

**HOUSE OF REPRESENTATIVES***Wednesday, September 14, 2011*

The House met at 1.30 p.m.

**PRAYERS**[MR. SPEAKER *in the Chair*]**JOINT SELECT COMMITTEES  
(REPLACEMENT OF MEMBERS)**

**Mr. Speaker:** Hon. Members, I wish to read the following correspondence from Sen. Lyndira Oudit, Vice-President of the Senate.

“September 09, 2011.

The Hon. Wade Mark, MP

Speaker of the House

Office of Speaker

Office of the Parliament

The Red House

Abercromby Street

Port of Spain

Honourable Speaker,

Replacement of Members on Joint Select Committees

I wish to advise that at a sitting held on Friday September 09, 2011, the Senate agreed to the under-mentioned resolution:

‘BE IT RESOLVED that this Senate agree to the following appointments:

- on the Public Accounts (Enterprises) Committee —  
Dr. Bhoendradatt Tewarie in lieu of Mr. Subhas Panday;
- on the Joint Select Committee appointed to inquire into and report to Parliament on Municipal Corporations and Service Commissions (with the exception of the Judicial and Legal Service Commission)—Mr. Devant Maharaj in lieu of Mrs. Therese Baptiste-Cornelis;
- on the Joint Select Committee established to inquire into and report to Parliament on Ministries (Group 1), and on the Statutory Authorities and

*JSC (Replacement of Members)*  
[MR. SPEAKER]

*Wednesday, September 14, 2011*

- State Enterprises falling under their purview—Mrs. Verna St. Rose Greaves in lieu of Mrs. Rudrawatee Nan Gosine-Ramgoolam;
- on the Joint Select Committee established to inquire into and report to Parliament on Ministries (Group 2), and on the Statutory Authorities and State Enterprises falling under their purview—Dr. Bhoendradatt Tewarie in lieu of Mrs. Mary King;
- on the Joint Select Committee on Parliamentary Accommodation — Dr. Bhoendradatt Tewarie and Mr. Devant Maharaj in lieu of Mrs. Mary King and Mrs. Rudrawatee Nan Gosine-Ramgoolam, respectively.’

Accordingly, I respectfully request that you convey this decision of the Senate to the House of Representatives.

Respectfully,

Senator Lyndira Oudit

Vice-President of the Senate”

**PAPERS LAID**

1. Purchase of Certain Rights Regulations, 2011. [*The Minister of Finance (Hon. Winston Dookeran)*]
2. Annual report for Taurus Services Limited for the year ended September 30, 2010. [*Hon. W. Dookeran*]
3. Annual report of First Citizens Bank Limited consolidated for 2010. [*Hon. W. Dookeran*]
4. Annual report of the First Citizens Asset Management Limited for 2010. [*Hon. W. Dookeran*]
5. Annual report of First Citizens Investment Services Limited for 2010. [*Hon. W. Dookeran*]
6. Report of the First Citizens Brokerage and Advisory Services Limited for 2010. [*Hon. W. Dookeran*]
7. Administrative report of the Port of Spain Corporation for the year ended December 31, 2002. [*The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal)*]
8. Administrative report of the Port of Spain Corporation for the period October 2003 to September 2004. [*Hon. Dr. R. Moonilal*]

9. Administrative report of the Port of Spain Corporation for the period October 2004 to September 2005. [*Hon. Dr. R. Moonilal*]
10. Administrative report of the Chaguanas Borough Corporation for one year 2009 to 2010. [*Hon. Dr. R. Moonilal*]
11. Administrative report of the Ministry of National Security for the fiscal year 2010. [*Hon. Dr. R. Moonilal*]

**PURCHASE OF CERTAIN RIGHTS AND VALIDATION BILL, 2011**

Bill to provide for the purchase by Government of certain rights belonging to holders of Short-Term Investment Products (STIPs) with Colonial Life Insurance Company (Trinidad) Limited and British American Insurance Company (Trinidad) Limited; to empower the Minister of Finance to make payments and issue bonds for the purchase of those rights; to validate funding provided by Government to Colonial Life Insurance Company (Trinidad) Limited and British American Insurance Company (Trinidad) Limited; and for related matters [*The Minister of Finance*]; read the first time.

*Motion made:* That the next stage be taken at a later stage in the proceedings. [*Hon. W. Dookeran*]

*Question put and agreed to.*

**CENTRAL BANK (AMDT.) BILL, 2011**

Bill to amend the Central Bank Act, Chap. 79:02 [*The Minister of Finance*]; read the first time.

*Motion made:* That the next stage be taken at a later stage in the proceedings [*Hon. W. Dookeran*]

*Question put and agreed to.*

**RELATED BILLS**

**The Minister of Finance (Hon. W. Dookeran):** Mr. Speaker, I seek the leave of this House to debate the Purchase of Certain Rights and Validation Bill, 2011 together with the Central Bank (Amdt.) Bill, 2011 since they are interrelated.

