with more experience on the other side could not have understood it in the way it is supposed to be understood.

Hon. Member: They did not want to understand it.

Hon. Dr. Rambachan: Clause 2(b) seeks to replace the reference to section 53(3) of the FIU Act with a reference to section 55(3). And this is necessary to ensure that the FIU has the power to set reporting standards for suspicious transactions, and will also ensure the extensive provision for suspicious transaction reporting set out in section 55(3) of the amended Proceeds of Crime Act has teeth and can be fully effective. That is the problem with the law, it did not have teeth. You have to have a law but the law must have teeth, so it can bite. Because if the law does not bite, no one will be afraid of the law.

Dr. Gopeesingh: You cannot be a toothless bulldog.

Hon. Dr. Rambachan: That is right, you have to have teeth. And you must be able to bite; the law must be able to bite. Part of the problem in this country is that people feel the law is not biting so everybody wants to do everything and that is why you have so many lawbreakers in this country. So this is to give teeth to the law.

Section 55(3) to which today's Bill refers is therefore a critical provision of the amended Proceeds of Crime Act. This provision seeks to comply with the recommendation of the first evaluation of the Caribbean Financial Action Task Force on Trinidad and Tobago. And, therefore, Mr. Speaker, it is incumbent upon the Parliament, this Parliament, to ensure that there is an appropriate legislative framework to ensure implementation of this amendment, especially in light of the fact, that the provisions of section 55 of the amended Proceeds of Crime Act were duly recognized in CFATF's second evaluation of Trinidad and Tobago.

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker, the genesis of the Financial Intelligence Unit of Trinidad and Tobago (Amdt.) Bill and its associated legislation: the Financial Intelligence Act, No. 10 of 2009, the Proceeds of Crime Act and the Act to amend the Proceeds of Crime Act is the Financial Action Task Force, what has been referred to in this Parliament as FATF—an inter-governmental body which seeks to develop and promote policies, locally and internationally to combat money laundering and terrorist financing.

You know, Mr. Deputy Speaker, sometimes I go to shop for clothes in Trinidad, as I often do. And sometimes I wonder how I could get a suit, a shirt, an extra pair of trousers and a tie for \$395 or \$495. I wonder, I really wonder how I can get all those clothes in polyester wool—sometimes even a free pair of socks too—for that money.

And I really wonder whether even some of these clothing merchants are not involved in some way or the other in money laundering in this country. I am sure many of my friends here would also ask those questions.

7.20 p.m.

Mr. Deputy Speaker, therefore these pieces of legislation are complementary and co-dependent and might be described as the linchpin of wider framework legislation to curb crime. And any government worth its salt—a government that is committed to combating crime must prevent illicit, immoral and corrupt criminals from legitimizing their nefarious activities through money laundering.

I wish I had a lot of time to describe the many ways, perhaps, in which money laundering could take place in a society. Last night I was looking at the Internet and researching about money laundering and the forms of money laundering, and it is a lesson in itself to see the inventive ways people have of laundering money in a particular society.

We must place a stranglehold on their criminal network through a system of constant vigilance and reporting in a manner that prevents them from enjoying the proceeds of their crime; that is our responsibility, and we must do that. We cannot Opposition and Government alike, you cannot my dear friends on the Opposition stand there and talk about a moral society, a society of integrity, a society of honesty, returning the society to its moral foundations, or moorings, moral moorings, and then proceed not to support this kind of legislation that is required in the society.

The ill-gotten gains of drug trafficking, the arms trade, contract killing, embezzlement, insider trading, bribery and computer fraud should have no avenue for entry into legitimate financial institutions. Yes, this is a society where you have contract killing, let us not fool ourselves; this is a country where you have contract killings. We do not know how much they pay for a man to kill a man, maybe it is little to nothing, maybe it is much, but that too can form part of the money laundering, it has to get back somehow into the system, and therefore even that we must tackle when we do our duty with respect to this amendment.

This Government recognizes that this package of legislation and the framework it creates, if properly implemented and enforced, can be used to detect and weed out criminals and criminal elements when they seek to legitimize the proceeds of their illicit activities which threaten to destabilize our society. And, yes, money laundering can destabilize a society, money laundering can do that. Money is an evil in itself, and it is the love of money that can force people into evil, it is the root all evil. Thank you, Pastor Samuel. And the Government regards this Bill as integral to a hard fought battle against the criminal elements that have been allowed to flourish in our society.

You know, Mr. Deputy Speaker, in 2006 Chas Roy-Chowdhury, Head of Taxation, ACCA, in the UK, stated that businesses dealing with high volumes of cash are considered to be particularly vulnerable to exploitation for money laundering purposes and are increasingly being subjected to regulatory controls. And he noted that restaurants, nightclubs, taxi firms, casinos—and you know how many casinos we have in this country now, and we have them masquerading now as private members' clubs but you do not know what is happening in there. We need to know what is happening in there, we need to know if money is being laundered through those places, because heavy cash passes through those places. We have instances in this country which when they were robbed, and thousands of dollars were taken; we need to know all of that. He noted therefore that restaurants, nightclubs, taxi firms, all of these which deal with large volumes of

cash can be used as front companies with the intention of laundering money via mixing criminal proceeds and legitimate business income. And such companies are particularly susceptible to money laundering.

Mr. Chowdhury also stated that worldwide money laundering could amount to between 2 and 5 per cent of world GDP, that is between \$590 billion and \$1.5 trillion and that is according to the IMF figures. About £25 billion of criminal assets is laundered through the UK financial system every year. We should really try to find out what is the volume of money being laundered in Trinidad and Tobago and how it is being laundered. We should really try to find that out. Maybe we need a study to find out not just about how much money is being laundered, but what are the social, economic and other implications of money laundering.

My hon. friends on the other side spoke correctly when they pointed to some of the dangers in the society of money laundering, and I agree with them. And we have to guard against that, so maybe we should do a study in this country to ascertain the extent, real extent of money laundering.

Let me go further. A 2007 joint report entitled “Crime, Violence, and Development: Trends, Cost and Policy Options in the Caribbean”, published by the United Nations Office on Drugs and Crime and the Latin America and Caribbean Region of the World Bank—so I am giving you the source of where I am getting this information to show you the credibility and legitimacy of what I am saying—states: “that the financial services sector in the region is threatened by white collar crime and money laundering—”

The financial services sector is threatened—it is just three to three and a half years ago—by white collar crime and money laundering. And this is by the United Nations Office on Drugs and Crime and the Latin America and the Caribbean Region of the World Bank. Not just anybody you know, these are people who when they put something on paper, they put it on paper because they substantiate it, because their integrity is at stake.

The report also highlights the fact that the Caribbean will continue to be a key drug trans-shipment area because the financial services industry provides a cover for money laundering. It provides cover for money laundering—The susceptibility of the region to money laundering is attributed to the lack of sufficient oversight resources—just what we are trying to correct here today—insufficient oversight resources, and its geographic location along one of the world’s premier drug and cash thoroughfares.

The report also points out that the tourism sector generates numerous cash-based businesses through which “dutty”, dirty money can flow undetected, “dutty money”, and that is the Trinidadian lingo “dutty money” can flow, dirty money. And although nothing, of course, can be done about our geographic location, however, it is within the power of this Government—and it is a priority of this People’s Partnership Government—to buttress the oversight mechanism for the financial services sector. This is what we seek to do in this Bill. We believe that robust, unfringeable regulatory infrastructure to oversee the financial services sector is imperative, if money laundering is to be curtailed. And we will have to bite the bullet, as they say, and do what is necessary.

In 2006, the effect of money laundering on the economy was investigated by B. Unger, M. Seigal, J. Ferwerd and W. Kruijg. A quantitative and qualitative assessment of money laundering was carried out in the small open economy of the Netherlands. And you know what it concluded; it concluded that money laundering had a negative effect on the economic growth and financial stability of the Netherlands.

In a 2002 publication, B. L. Bartlett in an article entitled “The Negative Effects of Money Laundering on Economic Development”, shows how money laundering adversely affects the financial sector by undermining domestic capital formation and eroding financial institutions. Dangerous, dangerous to the society!

7.30 p.m.

Bartlett’s publication also demonstrates how money laundering depresses growth in the economy and facilitates illegal capital flight which is detrimental to the economy.

One other study which was the 1996 analytical study undertaken by P. Quirk, in “Money Laundering: Muddying the Macroeconomy” shows that money laundering also has an adverse impact on interest rates and causes exchange rate volatility.

My dear, Deputy Speaker, and colleagues, high corrupt money laundering is also inextricably linked to corruption; they go hand in hand. High corruption decreases investment which in turn decreases economic growth. People do not want to come to your country if it is corrupt; people do not want that. They do not want to come into a corrupt country, people do not like to pay bribes, people want to do business in a very honest fashion and they want honest people to do that. If we are to attract investment into this country and if must to do so on a sustainable basis, then we must make the financial infrastructure right and we must have the

conditions in place that will prevent money laundering and will prevent corruption, so that people feel that they are dealing with people of integrity and with a system that also is full of integrity. That is what people want. That is what this Government is committed to.

Those are some of the platforms, my hon. friend from La Brea, that we have been setting. So, when your colleague from Diego Martin North/East asks, what have we been doing, tell him; go tell him on the mountain, shout from the highest parts of the land, that the People's Partnership Government is setting platforms for governance and economic growth on a basis of integrity.

Mr. Deputy Speaker, I have done some research on this and this is why I am sharing this with you, because I think it is necessary to see what is happening across the world and the kinds of studies that have been done. A 2000 study on the effect of money laundering on developing countries by V. Nair & Vaithilingam tested the factors that give rise to the pervasiveness of money laundering. Do you know what they found? Listen to this: The link between technology, human capital, efficiency of the legal framework, ethical behavior and capacity for innovation and the incidence of money laundering were examined. It was concluded that the legal framework with good corporate governance, decreases the incidence of money laundering.

That is what we here today for, good legal regulatory framework is necessary. Do you know what? Jamaica was one of the developing countries used in that study, and it is believed that the results can be extrapolated for the entire Caribbean.

Those of us who have been following the Caribbean affairs and matters in this regard will know that in recent times the Caribbean has been described as an appropriate destination to launder dirty money and do you know why? Due to ineffective anti-money laundering laws and also its relatively stable financial system.

There is a gentleman by the name of S.A. Ali, and in 2000 he wrote the relatively free circulation of foreign currency in several Caribbean countries is attractive to persons seeking to assimilate wealth into the local economy as a part of a laundering scheme. The relatively free circulation of foreign currency in several Caribbean countries is attractive to persons seeking to assimilate wealth into the local economy as a part of a laundering scheme.