*Dissent indicated.*

**PURCHASE OF CERTAIN RIGHTS AND VALIDATION BILL, 2011**

**The Minister of Finance (Hon. Winston Dookeran):** Mr. Speaker, I beg to move:

That a Bill to provide for the purchase by Government of certain rights belonging to holders of Short-Term Investment Products (STIPs), with

Colonial Life Insurance Company (Trinidad) Limited and British American Insurance Company (Trinidad) Limited; to empower the Minister of Finance to make payments and issue bonds for the purchase of those rights; to validate funding provided by Government to Colonial Life Insurance Company (Trinidad) Limited and British American Insurance Company (Trinidad) Limited; and for related matters, be now read a second time.

Mr. Speaker, before I commence the debate I wish to put on the public record the declaration I made to the Integrity Commission in 2010 on my interest in Clico and British American.

With respect to Clico, I have declared a short-term investment on October 2006 for the sum of \$105,846. The source of funds came from proceeds of surrender of a life insurance policy. With respect to British American, I have declared a short-term investment of \$40,857. The source of funds also came from the proceeds of the surrender of a life insurance policy. [*Interruption*]

Mr. Speaker, in moving this Bill before us I wish to very quickly put this in the context of the international situation and how it came to be that Trinidad and Tobago had to face up to that situation. You would recollect that the subprime mortgage rate created havoc with the financial system and, today, houses are valued significantly less than the mortgage commitments of individuals in North America and in England. The question that was asked is: Was this a technical failure of the financial regulatory system or was it, indeed, a failure of the behaviour of those who managed the international financial system and the financial system?"

You would note that during that intensive debate, President Obama went to New York and blamed lobbyists, greedy businessmen and complacent Washington politicians for creating what he referred to as an ethic of greed that led today's foreclosure crisis. That debate led to a very active debate as to the regulatory system and the extent to which unregulated greed does interfere with the workings of the financial system that has had worldwide repercussions.

Mr. Speaker, it is in that context that it was felt that the lack of stringent and rigorous regulatory controls and powers within that system to deal with situations have led or contributed significantly to the phenomenon of unregulated greed. In Trinidad and Tobago our own regulatory system has faltered in practice and in law. What we want to do now is to fix the shortcomings in the regulatory system to put into place the enforcement mechanisms that would allow it to operate in the

context of regulatory rigour, and secondly, to protect the economy in the circumstances and at the same time to deal with those citizens who have been affected from the near collapse of the Clico fiasco.

**1.45 p.m.**

Mr. Speaker, the financial shock to the Caribbean and to Trinidad and Tobago, with respect to the Clico fiasco was huge and we are still reeling after the global crisis in many parts of this region and even elsewhere. It was pointed out, Mr. Speaker, that the collapse of Clico and related companies has represented the financial shock to the Caribbean to the extent of 17 per cent of its GDP. And I quote from a report that was done by the International Monetary Fund on this issue, on January 6, 2011. The report states, that the collapse had placed at risk the assets of a wide range of depositors, investors, policyholders, including individuals, corporate and public pension schemes and financial institutions. The government intervention of Clico and British American Insurance, Trinidad and Tobago and Clico Investment Bank helped contain the contagion, but the cost, net of assets, could be as high as TT\$13.6 billion or near to 10 per cent of our GDP.

This is merely to emphasize, Mr. Speaker, that the problem was huge and that not only did it have the potential of generating a major systemic risk in our economy, but it also had the potential of putting our debt ratios into stress.

When the situation first arose, the previous regime made their own diagnostic as to what was the source of this problem. As it turned out, Mr. Speaker, their diagnostic was woefully wrong. They interpreted the problem as one of liquidity and provided funds to Clico and BAT to the extent of \$5,100,000,000.

This funding was used in large part to make partial payments on matured Executive Flexible Premium Annuities and mutual funds, and to pay interest on EFPAs and mutual funds at rates that far exceeded market rates. Significant commission payments were also made to agents on the rollover of matured EFPAs. Consequently, Mr. Speaker, due to this misreading, the previous government saw a rapid decline in the cash raised by the State and from other sources such as dividends and premiums.

In fact, as of June 30, 2010 only approximately \$2.5 billion of the \$5 billion which the previous regime extended to Clico remained at the monthly spending rate of Clico, as it was then existed, it was projected that the remaining \$2.5 billion may have been depleted in approximately 12 months, while at the same time leaving fund liabilities in the region of \$10 billion. And that would have continued to remain unpaid.

It was in this context, Mr. Speaker, that the People's Partnership Government made the critical decision to halt the rapid decline in cash by stopping all payments of EFPAs and mutual funds interest and commissions until a structured settlement plan could be identified and implemented. At that time, it was very clear that the diagnostic suggesting that this was indeed a liquidity problem, when, as it turned out, it was a major solvency problem, meant that the government remained somewhat paralyzed in the search for a real solution. The prudent policy would have been to spread out the risk away from the centre of the financial system, but in the current situation exactly the opposite happened. This does not augur well for the containment of contagion that clearly was in the air.