Mr. Deputy Speaker, the mutual evaluation conducted by CFATF reviews compliance with the 40 recommendations and eight special recommendations of

the FATF which, according to the FATF, “provide an enhanced, comprehensive and consistent framework of measures for combating money laundering and terrorist financing.” It is accepted that if Trinidad and Tobago is to fulfil its commitments to the maintenance of the recognized international standards and policies against money laundering and terrorist financing, we must strive assiduously to abide by these recommendations. Let us not delude ourselves, let us not fool ourselves. Let us not delude nor fool ourselves. Look around different parts of this country and you see people who had nothing, they run no businesses, they do not have a shop or a “parlour”, but suddenly driving Mercedes Benz, Range Rover, have three-storey houses; the whole community knows what is happening, but like they say, the police “ent” know.

How do they get there? There has to be illicit gains in this society that is causing that. There has to be, and we know it and we must bravely confront it. You see one of the problems of crime in this society is that as citizens of this country we have to take this country back, we have to confront this, we must not run from it, we cannot leave it only to the police to fight off the criminals you know. The crime is not just in terms of those who have guns and are shooting. Who are the people behind that? Who are those financing those with the guns? Where is that money coming to finance that from? This is why we are here debating this legislation also, today. As we try to deal with this scourge in the society.

The first evaluation in May 2007, highlighted Trinidad and Tobago as non-compliant with regulation 13 of the FATF, because the reporting agency was what was described as the designated authority rather than an FIU. This evaluation recommended that the proceeds of crime Act be amended to require reporting of suspicious transactions related to the proceeds of all money laundering offences to the FIU rather than the designated authority. In addition, Trinidad and Tobago was listed as partially compliant with regulation 14, because there was no prohibition on the disclosure of the reporting of a suspicious transaction to the FIU.

The subsequent report did note that the amendments to the Proceeds of Crime Act had named the FIU as the authority to which suspicious transaction reports are to be made. Section 55(3) of the Proceeds Crime Act as amended requires financial institutions and listed businesses on knowing or having reasonable grounds to suspect that funds are being used for the purpose of certain transactions that are the proceeds of a specified offence, to make a suspicious transaction or a suspicious activity report to the FIU. Specified offence of course is defined under the amended Proceeds of Crime Act as an indictable offence committed in Trinidad and Tobago whether or not the offence is tried summarily.

In addition, it is noted in the second evaluation by Caribbean FATF that the recommendation that the Proceeds of Crime Act be amended to prohibit the disclosure of reporting to the FIU was enacted in the amended Proceeds of Crime Act by inserting section 55(3A), which makes the disclosure by director or staff of a financial institution or listed business of the submission of a suspicious transaction or suspicious activity report to the FIU an offence liable on summary conviction to the fine of \$250,000 and imprisonment for three years. Of course the POCA goes on to elaborate penalties for non-compliance with record keeping and retention duties, as well as suspicious transaction reporting.

7.40 p.m.

Mr. Deputy Speaker, fulfilment of the obligations assumed by Trinidad and Tobago pursuant to its association with the Financial Action Task Force is at the root of these pieces of legislation. Trinidad and Tobago is a member of the Caribbean Financial Action Task Force, which is an associate member of the FATF, and the Caribbean Financial Action Task Force has performed and published mutual evaluations on a number of Caribbean countries, including Trinidad and Tobago. In fact, these evaluations have been accepted as final by ministers around the region. Other countries which have been evaluated in the region include Antigua and Barbuda, Barbados, Bermuda, Cayman Islands, Costa Rica, Dominica, Dominican Republic, Grenada, Haiti, Honduras Jamaica, Nicaragua, Panama, St. Lucia, St. Kitts and Nevis, Suriname and the Bahamas.

It should be noted that the FATF publishes an annual review of non-cooperative countries and territories, and that is one place we do not want to be. Several countries in the region have been cited on the report. The Bahamas, Dominica, St. Vincent and the Grenadines were cited on the first report in 2000. In 2001 Grenada was cited. Some of the criteria that have been set out for defining non-cooperative countries include:

- (i) Loopholes in financial regulations.
- (ii) No or inadequate regulations and supervision of financial institutions, like what we are dealing with.
- (iii) Absence or ineffective regulations and supervision for all financial institutions in a given country or territory, whether onshore or offshore.
- (iv) Absence of an efficient mandatory system for reporting suspicious or unusual transactions to a competent authority, provided that such a system aims to detect and prosecute money laundering.

- (v) Lack of monitoring and criminal or administrative sanctions in respect of the obligation to report suspicious or unusual transactions.

So, in conclusion, it would be a grave mistake to categorize this amendment Bill as unimportant or simple, because it comprises merely two clauses. The brevity of this amendment belies its significance. It is evident that loopholes in legislation can have negative consequences. If this Bill is not enacted, then amendments to the POCA will be rendered nugatory. The expanded role envisioned for the FIU will have no basis in law. Trinidad and Tobago may therefore in the future be regarded as a State with loopholes in its financial regulations or with an absence of an efficient suspicious transaction reporting system. This may very well be reflected in the next Trinidad and Tobago report.

So we are here doing a job. You asked us what we are doing. We are doing a job here to ensure that Trinidad and Tobago is not negatively reported anywhere, and we have come here and we are going to complete that job this evening in the interest of Trinidad and Tobago.

The Bill is a testament to this Government's resolve to become more compliant and, therefore, fulfil Trinidad and Tobago's multilateral obligations in this important field. In doing so, we act to avoid the negative consequences of non-compliance and to safeguard the reputation of the Republic of Trinidad and Tobago. It is no comfort to this Government, that there are states that are equally, if not more, non-compliant than Trinidad and Tobago. We have made a determination for ourselves that it is vital to be compliant and that in the shortest of term we become more compliant, if not, fully compliant. This is the reason for our presence here today and why this honourable House must support this important, but very short Bill.

I thank you, Mr. Deputy Speaker.

The Attorney General (Sen. The Hon. Anand Ramlogan): Mr. Deputy Speaker, thank you very much. Permit me to start by thanking Members for their rather lively, and in one or two cases informative but, by and large, entertaining contributions from my colleagues on the opposite side to this important amendment to the Financial Intelligence Unit Act.

PROCEDURAL MOTION

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Deputy Speaker, I beg to move, pursuant to Standing Order 10(11), that this House continue to sit until the completion of the business before the House.

Question put and agreed to.

FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO (AMDT.) BILL

Sen. The Hon. A. Ramlogan: Mr. Deputy Speaker, a number of issues were raised and, unfortunately, a number of inaccurate things were said by the hon. Member for Diego Martin West, the Leader of the Opposition, that need to be corrected to set the record straight and to inform the population. The first matter raised by the Leader of the Opposition was a valiant but, unfortunately, rather feeble attempt to set the record straight with respect to the PNM's handling of the issue of the Jamaat and the litigation that ensued. The Member attempted to prove and demonstrate that his government acted with great dispatch, and moved with great alacrity to enforce the rights of the State and to pursue the rights of the State.

Mr. Deputy Speaker, permit me to state for the record that judgment in default of defence was entered against the Jamaat al Muslimeen and all members on September 16, 1996. There was an appeal by the Jamaat against the order entering judgment in default of defence—an application to set aside the judgment entered in default of defence. That appeal was concluded in October 2000. So the appeal of the Jamaat was dismissed, so the judgment on liability stood. That meant that you had an order of the court, confirmed by the Court of Appeal, which declared that the Jamaat al Muslimeen and the members who stormed this very Parliament were all liable to the State for damages to compensate the State, and that was decided in October 2000 by the Court of Appeal ruling.

Mr. Deputy Speaker, subsequent to that, on January 15, 2001, the hon. Mr. Justice Joseph Tam assessed damages owed to the State to the tune of \$19,710,924.72. That was on January 15, 2001. A notice of appeal was filed, but there was no stay of execution. In any event, the appeals were dismissed in May, 2002. What this means is that since January 2001 and, if not then, subsequently May 2002, judgment had been given and damages assessed and the Jamaat owed over \$20 million to the State.

Since 2002, nothing was done by the PNM administration to enforce that judgment. Mr. Deputy Speaker, 2002 passed, 2003 passed, 2004 passed, 2005 passed and it was only in February 2006 that a summons for sale was issued. I ask the question, the hon. Member for Diego Martin West, why is it since from 2001 to February 06, 2006, five years, the Jamaat escaped unscathed? Why is it for five years nothing was done to enforce the judgment of the State? That is the burning question that I wanted to pose to the hon. Member for Diego Martin West. I see the hon. Member for Diego Martin West is not here, but he was with great enthusiasm urging me to

respond and rebut what he was saying. Well, I am here with the court record, and this is the chronology according to the court's file. The court's record revealed that since January 15, 2001 damages were assessed and the PNM Government did not do anything about it. That is what the court record shows.

[MR. SPEAKER *in the Chair*]

Mr. Speaker, it was only when the UNC Opposition filed questions on the Order Paper—Mr. Speaker, when you were wearing a different hat, questions were filed on the Order Paper asking the then Attorney General, why no steps were being taken to enforce the judgment in favour of the State. It was only when those questions were asked that those questions acted as a political catalyst to prompt the Government into some form of action, and that is why it was not until February 06, 2006 that a summons for sale was issued.

Mr. Speaker, that summons for sale was eventually concluded on September 11, 2009, and in September 2009, Justice Rajendra Narine, as he then was, ordered that the 11 properties belonging to Mr. Abu Bakr and the Jamaat be sold by public auction to satisfy part of the debt owed to the State. That was on September 11, 2009. With that order for sale, the next day they should have called an auctioneer to put up the properties for sale, and they did not do that.

Mr. Speaker, September passed, October passed, November passed, December passed, January passed, February passed, March passed, April passed and May “come and gone”, and on May 24, 2010 they were voted out of office. After they were voted out of office, when this People's Partnership Government assumed the reign of power—the seat of government—it was then we issued and took proceeding to actually sell off the properties.

So I ask the question, first you delayed in issuing the summons for sale—that took five years—but even after the court ordered the sale and gave the green light for the sale of the Jamaat's properties, months passed almost running into a year, and a general election had to come, and you all had to be voted out of office, and then a new government came in, and in a matter of mere months, convened the auction and sold the properties. Those are the facts.

So when my learned friend, the hon. Member for Diego Martin West wishes to say that the Attorney General is accustomed to telling lies and the Attorney General does not know his facts, these are the records in the court, and the country must know that they seemed very reluctant to actually enforce the court orders. They did not do anything for five years to issue a summons for sale, and when the summons for sale was determined, and the court ordered the sale of the

properties, you did not do anything at all whatsoever. Those are the facts! If you do not like them, you cannot controvert them. Those are the incontrovertible facts according to the record in the court

Mr. Speaker, there is only one explanation for this irrational behaviour by a government, and that explanation to a rational mind comes from the affidavit of Abu Bakr where he said that the then Prime Minister, the hon. Member for San Fernando East, had struck a deal with him that the State would not enforce the order for the payment of damages if in exchange for that, the Jamaat Al Muslimeen will help them in election by working the marginal seats to actually terrorize people so that they will win those marginal seats. Those are the facts. That is a matter that is now the subject of a police investigation as recommended and instructed by the High Court of Justice. Those are the facts!