In addition, Mr. Speaker, as the bubble burst, it was clear that the problem should have been disaggregated in terms of the risk in liquidity of the institutions without throwing the entire system into a confidence challenge. The bubble burst and Trinidad and Tobago, against that background, began to search for ways and means to try to adjust to this major financial tremor.

The story is not yet over. And even as we speak, Mr. Speaker, developments in Europe have begun to raise, once more, the difficulties in adjusting to such large financial tremors. As I speak today, Mr. Speaker, French banks are now beginning to worry about the large sovereign debts which have become toxic which are located in their treasury. And German taxpayers continued to bite the bullet and bail out the Greeks, but the question remains; is it politically safe to do so? Those are the questions that are still before the corridors of power in the European countries and it is against that background that we have to deal with the problems before us.

In order to do so, Mr. Speaker, I would like to try to outline how this problem emerged, what the current situation is and what the responses are before us. Mr. Speaker, both the provision of the initial funding by the previous regime and payments that were made during the course of this year by the People's Partnership Government were not fully supported by an appropriate legislative authority. In the case of payments made by the People's Partnership Government, I, as Minister of Finance, had authorized the use of the special reserve. But now we have to find the authorization for the initial payments that were also made on this matter.

The funding on our payments were indeed not authorized at that time by the Appropriation Act which would have constituted sufficient base for the issue of sums from the Consolidated Fund. Neither is there any specific legislation which will authorize expenditure of public funds to effect payments made or proposed to

be made to Clico and to BAT policyholders. It is therefore in this context that one of the clauses in the Bill before us seeks to validate these previous decisions and it is reflected in clause 8 of this Bill.

In addition, the Bill before this honourable House also provides the Government, not only to get the legislative authority to enable it to fulfill its commitment to provide the necessary assistance to policyholders and Mutual Fund Investors valued in excess of \$72,000 but it does so by purchasing the rights in those projects. As already indicated, the intention of the People's Partnership Government is to purchase these rights for initial payments of \$75 000 with an outstanding sum to be paid by the Government through an IOU. The government's IOU will take the form of 20 non-interest bearing bonds of varying maturities from one to 20 years, each bearing the same date of issue.

This proposal by the Government does not deprive policyholders and Mutual Fund Investors of the enjoyment of property. In fact, the deprivation in relation to policyholders was caused by the collapse of Clico and the Government is making a real attempt within its constraints of financial management to mitigate the loss suffered by those investors.

Mr. Speaker, to date, as we commenced this programme in March 2011, with respect to the depositors, there has been significant and encouraging progress. With respect to the Clico clients who had deposits of less than \$75,000, with respect to the British American clients who had deposits of less than \$75,000 and with respect to the mutual funds who have deposits of less than \$75 000 in Clico, to date 9,815 persons have sourced that support. In other words, when the problem started it was in the order of 25,000 plus people and it is safe to say that we have provided 100 per cent cover to 9,815 persons so far. [*Desk thumping*] This was done at a cost of \$301 million.

In addition Mr. Speaker, we had introduced a compassionate relief window to those in the community who were faced with the risk of a medical or other nature, mainly attributable to the senior citizens of our country, but not exclusively so. To date, I am pleased to report to this House that since the inception of this programme in March 2011 to date, 455 cases have been processed with a value of \$94 million; [*Desk thumping*] a reflection of the introduction of a compassionate view to dealing with hard financial realities but, at the same time, ensuring that the compassion of the Government for those in need is already taken into consideration. This is one of the fundamental pillars upon which the philosophy of government, the People's Partnership Government, is based. [*Desk thumping*]

Mr. Speaker, in addition credit unions and trade unions which account for thousands of individuals but represent 156 policies with an accumulated value of \$788 million, have been treated through a liquidity support window. This liquidity support window will indeed be available to the credit unions and trade unions and, already, we have seen the public notification of that in the newspapers as we begin to handle that large category of depositors in the credit unions and in the trade unions.

**2.00 p.m.**

I know that that is also a reflection of this Government's continuing and persistent urge to deal with the small man in this country first, before we deal with the bigger problems facing us. The programme that was commenced in March covered those under \$75,000, almost 10,000 of them covered; those who applied for compassionate relief, 455 of them, and 156 policies, representing thousands of policyholders in the credit unions and trade unions.

That is where we are today, and the legislation before us is an attempt now to go beyond that, hence the very title of this legislation. This Bill before us is reflected in the debate before this House, the title, of course, being "The Purchase of Certain Rights and Validation Bill, 2011", and with it the tabling of the resolutions that are appropriate for the effecting of this Bill.

In order to reach where we are, the Government took a very considered approach and began very early on, having faced the challenge that this situation, which has been left in a paralyzed situation for almost 14 months, had to be dealt with. We recognized very early on that if this problem were not dealt with, the very risk that the financial system was trying to evade will become current. We recognized also that the first financial test facing this country during this Government's term in office was how we handle this situation.

We are aware that it was necessary to maintain the credit rating of the country. We are aware that it was necessary to find a humane solution to those who were affected by the developments in Clico. We are aware also of the legal possibilities and the legal challenges that surrounded a solution, a huge problem. But as you are well aware—as has been evidenced recently when the Prime Minister said that we will not surrender to criminals—we in the People's Partnership said we shall not surrender our financial integrity to the system which we have before us. [*Desk thumping*]

As such, very early on, in July of 2010, mere months after we had been placed in office, with the difficulties of the balance sheet very open, clear and



transparent, we put together a select committee of experts to look into the situation and to design options for the future. That committee reported to Cabinet in August 2010 and outlined three main options that were available to the Government. The first option was that no additional funding be provided, and liquidation, based on the current asset available, be proposed; the second option, that full funding of the asset shortfall and the repayment based on contractual terms; and the third option, an initial partial payment of up to \$75,000 and deferral of the remaining liability for repayment over the longer term.

We were conscious that the liquidation option would have meant tremendous problems for Trinidad and Tobago. We knew that the situation with respect to the 200,000 policyholders of more traditional policies would have been at risk; we knew that the management of our pension funds would be at risk; we knew that the health insurance cover that the company gave would have been at risk; we knew that the employers who are engaged in Clico and its related activities would have been at risk, and although it might have been the easiest option—and even today some argue that that option was preferable—we totally rejected that option as not in the interest of the people of Trinidad and Tobago.

Rather, we also recognized that the full funding would have put into jeopardy the financial matrix of the country, and would have put at risk the possibility of downgrades. Therefore, we took the prudent approach and accepted, at that time, option number three, which is a partial payment of \$75,000 and deferral of the remaining liability for payment over the longer term. But the issue was not only an issue pertaining to policyholders. There were other, larger issues that had to be dealt with. And while we proceed, as we have done, with the first stage of the payment programme, we began to continue our work to design an appropriate response to the Clico/CL Financial dilemma.

In addition to the payment issue, there was the issue as to the continuity and viability of the company itself. There was also the issue as to the related assets linked to Clico via CL Financial and what was happening with that company and what impact the developments in CL Financial will have on Clico. There was also the very major issue of how would the Government and, through the Government, the taxpayers of this country, make a claim on CL Financial for the moneys that have been allocated to that exercise, both by the previous government and by our own policy position.

Finally, in order to be able to provide the necessary teeth for the Central Bank to exercise its function under section 44D, which it has responsibility for but not a sufficient legislative power, we had to introduce a stay of proceedings as was in

the legislative framework of Trinidad and Tobago before and exists in many jurisdictions throughout the world. Therefore, we had to correct that situation in order to execute our plan, and at the same time, in so doing, to ensure that the future risk ahead of us through regulatory problems will at least be reduced, if not eliminated.

The work, therefore, continued. Enormous responsibility lay on the auditors, on the Clico operations itself, on the Central Bank that had the necessary requirement to handle this issue, and, indeed, on the Ministry of Finance which has to find the right funding mechanism to handle these issues. An enormous problem, of which I spoke, requires a substantial response on the part of the Government. And the Government's response was not based in an ad hoc manner, nor was it based on a response to populist demands; it was based only in preserving the integrity of the financial system, satisfying the legitimate demands of the policyholders and, at the same time, protecting the economy from any further risk.

It is within that context that we developed the overarching strategy. It required enormous work of an accounting nature, and later I will briefly mention to you some of the results of that accounting effort. It required the enormous work of a legal nature which, throughout this exercise, became a major source of delay, but we had to get it right and to get it right we were prepared to wait to get it right. It required enormous amounts of new thinking into handling this enormous problem. That framework for action on Clico and CLF was, indeed, submitted firstly to the Finance and General Purposes Committee of Cabinet in August 2011, and subsequently the results of that were submitted to Cabinet for its approval.

What, indeed, were some of the stark figures that we had to face? May I, first of all, indicate the timetable of our efforts with respect to getting the data right, for that, too, was an enormous challenge. On December 29, 2009, the audited accounts of Colonial Life for 2008 were signed. In March 2010, PricewaterhouseCoopers ceased to be the auditors. On April 07, 2010, Ernst & Young was appointed auditors. In May 2010, audit and financial statements for the year ended 2009 commenced.

On September 16, Ernst & Young resigned as auditors. On September 21, 2010, there was a change of the board of directors of Clico. On January 21, 2011, KPMG was appointed auditors of Clico with respect to the audit of financial statements for the year ending December 31, 2009. In February 2011, audit of financial statements for the year ending 2009 commenced—audit is substantially

complete and the notes were being finalized; expected completion is September 20, 2011. On February 14, 2011, KPMG was appointed auditors of Clico with regard to the audit of financial statements for 2010. The audit is in progress and expected completion is October 31, 2011.