You see, when they wish to accuse the Attorney General of not speaking the truth, the Member for Diego Martin West, who is not here, should answer why he was part of a government that was protecting the assets of the Jamaat al Muslimeen and not doing anything? Why were they protecting the Jamaat? Some of the very persons who were in the Jamaat and members of the Jamaat al Muslimeen were the people you were wining and dining with at Crowne Plaza dubbing them “community leaders” [*Desk thumping*] and feeding them with taxpayers’ money. You were fattening the criminals. Those are the facts! You were giving them contracts in the URP and CEPEP programmes. You were funding the criminal enterprise in the country that is what you were doing. That is why you did not take any steps. At every single twist and turn in the meandering history of this litigation, every critical milestone possible was prompted by a different party in government, not the PNM.

And why is that so? It is because the PNM was in bed with the Jamaat al Muslimeen, those are the facts. Put that in our pipe and smoke it.

7.55 p.m.

Now, Mr. Speaker, they then raised the issue of the Public Service Commission and the appointment of Susan Francois. Mr. Speaker, imagine the Public Service Commission, they say, should have appointed the person. I rose to ask the hon. Member for Diego Martin West to tell us if the Public Service Commission had appointed Mr. David West. He said he is not interested in that, he cannot speak about that and then he later on confessed to not being a lawyer. Well, that confession is the only saving grace and redemption in his entire contribution, laced with inaccuracies.

Mr. Speaker, they did not ask the Public Service Commission to play a role and have a hand in the appointment of David West, because they fully well knew that there was absolutely nothing in the legislation that required the Public Service Commission so to do. Mr. Speaker, when the Public Service Commission has to appoint someone to a position, the Public Service Commission controls the mechanism and the machinery and the process by which that appointment takes place. That is not the case with the Director of the Financial Intelligence Unit and that is why the very advertisement, adverted to by the Member for Diego Martin West—he said there were advertisements, people were interviewed, we will come to that. I did not wish to bring the dignity of the persons who applied for that job into question, because I thought I would explain to you what happened. But you see, Mr. Speaker, the very advertisement to which he refers not say anything about the Public Service Commission, it comes from the Ministry of Finance and that by itself tells you something about the character of the position.

Mr. Speaker, what happened is that the advertisement put out—these are the minimum qualifications and experience required. The minimum qualifications and experience required was a bachelor and master's degree studies in Management, Engineering, Economics, Finance or Law, from an accredited University and thereafter you have five years' experience in a managerial position and knowledge of CFT duties and so on. But the academic qualifications, the prerequisite for the job was a bachelor and a master's degree in certain disciplines that were relevant to the functions of the FIU, as at that time. Now, Mr. Speaker, the hon. Member for Diego Martin West, you know they have all kinds of information, so he says Jefferson Clark placed number one and so forth.

Mr. Speaker, when we looked at the process and we looked at those who had applied and were even shortlisted and interviewed, the problem was that very few of them, including the top three, actually met the minimum requirement according to the advertisement. You see, Mr. Jefferson Clark, unfortunately, did not have a master's. The second person whose name I would not call did not have a master's and in fact Mr. Clark, his first degree was not in one of the disciplines. So a precondition in the advertisement was never met *ab initio*, and the third person, likewise.

Mr. Speaker, as Attorney General, I had to make a decision in this matter because the State has had to face, as my friends on the other side well know, an avalanche of litigation under the right to equality of treatment in this country because of the discriminatory actions of the People's National Movement when they were in government. [*Desk thumping*] And you cannot advertise a job with

one set of specific requirements and go and entertain applications from persons who did not meet those minimum requirements. If you do that, you will violate the right to equality of treatment.

Not too long ago I wore a hat, a different hat, and I was the one who represented clients. When they attempted to hound Marlene Coudray out of the office I was the lawyer who represented Marlene Coudray, and the High Court had to rule that she was treated unfairly by that government of the Member for San Fernando East, and squashed the attempt to remove her as CEO of the San Fernando City Corporation. Thank God for the People's Partnership. Today, Marlene Coudray is the Mayor of San Fernando—"Take that in your pwefm".

Mr. Speaker, I was the man who had to come to the rescue of Devant Maharaj, when the Member for San Fernando East instructed the Statutory Authorities Service Commission; gave a veto that he did not possess. He never had in law a veto but he vetoed Devant Maharaj's promotion to act in the office of Deputy Director of the National Lotteries Control Board. "All kin ah lawyer come—case fight—and loss". Another act of unfair treatment. Ganga Persad Kissoon—when they want to talk about interview; this country must not forget the history of discrimination of the PNM. When Ganga Persad Kissoon applied to be this country's Commissioner of State Lands, Ganga Persad Kissoon was interviewed by the Public Service Commission. Ganga Persad Kissoon topped the promotion interviews—topped them. What did they do? The Member for San Fernando East used his veto to veto Ganga Persad Kissoon and he vetoed one and two until he got the person he wanted. That too went to Court. That too, the Court of Appeal reversed the judgment of the High Court Justice David Mayers' ruling was reversed and the Court of Appeal ruled that Mr. Ganga Persad Kissoon was treated unfairly by that administration. The PNM discriminated against Ganga Persad Kissoon, a man who topped the promotion interviews held by the independent Public Service Commission. [*Crosstalk*].

Mr. Speaker, I represented 18 Members of Parliament from this very House, led by Member for Fyzabad, the hon. Chandresh Sharma, distinguished Minister of Local Government. [*Desk thumping*] We lost in the High Court, we lost in the Court of Appeal but the Privy Council ruled that all 18 UNC MPs were discriminated against because whilst they were content to feed at the trough during the period of the 18-18 tie and draw salary and parade as Ministers, they starved 18 people who were not in an opposition situation, there was a tie 18-18, and the Privy Council had to rule that they discriminated against the 18 people and that is how they got paid.

Financial Intelligence Unit (Amdt.) Bill
[SEN. THE HON. A. RAMLOGAN]

Wednesday, February 09, 2011

Mr. Speaker, Khimraj Bissessar, Prison Officer. Khimraj Bissessar could have been the Commissioner of Prisons, but again, discrimination; position not advertised and so forth. So when my learned friends seek to point fingers, I say to them those who live in glasshouses should not pelt “no” stone. Mr. Speaker, the most historic case of discrimination that remains a blemish on our proud and cherished democratic rights and freedoms in this country is the Maha Sabha radio licence case. Mr. Speaker, Citadel, out of nowhere, Mr. Louis Lee Sing gets a radio licence, in very strange, unexplained circumstances and they bypassed the Maha Sabha.

Miss Hospedales: Mr. Speaker, 36:(1).

[*Crosstalk*]

Sen. The Hon. A. Ramlogan: Mr. Speaker, they it took all the way to the Privy Council. That case, Mr. Speaker, we won it at the High Court, we still appealed to the Court of Appeal and then to the Privy Council. What did the Privy Council say? The Privy Council said that the PNM government, twice, not one but twice misled the Court of Appeal. The Privy Council said that the PNM government twice misled the Court of Appeal of this country allowing them to give judgment under a serious misapprehension, just to deny the Maha Sabha a radio licence. Those are the facts. Discrimination against the Hindu community and the Maha Sabha, that is the PNM’s track record. That is why from 1956 to 1986 in this country you ruled for 30 uninterrupted consecutive years without a single Hindu member of Cabinet. When you look at the People's Partnership you cringe because you see Hindu, Muslim, Christian, Baptist, Orisha, everybody—Indian, African, everyone. [*Desk thumping*] But you cringe because that kind of diversity to reflect the plural nation that we were for 30 years not a single Hindu Minister in your Cabinet—those are the political facts.

8.05 p.m.

Mr. Speaker, it is against that background, when the advertisement was placed and the interviews were conducted and, as Attorney General, I had to look at it, I realized that if we went forward with that process, there would be litigation against the State because people’s right to equality of treatment would have been contravened. If you are going to entertain anyone who has qualifications, other than that which was advertised, you have a moral and legal duty to go back out and say to the population, “We are prepared to entertain everyone.” Those are the facts.

They raised this, trying to paint us into a corner, because they want us to do like they did with David West and break the law. They have no respect for the

rule of law, that is why they misled the Court of Appeal twice to give a radio licence to a supporter. That is why today he is a mayor trying to wreck everything, and the only thing he would wreck is the PNM. He wants to wreck everything, but he will end up wrecking the PNM. That is the reality. [*Crosstalk*] “He collecting money.”

Mr. Speaker, permit me to say, for the record, that the action of collecting and imposing fines, beyond what is permitted by the Municipal Corporations Act, is illegal. The Port of Spain City Corporation and the mayor are acting illegally by imposing fines, as though he is a mayor and a king in some kingdom. He does not understand the law that governs his conduct. [*Crosstalk*] That is not the way.

To come back to the advertisement, if as Attorney General I did as suggested, the State would be under an avalanche of litigation. The risk and liability that the State would take is something they themselves would use to come to this very House and beat their chest and say, “Look at what happen.” I will tell you this much, if it was any other Attorney General, that may have happened, but not under this Attorney General. There will be no such action. [*Desk thumping*]

There are other reasons. We know that we have to come to this honourable House with an amendment to introduce for the first time a supervisory jurisdiction in the FIU, over listed businesses. When the ad was put out, jurisdiction and scope of the FIU was not part of the remit. It stands to reason to any rational mind capable of common sense. [*Crosstalk*] Anyone would understand that if you are going to advertise for a job at a point in time, and the functions for the job are A, B, C, if you become aware subsequently that the functions for that job are now going to change because you are going to introduce a supervisory jurisdiction over a range of businesses, obviously you would have to revisit the job description, you would have to revisit the whole process of advertisement and you would have to select someone based on the functions as they presently are.

We could not, (a) face litigation, (b) allow a job description that became irrelevant to what the present day functions of the FIU would be, to go forward; we could not. More than that, it became evident that an immediate appointment was needed or else Trinidad and Tobago could be blacklisted.

I see the hon. Member for Diego Martin West, who wanted enthusiastically to listen to me, leaving. “He cyar take it.” “When yuh cyar take de jamming, yuh have to walk,” but these are the facts. [*Crosstalk*]

Hon. Member: Go to the tea room!

Sen. The Hon. A. Ramlogan: When we looked at this and realized the extent and the place we were left at, on the brink of a precipice, we had to go and speak

to FATF. The hon. Minister of National Security, Brig. Sandy, had to meet with them; understand where we were. When we thought we were at point B, we suddenly realized, no, they were misrepresenting David West as a director, letting him sign papers as a director, when they had appointed him as Director Designate.

Dr. Moonilal: The public service appointed him?

Sen. The Hon. A. Ramlogan: But the hon. Member for Diego Martin North/East tried to defend that by saying, “Well, David West was no Director; he was there to set up the FIU.” I want to ask: If David West was there to set up the FIU, why was he signing letters as Director? Why was he doing that? [*Desk thumping*] Did you want to mislead the international agencies, to misrepresent the true facts, to give an appearance of compliance, when it was really artificial? By what law and method of madness did Mr. David West arrogate unto himself the duties and responsibilities of the Director of the FIU?

By what sense of legal magic, by what political formula, could Dave West have assumed the role of Director to exercise and perform the duties and responsibilities of a statutory office, when he was never appointed to it?

Mr. Warner: Diego Martin West/David West!

Mr. Chairman: Member for Diego Martin North/East and Member for Diego Martin West, “Bim and Bam”. Mr. Speaker, they are—[*Interruption*]

Mr. Speaker: No.

Sen. The Hon. A. Ramlogan: Sorry, I withdraw that, Mr. Speaker.

Diego Martin West and Diego Martin North/East, Batman and Robin, two good superheroes. [*Laughter*]

Mr. Speaker: Withdraw that.

Sen. The Hon. A. Ramlogan: Okay, Mr. Speaker, I withdraw that too. Diego Martin West and Diego Martin North/East, a tall man and a short man. [*Laughter*] These good, fine, hon. Members of this honourable house, stood here and said that he was just there to set up the authority; he was not there to actually perform those functions, but I have letters to show he was signing as Director. You know what had been happening? The country was being set up, while he was instead trying to set up the FIU. The country was being set up by the PNM. The PNM was setting this country up. That was the set up. [*Desk thumping*]

Mr. Sharma: There should be an investigation as to how many letters he signed as Director.

Sen. The Hon. A. Ramlogan: It was in those circumstances that we had to move with great expedition, as a matter of urgency, because a national crisis presented itself to us. We had to find a public officer of good standing to appoint as Director until such time as we rationalized and cut our way out of the bush that had grown up surrounding this matter. They misled international agencies; they violated the law and all sorts of things were done. We had to find a way out of it.

In those circumstances, I looked at the referees for Ms. Susan Francois: hon. Justice Rolston Nelson, former Justice of Appeal and present judge of the Caribbean Court of Justice, when I spoke to him and heard the ringing endorsement, I said, “Aha”. When I spoke to hon. Madam Charmaine Pemberton, judge of the High Court, also a referee, and I heard the ringing endorsement without any hesitation, I said, “Aha, this is a person who has a proven track record of excellence in the public service.” She is a public officer unlike Mr. West.

The Cabinet of this country took a decision to save this country from being pushed over the precipice, to save this country from the set-up that you set up. We then took a decision to appoint the Registrar General, Ms. Francois, as Director of the FIU for a period of one year, so we could rationalize and get our way out of this convoluted nasty mess that you put us in. Those are the facts. [*Desk thumping*] [*Crosstalk*] More than that, Miss Francois met and exceeded the requirements in the ad. She was, more importantly, suited for the supervisory jurisdiction because she was a lawyer with a master’s degree, a certified mediator; she is.

So when they raise these matters and appear to be speaking as though these are facts, but, in truth and in fact, they are trying to come up with a political excuse to justify their behaviour, when, in truth and in fact, we are the ones who have to mop up and clean up this mess. Mr. Speaker, everywhere we turn in this matter, from beginning to end—I listened in awe and amazement to the hon. Member for Diego Martin North/East reading from a document dated 2004 and saying they had recommendations there and asking what we did from May last year to February this year; 2004. “Like dey forget dey loss political office in 2010”—that is six years. In six years, what you did not do, you expect us to do in nine months? Nine months is not enough time for a baby to be conceived and born. [*Laughter*] In nine months you expect us to do that? That which they did not do for six years, all of a sudden—We accept that people see the People’s Partnership as a panacea for all the ills in our society and we are equal to the task, but it cannot be done overnight.

We will fix the roads, we will fix the bridges, we will build more schools, [*Desk thumping*] we will finish the Scarborough Hospital; we will do all of that and more, but it will not be done overnight, because we still have things to clean up. If it is not the FIU that we have to clean up this mess, it is Clico where you dumped money, let it pass through “like a dose of salts”, and left the Clico mess for the hon. Winston Dookeran, Minister of Finance. This Government is moving like a vacuum and a push broom, always having to clean up PNM mess everywhere we turn. That is the reality. That is why you would have seen the hon. Member for Chaguanas West with a brush cutter yesterday in the newspapers, because we have to clean up the bush. We have to cut the bush away, to get to the truth.

I want this country to understand that before the People’s Partnership can even take action, we have to first spend time to unravel the mystery of governance that was the PNM. We must spend time to unravel that mystery, to ascertain what is the factual matrix upon which they governed and which they based their decisions. It is only when you can get to that stage, then you can contemplate making a decision.

“Mr. Speaker, even in the Clico matter, yuh think we doh want to pay de people dey money, we glad to pay dem, but de way dey dump dat money, dey did not take any security over Clico assets.” They negotiated a bad deal with Duprey; they negotiated a terrible deal for this country and the way it is structured, it is so convoluted and twisted and so inimical to the interest of the State of Trinidad and Tobago, that we have to spend time to unravel this mystery of their political governance. When you unravel the mystery, when you kind of get away from the magic wand, when you get away from the political magic, machinations and chicanery of that PNM administration, then you get what the bare facts are. When you get to the facts, then you begin to say, “Well, what decision should I take to save Trinidad and Tobago?” because that is our political reality. That is our political reality.

Mr. Speaker, this amendment brings to the forefront of the politics of our country, the failure and inordinate delay of the PNM to tackle the drug trade, to tackle financing of terrorism and to tackle the money laundering activities of this country. That is the reality. I cannot believe that the hon. Member for Diego Martin North/East has the unmitigated gall and temerity to stand in this honourable House and say to this nation’s Parliament that in 2004 there were recommendations which, if followed, would have made us compliant with the Financial Action Task Force recommendations. From 2004—2010 they did

nothing; we remained in a state of non-compliance, but they want us to do it in six months and nine months. He admitted it.

The records must be set straight, because we have inherited a virtual political and legal minefield. We are constantly having to sidestep all these mines in the ground and any one of them could spring upon us at any time. With the Clico matter I have spent many nights going through the agreements with a fine tooth comb, because of what they allowed to happen. They allowed the Clico fiasco to happen. The Executive Flexibility Premium Annuity product, which was marketed by Clico, was done under their administration. They allowed an insurance company to run a fixed deposit scheme disguised as a bank, when it was an insurance company governed by the Insurance Act. They did nothing.

“Axe de Tax”—former Minister of Finance, Mrs. Tesheira, sat there and presided over that sorry mess, and we have inherited a financial fiasco. We are now trying to get through it.

This Financial Intelligent Unit will play a critical role in resolving that mess in Clico too. When we get to the bottom of it—because mind you, there are smokescreens and mirrors upon mirrors in every single room. Every time we open a door that the PNM closed, it is smokescreen and mirrors, mystery, smokescreen and mirrors, because that is how you governed this country. [*Desk thumping*]

8.20 p.m.

Mr. Speaker, that is probably why they did not bring this legislation, because had they brought this Financial Intelligence Unit of Trinidad and Tobago (Amdt.) Bill to give supervisory oversight powers, to act as an audit and check and balance, an independent audit and check and balance on the exercise of executive power, had they done that, Mr. Speaker, that Clico matter would not have taken place.

The Financial Intelligence Unit may have played a critical role in that Clico matter and the bailout where they took taxpayers’ money and simply dumped it into CLICO. Mr. Speaker, we are now trying to figure out where the money gone?

Mr. Speaker, holders policy we now have to pay them. We now have to pay the policy holders, so where did the money go to?

Dr. Gopeesingh: Where the \$20 million gone?

Sen. The Hon. A. Ramlogan: So, Mr. Speaker, this FIU legislation is a most critical piece of legislation. I am embarrassed by the contributions that we heard in this honourable Chamber from Members opposite who ought to know better

and who will raise issues about the appointment of Ms. Francois whose integrity is unquestionable. The only good thing that came out of this debate is that the Member for Diego Martin North/East said that he does not question her competence, her ability or her stature. He did not question hers. So that if they do not question it and she is a serving public officer, a distinguished public servant with a master's degree, unlike the persons who applied and were interviewed, what are we to do? And she a lawyer par excellence.

Mr. Speaker, I think instead what the Members opposite should be doing is congratulating and commending the Government for salvaging the situation. That is what they should be doing. They knew very well what they do. They set us up!

Mr. Speaker, were it not for the vigilance of the hon. Minister of Finance, Member for Tunapuna, and Sen. The Hon. Brig. John Sandy, were it not for their vigilance in picking up this and detecting what was coming, that a train was coming to hit this country—because we were going to be blacklisted and it was coming out of the tunnel, to hit us, at full speed. That is what they wanted! Were it not for our vigilance to detect that problem and salvage this, and pull us back from the brink of the precipice, tomorrow Trinidad and Tobago could have been blacklisted.

Credit card transactions internationally by our citizens, affected. Banking internationally, wire transfers, anything, “all dem old people who livin and depending in Trinidad and Tobago,” depending on money and remittances from their sons and daughters in the United Kingdom, and in Canada and America, they would have stopped getting that little money. “They gone through”. They were setting this country up; setting the society up. Then they would have come and blamed the People's Partnership, but we are smarter than that. We are smarter than all “yuh”! We picked it up and we got to the root of the problem. Because we are about solving problems. And we are about solving the peoples' problems, but before we can get to solve the peoples' problems, we first have to solve the political governance problems that you left us with. That is the reality.

Mr. Speaker, in light of what has happened now, we have to go back to FATF to explain how it is you had someone who was being projected and portrayed as a director of the FIU, in circumstances where no such appointment was made. And I have to ask the question. The hon. Member for Diego Martin West, Leader of Opposition, I wanted to ask him here, man to man, I wanted to ask him here, whether or not they wanted to misrepresent David West and the state of compliance to the international authorities. Is that why they did it?

I wanted him to answer that question. All this smokescreen and mirror and “ol’ talk” about Public Service Commission and this one and that one. Mr. Speaker, the facts are clear, and the truth shall set us free. What they were doing Mr. Speaker, was illegal, it was wrong, politically, morally and legally. It was wrong. It undermined the very principle of the rule of law, and struck at the very heart of constitutional government in this country. That is what they were doing.

Hon. Member: Criminal enquiry and an apology.

Sen. The Hon. A. Ramlogan: Mr. Speaker, I call upon the hon. Member Diego Martin West, Leader of Opposition, to issue on behalf of his party that was in government an apology to this nation for coming with that appointment and misrepresenting the true state of affairs to the international community and to the national community.

Why did you not come clean and say you did not want to appoint a director? Why not? Those are the facts! You see, Mr. Speaker, they will plead ignorance, and the hard thing is that a lot of people will believe them, because that is an adjective that sometimes, you know, people interpret in different ways. But I do not want to go there. Because I do not believe it is ignorance. I believe it was a deliberate attempt to mislead the international community and the national community. They wanted to set up the people of this country! That is the reality.