Mr. Speaker, what have been the results of finding the appropriate data upon which we shall chart the policy ahead? With respect to CL Financial, the summary figure will suggest that as of December 31, 2010, management, but not audited, reports have reflected a total asset of \$7.5 billion and a total liability of \$7.3 billion, resulting in a very meagre net asset of \$220 million as of December 31, 2010.

**2.15 p.m.**

What does that mean, Mr. Speaker? There are many who have argued that there were a lot of active and profitable assets in the CL Financial group. Indeed, there are some of the individual companies that have shown some progress, but the overall consolidated balance sheet has suggested that there is, in fact, almost an imbalance between assets and liabilities. Many of these liabilities had to be covered through inter-company transactions, and remain today a major risk facing that company.

With respect to CIB, we will also note that the statement of affairs produced suggest an insolvency margin of \$4.7 billion. Accounts due to the third parties included \$1.9 billion of fixed deposits; \$1.8 billion of investment notes certificates for which no security was assigned, \$1 billion in secured bonds; and \$1.4 million in direct debt. An additional \$600 million of CIB assets was pledged for CLF debt. Assets reported by CIB at \$12.2 billion were adjusted to \$6.4 billion, mainly due to receivables from CLF that were deemed to be uncollectable.

On February 25, 2009, third party deposits were transferred to First Citizens. These deposits were being funded by Central Bank promissory notes of an equal amount issued on behalf of the Central Government. Interest payment and secured debt, including bonds, have been met, mainly with funding from the dividends received from RBL shares and US investments. Currently, CIB holds \$31.9 million worth of RBL shares or 31.9 million RBL shares valued at \$2.93 billion.

About 25.65 million of these shares are pledged to secure bonds issued by CIB. Most local borrowers have ceased making loan payments. With much of the loan portfolio tied to real estate developments outside of Trinidad and Tobago, recoveries are challenging and costly. CIB petitioned the court in April 2010 to have CIB wound up. Due to objections raised against the application, the process has been deferred and the next hearing is to take place in October.

With respect to Clico, Mr. Speaker, as I indicated to you with respect to the traditional business, it involves 235,000 policyholders. It involves long term coverage of risk related to mortality, retirement and health, and the insurance and mutual funds liability is approximately \$6.1billion.

Mr. Speaker, here is the summary figure. As of 2010, the total assets were in the order of \$18.5 billion and the total liability was in the order of \$21.6 billion, leaving a net deficit of \$3billion somewhat better than what was said to this House one year ago, largely due to the increasing value of assets with respect to Republic Bank and with respect to the methanol company, but yet it remains in a net deficit position.

Mr. Speaker, what we have seen is that while indeed the net premiums have been reducing, the company has been reduced from a \$22 billion company to a \$7 billion company. The audited figures suggest that as of 2010, net premium has declined from \$5.3 billion to \$480 million, and this has been the financial statement of 2010. We must note that in spite of the enormous difficulties facing that company and in spite of the fact that the confidence levels have been affected by the company even more than the rest of the banking system, I am advised that within the last year, 2011, from January to now, \$10 million of new investments have taken place in Clico, and that reflects to me a continuing belief in the continuity and viability of this company. It is now left for us to ensure that we put it in a place so that it can resuscitate itself and grow. There are other possibilities that will emerge after we have put the balance sheet in order, but at that stage we are also pursuing that option and pursuing it vigorously.

I say that, Mr. Speaker, not only to emphasize that our programme is within a context of dealing with the policyholders on the one hand, dealing with the resuscitation of the company on the other hand, dealing with the issues of the contagion impact that might likely affect the company and the country through CL Financial operations but, finally in ensuring that there is at the same time a legal authority to handle the challenging restructuring process.

Suffice it for me to say at this point, that in every jurisdiction in which restructuring has taken place, be it from the United Kingdom to New Zealand or elsewhere, restructuring processes are done within legal assurances. That has been one of the areas that we have detected that did not exist in our own country, and when we get onto the second Bill before us we will indicate why that has been so.

For it was at one time in the Insurance Act, but through the wisdom of the last regime it was taken out and, therefore, that protection to restructure failed. The

financial companies did not exist in the legislative system, and our attempt now is to put that back in the legislative system so that any failed financial company can be restructured without the threat of legal action. [*Desk thumping*] We had to deal with this over the last year and four months, and we had hoped that such legal challenges will fade away because of the national interest.

Very often Parliaments are asked to make a decision between private rights and public interest, and whenever that situation arises it is the responsibility of the Parliament to support public interest even though it may, in a strictly legal sense, affect private rights. But this is not to deny the benefits of such private rights, while indeed we are engaged in finding ways to compensate the returns of the private investors.

Mr. Speaker, those who wish to pursue the route to seek private rights at the risk of causing liquidation will be doing so at the disservice of the national common good of Trinidad and Tobago. But even within that context, we have in fact been working very carefully at ensuring that the payout system provides an adequate support for the challenges that we face. It is in this context that the Bill before us now seeks the authority of this Parliament to issue bonds, bonds that will be used to retire the remaining indebtedness, as agreed to, of policyholders.