So, Mr. Speaker, this amendment, I am grateful that they are not opposing it and they see wisdom in the measure because there is no basis for opposing it. And I accept the congratulations and compliments, unspoken though they may be, of the Opposition in this matter that we had fortitude and strength to bring this to this honourable House so that we can invest in the FIU a supervisory jurisdiction over listed businesses to launch a counter attack against the drug traffickers—yes, to launch an attack.

Mr. Speaker, six years, as I said, six years and nothing, and in eight months look what at we have done. Regulations under the Anti-Terrorism Act, drafted; regulations under the Financial Intelligence Unit Act, drafted. The amendment act here, before this honourable House, all of this we have done, and we are meeting with the FATF officials on Friday morning.

We have appointed a director; that which you could not do under you own legislation, we have done it for you. We have not done it for you; we have done it for the country. We have done it for the country.

Financial Intelligence Unit (Amdt.) Bill
[SEN. THE HON. A. RAMLOGAN]

Wednesday, February 09, 2011

You see, Mr. Speaker, they were in office six years too long, and the country is fast realizing that; the PNM will never, never, never see the corridors of power in this country for a long time to come! [*Desk thumping*]

The trickery and the deceit, the political hypocrisy, that kind of deception will not go unnoticed, and it will not be forgotten, nor forgiven, by the people of this country. That is the reality.

Mr. Speaker, this amendment to the Financial Intelligence Unit of Trinidad and Tobago (Amdt.) Bill, I am proud as Attorney General to pilot this measure. It will equip our law enforcement authorities with the necessary legislative wherewithal and tools that they need to fight and launch a scathing counter-attack against the drug traffickers and those who are sponsoring terrorism and those who are seeking to wash dirty money and launder it in this country.

Mr. Speaker, I ask that this measure be supported unanimously in this House by all those who have a political conscience and are interested in righting the wrongs you have inflicted upon this country. I ask for your support and I beg to move that this measure be passed.

Thank you very much. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clause 1 ordered to stand part of the Bill.

8.30 p.m.

Clause 2.

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

Mr. Jeffrey: I raised a little concern with clause 2—this whole question about “and shall exercise any other function given to it by any other written law.” I think that “any” there seems far and wide.

Dr. Moonilal: We accept your view and we will change it.

Mr. Ramlogan: No, no.

Dr. Moonilal: Hon. Member, your concerns have been taken. In the Bill that has been amended by the Senate and circulated for us it reads: “the functions given to it under the Proceeds of Crime Act, 2000, the Proceeds of Crime (Amdt.)

Act, 2009 and the Anti-Terrorism Act, 2005”, they are specific.” That has been deleted.

Mr. Warner: You are reading the wrong Bill.

Mr. Chairman: Yes, I think you have the wrong Bill, Member for La Brea. There is an amendment to clause 2 and it was circulated. Let me put the question again.

Question put and agreed to.

Clause 2 ordered to stand part of the Bill.

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

House resumed.

Bill reported, without amendment, read the third time and passed.

ELECTRONIC TRANSACTIONS BILL

Order for second reading read.

The Minister of Public Administration (Sen. The Hon. Rudrawatee Nan Gosine-Ramgoolam): Mr. Speaker, I beg to move,

That a Bill to give legal effect to electronic documents, electronic records, electronic signatures and electronic transactions be now read a second time.

The history of this Bill is well known, Mr. Speaker. It was first piloted in the Parliament by the previous administration and sent to a joint select committee on February 18, 2009, and lapsed. It was since revised to institute a proper organizational and governance framework, to accommodate and adapt to the effects of rapid technological changes and to reflect the evolution in the law and international precedent in the sphere of electronic transactions.

Mr. Speaker, the Bill consists of 10 parts and 66 clauses. The Bill seeks to provide a legal framework for the conduct of electronic transactions in Trinidad and Tobago. The legal framework for conducting electronic transactions is an enabling one, which would facilitate the continual growth of electronic commerce, electronic communications and electronic transactions, including the delivery of government services electronically, referred to as “e-Government”.

One of the Bill’s primary intentions in this regard is to provide for the application of existing principles of contract law to transactions that are mediated in an electronic environment. To this end, Mr. Speaker, you will find in the Bill certain default contract provisions, meaning, provisions that would apply if the parties have not specifically catered for them in their transactions.

For instance, the Bill sets out default provisions, defining the time and place of dispatch of an electronic communication. The Bill also includes rules on the use of automated programmes in the formation of contracts, the use of electronic originals in place of the physical originals, and clarifications on the rules in a formation of an electronic contract.

Mr. Speaker, these provisions are required to ensure that Trinidad and Tobago's legal regulatory framework keeps abreast of international developments in the laws of e-commerce. In addition, by harmonizing our laws on electronic transactions with international developments, businesses and individuals in Trinidad and Tobago would not be prejudiced or disadvantaged by differential standards for local and international transactions. This would prevent difficulties arising from different definitions and rules involved in conducting local and cross-border electronic transactions. The Bill is therefore not meant to replace contract law but seeks to transpose electronic transactions within the contract law framework to a large extent.

Mr. Speaker, the establishment of such a framework is of vital importance to Trinidad and Tobago given the increasing use of the electronic medium for communication and transactions locally, regionally and internationally. Increasingly, consumers are opting to participate in the online shopping experience. It has been conservatively estimated by globally renowned financial services firm JP Morgan that the global value of e-commerce amounted to some US \$572 billion in 2010. While in Trinidad and Tobago, the financial and service sectors as well as manufacturers and exporters, already conduct some aspect of their business electronically, given the substantial growth in global e-commerce trade. Therefore, it is imperative that the business sector in Trinidad and Tobago embraced electronic transactions as a means of engaging their trading partners and customers so as to remain competitive and progressive in regional and international markets.

Mr. Speaker, the Government also needs to transform the way it does business in order to remain and be able to provide its services to the public in a cost efficient and cost effective manner, which would allow for the greater use of e-documents and transactions.

Mr. Speaker, I now turn to the intent of this Bill. This Bill is a key component in fostering a knowledge-based economy. This is consistent with the Government's policy to use ICT as a pillar for development. You see, the People's Partnership Government, of which I am a proud member, took the decision to

anchor its strategy for sustainable development on seven interconnected developmental pillars. One of those pillars is information and communication technologies, that is, connecting Trinidad and Tobago and building the new economy. Another is a more diversified knowledge intensive economy building on the native genius of our people. So, Mr. Speaker, one can easily see how this Bill fits into the Government's developmental goals for our nation.

In doing business electronically online, as opposed to face to face, one needs to have the assurance that the person with whom the individual is transacting business is in fact the person he represents himself to be and that the validity of the resulting documentation can be relied upon. In other words, trust and integrity are critical components of a sound e-commerce platform. This Bill is a part of that platform, bearing in mind that there are other pieces of legislation, as well as systems and institutional arrangements that must complement this component to complete the matrix required for full implementation.

Mr. Speaker, this Bill will establish the regulatory framework to administer a new segment of endeavour in the economy—that of the third party electronic authentication service provider to the public and the business community. This is a function that is critical to assuring that the identification and association of electronic documents and records submitted by a person in connection with an electronic transaction are in fact as reliable as those provided in a paper-based transaction. In other words, Mr. Speaker, this forms the basis to the assurance that electronic documents, records and communications involved in transactions in an electronic environment, for example over the Internet, are in fact authentic.

You see, Mr. Speaker, for such an enabling legal framework to be effective, one needs to ensure that it remains aligned with global standards on the rules of conducting electronic transactions, and be sufficiently flexible and adaptable to meet the growing demands of constant change within the rapidly developing technological environment. Therefore, based on the premise of technological neutrality, you would find that some key terms have been broadly defined in the Bill.

I now move into the second principle and that is of media neutrality. Under this principle there is recognition that electronic transactions falling under the purview of this Bill should be treated the same by the law for all intents and purposes, regardless of whether it is effected on paper, over the phone, over the Internet or by some other means or media. Of course, there are exceptions to the general rule and I would come to those later on in my presentation, but for now I continue with the principles upon which this Bill is premised.

Functional equivalence is another principle. It is a principle which actually flows from the first two principles I just mentioned. This means that as a result of technological and media neutrality, actions that are facilitated in electronic transactions ought to have an equivalent effect as that of actions in paper-based transactions so that there is no discrimination between these two forms of transactions.

Mr. Speaker, developed nations which have vibrant e-based economies, tend to have established frameworks including electronic transactions legislation and comprehensive legislations which foster a viable framework for electronic transactions. Various jurisdictions, including the European Union, Canada, Australia and Singapore, all boast of having similar statutes. While they may vary with regard to the type of technology defined, the goal is the same: giving impetus to the e-commerce sector and using electronic means to improve business transactions and achieving service excellence in the delivery of government services.

Mr. Speaker, the promotion of this Bill is also in line with our international commitments such as those arising under the European Commission, CARIFORUM and Economic Partnership Agreement, the EPA, which recognizes that electronic commerce increases trade opportunities. Under Article 120 of the EPA, parties have agreed to address the regulatory aspect of e-commerce, including those related to the recognition of electronic signatures and those dealing with intermediary service providers and the protection of consumers.

8.45 p.m.

This Bill, Mr. Speaker, would therefore be an important piece of the matrix that would enable Trinidad and Tobago to take advantage of the opportunities created through market liberalization and to establish a baseline upon which we can implement international standards in exchanging communication, transferring documents and authenticating users in the electronic environment. Across the region, Mr. Speaker, model frameworks have been developed, such as the outputs of the recently concluded Enhancing Competitiveness in the Caribbean, through the Harmonization of ICT Policies, Legislation and Regulatory Procedure projects—also called the HIP CAR Project—sponsored by the European Commission and implemented by the International Telecommunications Union.

The HIP CAR Project is geared to assist in the creation of a harmonized approach across the region, by the development of model legislation and giving technical assistance in the implementation of such legislation. I am happy to

announce that this Bill has leveraged the output of this body of work in the process of its revision. Within the Caribbean region Anguilla, Antigua and Barbuda, Jamaica, Barbados and the Bahamas have all enacted electronic transaction laws.

I now turn, Mr. Speaker, to e-government. Mr. Speaker, the Bill supports the Government's effort to deliver services to the public in a faster and more efficient manner, and will allow for the greater use of electronic documents and transactions in individuals and businesses interactions with public agencies. Under this Bill, Mr. Speaker, which binds the State, public bodies can gradually migrate to conducting business using an electronic platform. For instance, under Part VII of the Bill, when one is transacting business with public agencies, information can be submitted using electronic forms in the manner specified by the agencies. These provisions will allow public agencies to design electronic forms suited to online transactions. The possibilities for increased efficiency in the delivery and accessing of Government services are limitless. These provisions are to be considered within the context of contemporary trends and international best practice in the use of electronic documents.

As advanced technology becomes available to safeguard the integrity of electronic documents, it has become increasingly common for businesses and individuals to convert and create their paper-based records and original documents into electronic form. This is a more efficient method of record keeping, since paper documents are bulky and generally cost more to physically store and manage.

Mr. Speaker, I now turn to the exclusions from the Electronic Transactions Bill. It is important to note that the Bill does not apply to all forms of electronic documents and transactions. Certain classes of documents and transactions are excluded. Such exclusions are commonly adopted in other jurisdictions and they will be detailed in the context of addressing clause 6 of the Bill. Suffice it to say, Mr. Speaker, the particular documents for circumstances identifies, are those where there is deemed to be considerable intrinsic value associated with there being a singular unique copy of the document or agreement. A major premise for the use of electronic documents is the ease by which copies of same can be made, transmitted and stored.

The nature of the exception is therefore, based on the concept that where there is intrinsic value to the existence of a single or limited copies of documents, inclusion into the general framework established by this Bill, would work counter to the interests or the objectives of these types of documents. Mr. Speaker, it is

Electronic Transactions Bill
[SEN. THE HON. R. NAN GOSINE-RAMGOOLAM]

Wednesday, February 09, 2011

within the context of this general background that I shall now elaborate on the ten parts of this Bill and of course the key provisions under these parts.

Mr. Speaker, I now turn to Part I of the Bill, Preliminary. Mr. Speaker, Part I of the Bill comprises of the preliminary clauses and contains seven clauses dealing with commencement, definitions, interpretations, application and exclusion to the Bill.

Clause 1 provides the short title and provides for the commencement of the Bill upon proclamation by the President.

Clause 2 provides the interpretation of key terms in the Bill. Some of these are hereafter, considered in providing further clarification. Mr. Speaker, one would find that throughout the Bill three types of electronic subjects are frequently referred to namely, electronic information, electronic records and data messages. One may say that all of these terms are summed up under electronic information. Records provide evidence of a transaction or communication between parties and electronic records achieve this purpose, albeit created or stored by electronic means.

The data message refers to the electronic package that is transmitted or shared between at least two parties such as email or file downloaded to a user or uploaded to a server. By the principle of technological neutrality data messages can vary from audio recording, through faxes, to emails, scanned images or some other form of compartmentalized data for exchange between parties.

Mr. Speaker, I now move on to discuss the technical core of the Bill related to the necessity of electronic signatures and its correlation to feature call digital certificates. In the case where the parties to be engaged in an electronic transaction know each other, either one can take steps to verify security aspects of the electronic transactions through, among other things, the exchanged digital certificate between both parties. A certificate is an encryption technology product used to verify the electronic identity of parties to an electronic communication.

However, in the case where the parties do not operate on a familiar basis, an independent entity can bridge this gap by providing verification of the identity of both parties. This certification service provider achieves this, by issuing digital certificates to each party and acting as the independent authenticating body that verifies that a given certificate is associated with a particular person.

In the world of e-business, the term “certification service provider” refers to the trusted third party service providers discussed earlier in the context of building trust and confidence in electronic transactions. The term “electronic authentication product”, Mr. Speaker, is a general term which refers to product such as digital certificates. This generalized term is used to distance the

terminology from something which is strongly associated with a specific technology such as public key infrastructure or KPIs. In this way when new technology emerges which is similar in function to the digital certificate the more abstract term can be readily applied without compatibility issues. Similarly, electronic authentication service provider is an abstraction from the term certification service provider. The role of electronic authentication service providers and their administration is addressed in Part V of the Bill. Through the enactment of this party the regulatory environment is now set to facilitate the entry of such providers in the domestic space.

8.55 p.m.

Moving on. I would like to point out that the definition of “electronic signature” does not specify a particular technology and that is consistent with the principle of technological neutrality I spoke about earlier. In this way, an electronic signature can legitimately vary from unencrypted type letters at the end of a message to the output of complex encrypted schemes utilizing authentication algorithms and systems.

The term “electronic transaction” is also defined to reiterate that the transactions contemplated by this Bill, relate to documents, information or records resulting from communications between parties. A transaction is still deemed to be completed electronically even if payment for and delivery of goods, are not facilitated by electronic means.

I take this opportunity to highlight the term “intermediary”. This is a person providing services that relate to the storage, forwarding or performing other defined operations on information or the content within a data message.

Moving along from the interpretation clause; clause 3 provides for the State to be bound by the provisions of this Bill.

Clause 4 provides that a public body is not required to accept or issue any document by electronic means. In other words, a public body is not compelled to use electronic documentation on the enactment of this Bill and notwithstanding the default provisions in Parts II, III and VI it can do so when it is ready. The voluntary nature of the Bill is again reiterated in clause 7 which further provides for consent to be inferred based on prior actions.

Clause 5 sets out the matters to be considered in the construction of the Bill. This, of course, will aid in the interpretation of the provisions of the Bill.

Clause 6 elaborates on the exceptions to the Bill. It elaborates on the specific area to which the Bill does not apply. These include the making, execution or

revocation of a will, the conveyance or transfer of any interest in real property, the creation, performance or enforcement of an indenture of trust or power of attorney, the production of documents relating to immigration, citizenship or passport matters or the issuance, recognition and endorsement of negotiable instruments.

I now turn to Part II of the Bill, that is, the Requirements for Legal Recognition. Part II contains 11 clauses and provides a general framework for the recognition of electronic documents for any purpose, be it the creation, transmittal or storage thereof. This part sets out the requirements to be met by an electronic document so that it can be legally recognized as being valid as its paper equivalent. Recalling the principle of equivalence I referred to earlier, this part of the Bill provides the general framework guiding the functional equivalence of electronic documents or electronically mediated contracts to their traditional paper-based counterparts. The provisions of this part collectively build on the key functional aspects of a traditional paper-based document or record or transaction by first confirming that the documents which are created, transmitted or stored, may have legal recognition and then defining basic requirements necessary to support the use or storage of such electronic information.

Clause 8 of the Bill, therefore, provides that an electronic record or information under this Bill shall not be denied legal effect simply because it is in electronic form. Clauses 9 to 13 go on to provide for the circumstances in which the legal requirement to have information, a record or data message presented, retained or submitted is met. Each clause in this part builds upon the other.

Clause 12 is noteworthy, in that it makes the integrity of the information, record or data message, an important factor in satisfying the criteria for its acceptance. In the electronic environment you can have so many copies generated, it is important to set the ground rules to give some assurance that you have “the real McCoy”.

Even when you have the provision for copies to be made, as under clause 15, again, the provisions of clause 12 relating to integrity are all applicable. So that there should be no distinction made between an original electronic information and its copy once the integrity of the information is confirmed.

Clause 17 of the Bill provides that an electronic record or data message shall not be deemed inadmissible in evidence simply because it is in an electronic form or on the basis that it is not in the original non-electronic form. Again, this is an expression of the principle of equivalence I referred to earlier.

Clause 18 of the Bill provides for the recognition and notarization of documents by electronic means. The clause is not intended to alter the statutory requirements of a notary's duties and responsibilities in undertaking his or her function. Instead, it merely provides for an electronic equivalent of the properly executed document to be valid. It should also be noted that the electronic signature of the electronic notary must also comply with the requirements outlined in clause 31(1).

I now turn to Part III of the Bill which contains contract formation and default provisions. Part III contains 10 clauses, that is clauses 19 to 28. These default provisions arise, for instance, where the parties have not agreed on the particular issue, for example, place of business. The default provisions are important in promoting clarity and certainty in electronic transactions. The Bill outlines how the main principles of contractor formation, namely, offer, acceptance, consideration and intention to enter into legal relations will be applied in an electronic environment.

Clause 19 of the Bill provides that the mere fact that a contract is formed electronically, does not affect its enforceability. This would mean that agreement can be expressed electronically.

Clause 20 builds on that basic premise of offer and acceptance in contract law and establishes that unless parties agree otherwise, an offer or acceptance of matter related to the formation of a contract may be expressed in electronic form. This clause also seeks to recognize that the action of clicking on an electronic icon or some other action undertaken in an electronic environment may be deemed to be an acceptance of an offer.

Clause 21 of the Bill provides the legal validity and enforceability of contracts formed through the involvement of electronic agents. In accordance with international best practice, including the United Nations Commission on International Trade Law 1999 Model for E-Commerce and the UN 2008 Convention on the Use of Electronic Communications in International Contracts, this clause clarifies that contracts may be validly formed through automated agents. The two practicable scenarios outlined in this clause are in coherence with the contemporary nature of e-commerce in business.

Clause 22 of the Bill provides that an electronic contract is void in the instance where a material error is made and no opportunity is given to prevent or correct the error. So where notification of the error takes place, no reasonable steps are taken to correct the error and no material benefit or value is received.

Clause 23 of the Bill prescribes the circumstances in an electronic data message or record shall be attributed to a particular person and clause 24 of the Bill sets out the time when an electronic data message or record is considered to be sent. This lends the aspect of clarity in the process of conducting electronic transactions as the time of receipt may become an important factor in the event of a dispute.

Clause 25 of the Bill treats with the reverse situation of clause 24 and sets out the time of receipt of information or data message in electronic form. The time of receipt of a message can be an important issue in contract formation. For example, if an offer is expressed to be valid for a certain period, the time of receipt of a message in relation thereto, would be of importance in determining whether the deadline to submit a tender in response to a request for a proposal has been met.

Clause 25 is in alignment with international best practice and recognized receipt as occurring when a message becomes capable of being retrieved by the addressee at an electronic address designated by the addressee. The inclusion of subclause (2) recognizes that the nature of e-commerce and e-business is such that the information system used by a business may not be located in the same address as that business. For example, consider a small business in Trinidad and Tobago using online services such as Gmail and Yahoo to provide email services while the location of the information system, that is, the email servers, may be somewhere in the United States of America and the place of business of the small enterprise remains within the Republic of Trinidad and Tobago.

Clause 26 of the Bill is a deeming provision with respect to the sending or receipt of information, a record or data message, unless the parties otherwise agree.

Clause 27 provides the default provisions for the determination of place of business. This is another important concept in the formation of contracts and resolution of disputes in relation to contracts, including matters of jurisdiction.

Clause 28 of the Bill provides that where there is no place of business of the originator or addressee of a communication, the habitual residence of the originator or addressee is the relevant address for sending and receipt of communications.

I now turn to Part IV of the Bill, Electronic Signature, which contains four clauses, clauses 29 to 32. It provides the overarching framework for the recognition of electronic signatures which can include electronic symbols, codes or attestations which would have the same effect as personal written signatures. Notably, this part does not identify a particular type of electronic signature to be

adopted and this is quite consistent with the principle of technology neutrality I spoke of at the beginning of my presentation. This enables the Bill to remain impartial to any particular form of technology and would result in the continued applicability of those provisions as the technology evolves.

Clause 29 provides for the parties to agree to the use of a particular method or form of electronic signature unless the law provides otherwise. The parties cannot, therefore, contract out of the law by making an agreement with respect to signature if the law prescribes a specific method or form.