May I just put on the record this process. The bonds to be issued under this Bill possess several features designed to facilitate ease of administration of the bonds and thereby minimize the hardships already experienced by Clico and BAT investors. The bonds that we issued in electronic form were viewed as a more efficient and internationally accepted system of managing bonds and present fewer risks to the bondholders. It also enables faster and easier transfer of bondholding as the bondholders no longer need to surrender paper certificates in order to be paid on maturity.

Clause 3(1) of the Bill empowers the Minister of Finance to make payments in any form whatsoever and, at clause 7(1), the Minister may make regulations stipulating the form issued and recording of bonds. To this end, Mr. Speaker, regulations have also been prepared specifying, among other things at Regulation III, that all bonds shall be in an electronic form and shall bear the same date of issue.

Secondly, the bonds shall bear the same issue date despite the date of acceptance by holders and mutual fund investors, so as to circumvent administrative difficulties that will otherwise be created by variations in maturity dates. This requirement is stated in Regulation III of the Proposed Purchase of Certain Rights Regulation, 2011.

Thirdly, the bond shall be issued in denominations of \$1,000 in order to facilitate the eventual trading of the bonds in the secondary market. Regulation V of the Proposed Purchase of Certain Rights Regulation, 2011, makes reference to this.

Fourthly, the bonds shall not be listed on the stock exchange for a period of six months from the date of issue in an effort to make them more attractive for the holders and mutual fund investors to sell their bonds over the counter, thereby maximizing their potential recovery. Regulation 4(2)(b) of the Proposed Purchase of Certain Rights Regulation, 2011, refers to that.

Fifth, the bond shall be deemed securities in respect of which registration with the Securities and Exchange Commission is not required, so as to circumvent any administrative delays associated with having the bonds registered as securities under section 65 of the Securities Industry Act, Chap. 83:02. Clause 5 of the Bill refers.

Sixth, payments to bondholders on maturity are to be made by cheques or in electronic form. Where there is an amount to be paid that is not divisible by \$1,000, that proportion of the payment which is not divisible by \$1,000 shall be paid together with the initial payment of \$75,000, thereby increasing the investors' immediate recovery. Regulation V of the Proposed Purchase of Certain Rights Regulations, 2011, refers.

Mr. Speaker, the Bill before this honourable House will ease the hardships faced by approximately 16,000 persons who hold deposits in mutual funds with Clico and BAT that exceed \$75,000 by permitting Government to purchase the relevant rights by making payments in any form whatsoever, including through the issue of bonds. On the assumption that 100 per cent of the investors will accept the Government's offer of payment—and it is the Government's offer of payment—the bonds that will be issued shall not exceed in the aggregate the sum of \$10.7 billion and will result in an annual cost to the Government's Treasury of approximately \$500 million.

Mr. Speaker, since the announcement in the last year's budget statement, the Central Bank and this Government have held extensive discussions with the financial sector on the modalities of implementation in respect of the category of investors with balances in excess of \$75,000.

### **2.30 p.m.**

It was recognized that most investors will seek to exchange the Government bonds for cash and the banks had indicated the willingness to facilitate the

discounting of the Government bonds. The banks estimated that, given the current Government yield curve, they expect that bonds with a maturity of up to 10 years could be discounted for an average of 80 cents on the dollar.

They felt that the discounting of bonds of longer maturity between 11 to 20 years could present greater problems because of the capacity of the financial system to absorb \$10 billion of Government bonds in a short period, and to hold part of the stock for the period between 11 to 15 years. Even if this operation was feasible, they surmised that the rate of discount for the bonds would hardly exceed 40 cents on the dollar. This will mean that the average holder and mutual fund investor will be able to discount the first 20-year bonds at any time, if he so wished, at an average rate of discount of 67 cents on the dollar.

Mr. Speaker, after very prolonged discussions with the Government, the Central Bank and representatives of the financial sector, we have now enhanced the pay-off regime that results in a substantial increase in returns to the investor. While this new proposal retains the discounting mechanism for the Government bonds of one-to 10-year maturity, it introduces a new mechanism for the longer maturity bonds designed to significantly increase the return to investors in the over \$75,000 category. This new mechanism will utilize the RBL shares currently held by Clico in a Trust earmarked to benefit the Clico investors, and we call it NEL2.

How it would work, Mr. Speaker, investors will continue to receive their annual 20-year bonds. The facilities for discounting the bonds of maturity up to 10 years will remain unchanged and the financial sector, banks and insurance companies and some pension funds have reconfirmed that they will be involved in the discounting. It is expected, given the yield curve, that that discounting rate will be in the order of 80 cents resulting in a haircut for the first 10 years of 20 per cent.

The bond with maturity of 11 to 20 years could be exchanged for units in NEL2 at a rate of dollar for dollar. This means that as soon as NEL2 comes into effect, these units could be exchanged for the nominal value of the 11-to 20-year bonds. This means that the total return to the investor will comprise the 80 cents for the bonds with maturity of one to 10 years and 100 cents on the dollar for the longer term bonds through the NEL2 mechanism.

On this basis, the average return will be in the order of 92 cents on the dollar—a significant increase over the 67 cents on the dollar implied by the original plan. It is to be noted that investors who choose to hold on to their NEL2

stand to benefit even more. Firstly, by the dividends from RBL shares, and also by increase in the value of RBL shares which over the past year increased from \$74 to \$90.

In summary, the payout plan will result as follows:

- Holders of traditional policies will end up receiving 100 cents on their dollar. That represents over 200,000 policyholders.
- Holders of short-term investments and mutual funds investors of value less than \$75,000 will receive or indeed have received 100 cents on the dollar. It is also so with the credit unions and the trade unions through the liquidity window managed by the Central Bank.
- Holders of short term investments and mutual funds with values in excess of \$75,000 will receive, subject to the valuation of the NEL shares and the yield curve in the financial sector, an average of near to 92 cents on the dollar with a possible upside if they hold their NEL2 shares.

Mr. Speaker, it is anticipated that the offer of this option could also have the effect of providing much needed energy to the local stock market and enhance capital market activity. Furthermore, on the basis that unit holders will be more inclined to hold units for the medium to long term, the risk of inflation and foreign exchange risks will also be mitigated.

Additional advantages include that this option would enable unit holders to participate in a potentially diversified Trust, with local assets as additional assets could be placed in this Trust in the future. Also, and significantly, the Government cash outlay will be reduced by approximately \$500 million per year for 10 years—that is the last 10 years of the bonds.

Additionally, the Government's objective of ensuring the best possible recovery of Clico investment will be achieved by allowing the Central Bank/Clico to maintain control and access to some of these assets—assets that are not required to protect the traditional policyholders. Accordingly, the Government and taxpayers—when I say Government, via the Central Bank—would have access to the dividends generated by the remaining Clico assets to provide some level of offset to the bond payment of approximately \$500 million per annum.

This is a key element of the settlement and the overall restructuring which involves:

1. The protection of approximately 260,000 traditional policyholders including thousands of pensioners maintaining the orderly control of some Clico assets to avoid a fire sale;



2. Allow for recovery to minimize the total net cost to the Government, and avoid the systemic risk that will arise from liquidation; and
3. Provide relief to the 16,000 short-term investors in a manner that is fiscally responsible and does not jeopardize other spending priorities such as health care, public sector investment programme or social benefits; and that will benefit the total population.

Mr. Speaker, this revised offer far exceeds any recovery that will be obtained from the winding up or liquidation of Clico. In the winding up, investors may have to wait years before they can receive their payment under a liquidation, and the estimated recovery may change significantly as the values received from asset sales may be “fire sale” values. It is as a result of the foregoing and in an effort to offer maximum protection to investors and 260,000 traditional policyholders that Government is making options available as articulated above.

Mr. Speaker, I will go through very quickly some of the clauses that I have not referred to before. Clauses 1 and 2 provide the short title and interpretation of the Bill.

Clause 3 of the Bill will provide the Minister of Finance with the authority to sign agreements and make payments in any form whatsoever, including, through the issue of bonds to holders of investment deposits and mutual funds for the purpose of purchasing rights belonging to them. Clause 3 also provides for the parameters of the bonds authorized to be issued by the Minister, in the first instance, 20-year bonds for varying maturity from one to 20 years, not exceeding in the aggregate the sum of \$10,700,000,000.

Clause 4 of the Bill provides that all payments made under the Bill will be a charge on the Consolidated Fund.

Clause 5 of the Bill will deem the bonds to be registered in accordance with the provisions of the Securities Industry Act, Chap. 83:02.

Clause 6 of the Bill confers on the Minister the power to designate the Central Bank or a financial institution as the Fiscal Agent under the Bill and describe the duties of the said Fiscal Agent.

Clause 7 will provide the Minister with the regulation making power for the purposes of carrying out the provisions of the Bill.

Clause 8 of the Bill will seek to validate the funding which was provided by Clico and BAT by the Government between February 2009 and May 2010, as well as the payments made to the holders from March 04, 2011.

Mr. Speaker, the ability of the Government to purchase the rights and title over the various specified products held with Clico bank will have the effect of removing investors and mutual fund holders from the dangers inherent in pursuing claims against a failed financial institution. The Government is of the firm belief that the option announced today is an optimum solution in order to provide an enhanced recovery to investors, and will thereby reduce some of the financial burdens which they face as a result of the Clico fiasco.

Mr. Speaker, as I indicated, these final deliberations were the result of extensive discussions with the banking sector, with the insurance sector through the Central Bank, with the Ministry of Finance and with Clico and its advisors in accounting. We consider this to be an extraordinary payout; one that is well above the norm that is taking place in the rest of world. We consider this as a deliberate strategy to ensure that the financial stability of the banking and insurance systems remain intact. We consider this as a proposal that will not put undue and unnecessary strain on our fiscal and debt profiles. These were the objectives within which we have devised this proposal.