Clause 30 provides that where the law stipulates that the signature of a person is required, such requirement is met by an electronic signature that satisfies the minimum standards of reliability and integrity which are outlined in clause 31. Clause 31(1) elaborates the criteria to be used in determining the reliability and integrity of an electronic signature. It should be noted that neither clause 30 nor 31 establishes a particular technology or technological methodology associated with the creation of electronic signatures that meet the reliability criteria. This approach allows for the continued applicability of the law that would align with new advances in technology.

9.10 p.m.

Clause 32 provides that an electronic signature that is associated with a qualified electronic authentication product, issued by an accredited electronic authentication service provider is deemed to have satisfied the requirements for reliability and integrity set out in clause 31. This clause introduces the concept of the trusted third party provider of signature and signature verification services. In doing so, clause 32 clarifies that the products and services of such service providers are to be in compliance with the reliability and integrity criteria of clause 31.

I now move to Part V of the Bill which deals with electronic authentication service providers. Part V contains 17 clauses, that is from 33 to 49, and it establishes the framework that will guide the regulation of persons who provide accredited third authentication services, these persons are called the electronic authentication service providers. Part V deals with the administration of electronic authentication service providers who provide services to the general public and contains 17 clauses. This part does not envision the regulation of electronic authentication service providers who either, one, do not provide services to the public or, two, do not issue products which meet the requirement set out in clause 31. The Minister charged with responsibility for information and communication

technology is identified as the registration and accreditation authority in Trinidad and Tobago. These responsibilities may be delegated by the Minister to an appropriate authority or authorities.

Clause 33 of the Bill provides for the prohibition of a person to issue an electronic authentication product or provide services related thereto, to members of the public, unless he is registered as an electronic authentication service provider under this Act. This Part does not prohibit the private sharing of electronic authentication products between parties to a transaction. The trusted third party must assure all parties that they operate their business in accordance with best practice standards in information security and encryption technology. By confirming that they operate in compliance with best practices, the firm is deemed to be accredited. The Government is of the opinion that registration provides the appropriate balance between limiting the regulatory barriers to entry of these trusted third party service providers and the need to maintain the trustworthiness of the ICT eco-system that is to be develop.

Clause 34 sets out the application requirements for registration as an accredited electronic authentication service provider. The clause clarifies the separation of the registration and accreditation activities by affirming that all persons interested in providing the service to the public of Trinidad and Tobago will be required to register with the registration authority. The clause further requires that the person must be accredited before registration is complete. Subclause (3) of clause 34 provides that the Minister may prescribe regulations specifying the procedure for registration and the information required for that purpose.

Clause 35 of the Bill sets out key accreditation requirement relating to the conduct of the business of the electronic authentication service provider who issues qualified electronic authentication product. Again, Mr. Speaker, these legal requirements are intended to provide protection to the public by putting mechanisms in place to ensure the integrity of the operation of the provider, and by extension promote systemic integrity. This is critical bearing in mind the old adage that “the chain is as strong as it weakest link”,

I cannot overemphasize the importance of trust in the success of e-commerce and this is widely recognized. Indeed the world’s largest software industry trade association observed that the notion of trust in e-commerce is of critical importance and applies to both consumers and businesses from secure sales to handling of personal data to certifying transactions and individuals, trust is the underlying issue that will determine whether e commerce reaches full potential.

Clause 36 of the Bill provides for the registration of the providers who satisfy the requirements. Clause 37 empowers the Minister to recognize qualified electronic authentication products which are issued outside Trinidad and Tobago.

Clause 38 requires the Minister to maintain a public registry of electronic authenticated service providers, Clause 39 requires the electronic authentication service provider to annually provide an updated notification of compliance. The administrative approach adopted by this Bill is co-regulatory in nature, as it places the onus on the provider to essentially engage in its own compliance audit on an annual basis, by providing the updated notice of compliance.

Clause 40 of Bill empowers the Minister to conduct audits on accredited electronic authentication service providers, if only to validate its report of the compliance notification. Again these audits would focus on the efficacy of the provider's operations in light of its statutory obligations, which I alluded to earlier.

Clause 41 requires the electronic authentication service provider to cooperate or offer reasonable assistance during an audit. Clause 42 of the Bill provides for the confidentiality of any person performing duties or functions in the administration or enforcement of this Act. Such confidentiality is essential to maintaining the integrity of any domestic activities in the field of endeavour and conduces to the orderly development of the sector.

Clause 43 of the Bill empowers the Minister to deal with an electronic authentication service provider who no longer meets the requirement to issue qualified electronic authentication products. The clause empowers the minister with a variety of options up to and including the de-registration of the firm from the registry maintained in accordance with clause 38. Such removal from the registry would effectively debar the firm from continuing to provide service.

Mr. Speaker, Clause 44 to 46 outline the obligations of electronic authentication service providers that have been commonly identified in international practice to ensure the continued integrity of the public authentication product sector. Such services include the use of pseudonyms, the maintenance of a directory of valid issued products and the provision of a revocation service in accordance with customer's request.

Clause 47 of the Bill sets out the liability of an electronic authentication service provider for damage or loss caused to anyone relying on an accredited electronic authentication product where the damage or loss is due to the electronic authentication service provider's failure to meet the requirements of clause 31 or 35.

Clause 48 of the Bill provides that an accredited electronic authentication service provider who issues a qualified electronic authentication product, may be exempted from liability, if the provider can show that the injury or loss arising was not caused by its own negligence. Subclause (2) further elaborates on this premise, by exempting the electronic authentication service provider from liability where the qualified electronic authentication product is used in violation of any limitations of use that have been specified by the service provider.

Clause 49 of the Bill provides the Minister with the option to require an electronic authentication service provider to pay the costs reasonably incurred in the performance of an audit for registration or for notification of compliance.

9.20 p.m.

Mr. Speaker, I now turn to Part VI of the Bill: Intermediaries and Telecommunications Service Providers. Part VI treats with the responsibilities of intermediaries and telecommunications service providers and contains three clauses, that is, clauses 50 to 52. An example of an intermediary is an e-mail service provider.

Clause 50 of the Bill provides that the intermediary or telecommunications service provider who merely serves as a conduit for the transmission of data messages, records or information in electronic form, shall not be liable for their content except in the circumstance outlined there.

Clause 51(1) sets out the take-down and notification procedure for an intermediary or telecommunications service provider who has actual knowledge that the information contained in the data message or electronic record gives rise to civil or criminal liability. Provisions such as these, are increasingly important in the context of developments of the ICT sector, particularly, with respect to issues such as online piracy of intellectual property. Subclauses (2) and (3) treat with the situation where the intermediary or telecommunications service provider is aware of facts or circumstances, from which the likelihood of civil or criminal liability in respect of the information in the data message or an electronic record, ought reasonably to have been known.

Clause 52 of the Bill provides for compliance on the part of intermediaries and service providers with codes of conduct and service standards developed by the Minister.

Mr. Speaker, I now turn to Part VII of the Bill which deals with Government and other public bodies. Part VII of the Bill contains two clauses which set out provisions aimed at facilitating effective delivery of e-Government services. This

Bill would support e-Government efforts by enabling the use of electronic documents in public bodies' transactions with citizens and businesses.

Clause 53(1) provides that where a public body gives notice that it intends to treat with constituents via electronic means as provided for in clause 4, those functions can be carried out by electronic means, notwithstanding anything to the contrary in such written law.

Subclause (2) provides that when the public body decides to perform any of its functions by electronic means, it may specify the manner and format in which such information, documents or records in electronic form shall be filed, created, retained, issued or provided and other required attributes for documents, records or information.

Subclause (3) provides for the Minister with responsibility for ICT to specify the type of signature required when information, data, message or record in electronic form is required to be signed for different legal purposes. The discretion of the public body to specify a particular signature, technology will be circumscribed by regulations made by the Minister. This provision has been inserted in accordance with governance agreements, necessary to ensure uniformity and predictability across the public service of the minimum appropriate standards or technologies to be deployed with regard to electronic signature solutions within the public sector.

Subclause (4) provides for public bodies specifying the type of electronic documents that it would accept in respect of filing of forms or retention of any other documents.

Clause 54 of the Bill treats with the corollary of section 53, clarifying that the documents to be inspected by a public body may also be presented in an electronic form.

I now turn to Part VIII of the Bill which deals with consumer protection.

Part VIII of the Bill deals with issues relating to consumer online transactions and contains four clauses, that is, clauses 55 to 58.

Clause 55(1) provides that persons using electronic means to sell goods and services would be required to provide accurate, clear and accessible information on a number of particulars, including their legal name and address for service of legal process. Such information should be provided at the initial stages on interaction with the prospective customer, for example, on the vendor's commercial website.

Subclause (2) requires the accurate presentation of all relevant information on the goods or services offered in the transaction.

Subclause (3), Mr. Speaker, requires the presentation to the customer of relevant contractual information before proceeding to the conclusion of the transaction. It further requires the vendor to provide a copy of the contract to the consumer for their own record.

Clause 56 of this Bill stipulates that before entering into a service agreement with a client requiring services related to the issuance of accredited electronic authentication products, the electronic authentication service provider is obliged to provide the client with certain information. This clause obliges the electronic authentication service provider to adhere to general principles of disclosure when entering into the service agreement and this includes the provision of information on its accreditation status under paragraph (d).

Clause 57 of the Bill entitles a consumer who is not provided with the information required under clauses 55 and 56, to cancel their transaction within 30 days if the consumer has not received any material benefit from the transaction. This clause is similar in nature to distance sales contracts which are contemplated in the revised Consumer Protection Policy of the Ministry of Legal Affairs.

Clause 58 of the Bill requires persons who send unsolicited e-mails to provide the receivers of such e-mails with the option to opt out of receiving future communications. Unsolicited communications or spam is a recognized practice of solicitation for sales of goods and services. However, the Government believes that consumers should have a right to limit the spam they receive.

Clause 58(1) provides an opt-out mechanism for the receiver, thereby indicating that the individual does not wish to receive future communications. Subclause (2) makes it an offence to contravene subclause (1).

Mr. Speaker, I now turn to Part IX of the Bill which deals with contravention and enforcement. There are five clauses in this part.

Clause 59 of the Bill makes it an offence for a person to file false or misleading information in relation to information that is required to be filed hereunder. An offence is also committed when consumers or users of an electronic authentication product are provided with false or misleading information.

Clause 60 of the Bill makes it an offence for a person to make false or misleading statements to persons carrying out an audit. It is also an offence for a

person to obstruct or otherwise hinder the persons carrying out an audit pursuant to clause 40.

Clauses 59 and 60 are applicable primarily to electronic authentication service provider or their agents or directors.

Clause 61 of the Bill makes it an offence to breach the confidentiality obligations under clause 42.

Clause 62 provides that where a corporation commits an offence under this Act, any of its officers, directors or agents who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is party to and commits an offence and would be liable to the punishment provided for that offence. This clause provides for piercing the corporate veil with regard to the imposition of fines and penalties against officers or directors of firms. It is thought that this would be a disincentive to act outside the ambit of the law.

Clause 63 of the Bill sets out penalties for offences committed by a person or body corporate. The penalties prescribed are substantial in monetary values and together with custodial sentences affirm the commitment of the Government to encouraging a culture of accountability and transparency in this emerging economic sector. Also, subsection (3) provides for the determination of civil liabilities in conjunction with the criminal penalties.

Mr. Speaker, I now move to Part X which deals with miscellaneous provisions.

Clause 64 imposes duties on directors and officers of a corporation.

Clause 65 of the Bill sets out the jurisdiction of the court under this Act.

Finally, clause 66 of the Bill empowers the Minister to make regulations for the purpose of giving effect to the requirements of this Act, and such regulations are subject to negative resolution of the Parliament.

Mr. Speaker, having dealt with this Bill, I now turn to further developments. It should be noted that subsidiary regulations are required to be developed for full implementation of the provisions of this Bill. Such regulations shall outline among other things, the criteria to be met by a person applying to be registered as an electronic authentication service provider. It shall also identify the types of electronic authentication products which are associated with specific legal purposes. Mr. Speaker, I am pleased to advise that this Government has initiated a process through which we are assured that such regulations shall be before this House before the middle of this year.

Mr. Speaker, at this point in my presentation, I would like to briefly touch upon how the provisions of the Bill shall impact on the way business is carried out in Trinidad and Tobago, drawing us into 21st Century. In providing legal equivalence, this Bill facilitates the true implementation of electronically enhanced government service delivery or e-Government, as all applicable aspects of the collection, processing and provision of government services can now be legally undertaken in an electronic form. This will facilitate the use of powerful computer tools to expedite the processing of services, as well as enhanced monitoring and reporting on productivity and efficiency.

The private sector will also benefit from this Bill, as the opportunity will now be provided to optimize the use of new channels of service delivery which may be currently constrained. For example, the retail sector has only moved forward timidly in the arena of e-service delivery. Now, based on the provisions of the Bill and in conjunction with steps which have already begun to take shape, the platform is better prepared for the greater use of online channels for services to clients either directly or indirectly. Business decision making would also be better informed since the rules and regulations would be made clearer regarding the legal status of electronic transactions within the business environment.

Further, in the absence of the framework established by this Bill, the domestic ICT sector has been limited in the way it can participate in the provision of adjunct online services. This framework will encourage the repatriation of such innovative, entrepreneurial activity, to bolster onshore economic activity that targets a potentially global customer and consumer base.

Mr. Speaker, this Bill will not only benefit business, big and small. The framework herein proposed is also geared to the consumer and developing a system, nay a culture, of transparency and efficacy in the interactions of businesses and their customers. Contrary to popular belief, e-commerce in Trinidad and Tobago is happening, and has been happening for quite some time now with an inappropriate regulatory framework, bearing in mind that these are emerging and evolving sectors of the world economy.

When our citizens purchase a Carnival costume on the Internet, whether from *Tribe* or *Island People*, for example, they are engaging in online transactions which are a form of electronic transactions. With the passage of this framework, the stage would be set for the application of more robust consumer protection systems related to transactions completed over the Internet.

Mr. Speaker, in bringing this presentation to a close, I trust that Members opposite can forego any suspicions of untoward motives, and I entreat them to recognize the potential of this framework to support the diversification of the economy to the benefit of all of us in Trinidad and Tobago.

Mr. Speaker, in light of the foregoing, I beg to move. [*Desk thumping*]

Question proposed.

9.35 p.m.

Mrs. Patricia McIntosh (*Port of Spain North*): Mr. Speaker, I am thankful for the opportunity to make a contribution to this Electronic Transactions Bill, 2011. Mr. Speaker, the hon. Minister of Public Administration identified all the objectives that this Bill purports to achieve and outlined the intent of this Bill which addresses issues of security, accountability, transparency and integrity, in respect of electronic transactions regarding records, documents and signatures.

But, Mr. Speaker, this Bill is fraught with several irregularities, inconsistencies, contradictions and ambiguities. It is for this reason, that this Bill was sent to the Joint Select Committee on May 18, 2009. And I see that this Bill has returned to this honourable House with little or no changes and I do feel that the Bill will be hard-pressed to fulfil its objectives. I shall identify a few of these irregularities as I progress. But before I do this, Mr. Speaker, I would like to refer to Part VII, clause 53(1) which really caught my attention and I will say why. In my capacity as an educator, I am very interested in this part of the Bill because of its implications for school operations.

Mr. Speaker, I remember only too well, every year as an administrator, having to complete myriad forms and reports for the Ministry, some of them in excess of six pages that have to be completed and submitted to the Ministry in triplicate, and to be done by hand. You remember? My colleague from La Brea would remember the Annual Statistical Reports; a nightmare; an exercise in frustration, a drudgery and we have all these tedious forms.

I remember about eight years ago, Mr. Speaker, the Principal of St. Mary's College devised a template and summoned all the principals in the Port of Spain and environs and showed us how to use this template and issued to all of us, a copy of the template on a CD. So we were very excited, got back to our schools and filled out our annual statistical reports on this template and we printed it, because at that time, neither the ministry nor the schools had had Internet connectivity. We printed it and we printed it three times so we did not have to write it and submitted it to the Ministry and the Ministry refused to accept it,

Electronic Transactions Bill
[MRS. McINTOSH]

Wednesday, February 09, 2011

saying it was not a legal document. So I am happy now, especially that schools and the Ministry both have Internet connectivity, that such forms can be done electronically and submitted electronically to the Ministry of Education. This will free up administrators from this burdensome task and would allow them to focus the attention on the more important task of running their schools efficiently and effectively, so I am very, very interested in this part of the Bill.

And I do say that schools should come under “Government and other Public Bodies” because when I look at Part I, clause 2(c), I see it states “public body” means:

“the Cabinet as constituted under the Constitution, a Ministry or Department, Division or Agency of a Ministry;”

And certainly schools are agents of the Ministry of Education and I think that schools, from my reading, will be eligible to the interpretation of public body. I hope they will be.

Mr. Speaker, in his contribution to the debate on this Bill in 2009, the present Minister of Agriculture, Sen. The Hon. Vasant Bharath, in a previous incarnation, voiced strong concerns about trust and confidence in the Internet to provide the necessary safeguards that will normally be associated with traditional paper transactions. Then, Mr. Speaker, we have to question the availability of the requisite infrastructure and platforms for allowing the electronic signatures on documents to be transacted successfully.

Mr. Speaker, this Bill does not speak in a specific manner to these issues. And here we are, attempting to put in place, a very sophisticated piece of legislation when the basic technical infrastructure is not in place.

Trinidad has an Internet penetration of 12.3 per cent and what this means is that it would limit the reach of this Bill in respect of the general population. But at the end of the day, Mr. Speaker, the technical experts have to work hand in hand with the architects of such legislation to ensure that it is effective and that it really achieves its objectives and that we are not just here, debating this Bill for the sake of being here to debate this Bill.

Mr. Speaker, again, in the previous debate in 2009, the hon. Minister, again, strongly proposed that under clause 35(6), provision be made for a Data Commissioner who should be an independent body, reporting directly to Parliament. Under this current Bill, no mention is made of a Data Commissioner

rather this Bill vests authority to oversee these electronic transactions in the respective line Minister or designated authority. I should like to underscore the call of this Minister that a Data Commissioner be included to report to Parliament directly and to be given full autonomy to make decisions, independent of the influence or intervention of Cabinet. I have to ask, in presenting this Bill once again in this honourable House, has the Government overlooked the recommendations of one of its own Members?

Mr. Speaker, we can learn a lot from international best practice and, in this regard, I would like to refer to the United Kingdom's Electronic Communications Act. And particularly, I would like to refer to section 7 of this Act, which speaks to electronic signatures and related certificates and reads as follows:

“(1) In any legal proceedings—

- (a) an electronic signature incorporated into or logically associated with a particular electronic communication or particular electronic data, and
- (b) the certification of any person of such a signature,

shall each be admissible in evidence in relation to any question as to the authenticity of the communication or data or as to the integrity of the communication or data.

(2) For the purposes of this section an electronic signature is so much of anything in electronic form as—

- (a) is incorporated into or otherwise logically associated with any electronic communication or electronic data; and
- (b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication or data, the integrity of the communication or data, or both.

“(3) For the purposes of this section an electronic signature incorporated into or associated with a particular electronic communication or particular electronic data is certified by any person if that person (whether before or after making of the communication) has made a statement confirming that:

- (a) the signature;
- (b) a means of producing, communicating or verifying the signature,
or

(c) a procedure applied to the signature,
or is (either alone or in combination with other factors) a valid means of establishing the authenticity of the communication or data, the integrity of the communication or data, or both.

9.45 p.m.

Mr. Speaker, I have to say that the drafters of this piece of legislation have clearly adopted a very precise, ingrained, explicit, clear and positive manner of drafting their laws. You will note that as I spoke I referred to “shall”, “they shall”. In our laws there is a lot negativity which creates ambiguity. My friends on the other side have failed to ensure that the clauses in the Bill are specific and clear, as the ones I referred to in the UK Bill.

Let us look at Part II, clause 8 of this Electronic Transactions Bill, which speaks to requirements for legal recognition. Clause 8 reads as follows:

“Information or a record in electronic form or a data message shall not be denied legal effect, admissibility or enforceability solely on the grounds that it is—

- (a) rendered or made available in electronic form;
- (b) not contained in the information, data message, or record in electronic form purporting to give rise to such legal effect but is referred to in that information, data message or record.”

And I would like to refer to clause 17:

“Information or record in electronic form or a data message will not be deemed inadmissible as evidence—

- (a) solely on the ground that it is in electronic form; or
- (b) on the ground that it is not in the original non-electronic form, if it is the best evidence.”

I ask my friends on the other side to think, and to read those clauses for themselves, and then to ask the question are these clauses positive, are they palpable, are they comprehensive, are they clear, are they as clear as the reading from the UK Act? And then I have to ask in clause 17, what do we mean by the ‘best evidence’? What is the “best evidence”? This is not clear at all, and to me it is very subjective, who decides what the “best evidence” is? Are there criteria that constitute best evidence?

Mr. Speaker, I would like to propose that this Bill be returned to a joint select committee for consideration because, I feel this Bill is lacking clarity, and there are many irregularities which when we convene our sitting on Friday, my colleagues will further explore. I would like to humbly recommend that this Bill be returned to a joint select committee. I thank you, Mr. Speaker. [*Desk thumping*]

ADJOURNMENT

The Minister of Housing and the Environment (Hon. Dr. R. Moonilal): Mr. Speaker, I beg to move that this House do now adjourn to Friday, February, 11, 2011 at 1.30 p.m., and on that day we will continue the debate on Act to give legal effect to electronic documents, electronic records, electronic signatures and electronic transactions, and we will complete our committee work and take the Data Protection Bill through all its stages. I beg to move.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 9.50 p.m.