I say this if only to emphasize what has happened elsewhere with respect to the financial crisis that has taken place in the United States. Over \$14.5 trillion worth of value was wiped out from the world stock exchange—a loss of wealth in that country as a result of these tremors. Over 200 banks collapsed in the United States of America during this period, and it is to be noted that only deposits of \$250,000 and under are insured by the FDIC. Unemployment in the United States moved up from five million as of 2007 to nine million as of August 2011—unemployment nearly doubled as a result of the credit crisis. One in 54 houses was repossessed. As of 2011, there are three million persons who lost their homes in the United States.

Mr. Speaker, these are stark realities of how even the largest country in the world, the most powerful and financially powerful, had to undergo major cuts. People lost their homes; people lost their savings and people lost their jobs in that process. Today, the situation continues. It has now been extended to Europe, and it is likely that developments in Europe will trigger even further problems for the United States and for itself. We are not immune to these developments. In no way can we live as an island unto ourselves. It is to our credit that we have been able to take on the storm, as dark as the storm was, and put our house in order.

**2.45 p.m.**

Mr. Speaker, if I come nearer home and I talk about St. Kitts/Nevis, I have before me a report that was done on the conditions for debt restructuring in St.

Kitts/Nevis with respect to the Clico matter they faced a value of outstanding obligations that was reduced by 60 per cent. In other words, in the St. Kitts/Nevis jurisdiction, depositors got 40 cents for the dollar. The 40 cents is paid over 30 years at 4 per cent per annum, interest only the first seven years and the remainder amortized over 23 years. That is nearer home. That is what has happened to St. Kitts/Nevis. Countries in the region are badly affected. Countries in the region remain important countries for us to support and at this point in time we have been looking carefully, with the aid of the Caribbean Development Bank, to see how we can provide additional support for the rest of the Caribbean.

Let me point out, in closing, that what we have devised in Trinidad and Tobago cannot be surpassed anywhere, anytime, in any part of the world with respect to financial management, and I say that without fear of contradiction whatsoever, and those who wish to threaten the security of Trinidad and Tobago's financial system through legal measures must understand that there comes a time when the public interest must supersede the individual rights of people. Our failure to adhere to that principle will ensure the total collapse of this institution and all the concomitant distress of which I spoke.

I urge the Opposition to stand ready, stand tall, stand with us, stand for Trinidad and Tobago and support this Bill. Thank you very much, Mr. Speaker.

I beg to move.

#### **DECLARATION OF INTEREST IN DEBATE**

**Mr. Speaker:** Before putting the question to hon. Members, I want to remind all Members that May's *Parliamentary Practice twenty-fourth edition*, page 80, states:

#### **“Declaration of Interest in Debate”**

I want to quote:

“In debate a Member is required to declare ‘any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, that he may have had, may have or may be expecting to have’.

It is the responsibility of the Member, having regard to the rules of the House, to judge whether a financial interest is sufficiently relevant to require declaration. The basic test of relevance is similar to that for registration: that a financial interest should be declared if it might reasonably be thought by others to influence the Member's speech.”

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I want to refer Members to May's *Parliamentary Practice twenty-fourth edition*, page 80, on:

“Declarations of Interest in Debate”

**STANDING ORDERS  
(RELAXING OF)**

**Mr. Speaker:** Hon. Members, before putting the question again, because of the technical nature of this debate and the issues before us, I have decided to relax Standing Order 33(6). Refer to Standing Order 33(6).

*Question proposed.*

**Mr. Colm Imbert** (*Diego Martin North/East*): Thank you, Mr. Speaker. In keeping with your warning, although I do not think it is relevant, like the Minister of Finance, several years ago I took out a policy with Clico. The last time I checked it had a cash surrender value of \$46,000 and would pay me a pension, on reaching the age of 55, of \$1,000 per month. I do not think it is relevant to this debate, but since the Speaker has sounded the warning I thought it necessary to make that statement. I certainly do not have one of these things that the Minister is seeking to address in this piece of legislation.

The Minister of Finance has made many statements. The last statement he made was that the public interest must supersede the individual rights of people. That is what he said. He said the public interest must supersede the individual rights of people, and he said that we on this side must support them, with respect to what they plan to do, with respect to the policies that he is seeking. Many people believe that the definition section of this piece of legislation in clause 2, which defines a “short-term investment product” as:

‘An Executive Flexible Premium Annuity, Executive Single Premium Annuity, Group Advanced Protection or Guaranteed Annuity, et cetera.

The definition section, which defines these policies as short-term investment products is really a sinister attempt to change the nature of the policies that people have taken out with Colonial Life. There is a belief among many people. Some people get very emotional about these things. If you speak to the holders of executive annuities, let us use that shortened version of it, they are firm in their belief that these are insurance policies, they are not fixed deposits and they are not short-term investments like mutual funds. They do not believe that and for reasons about which I would elaborate in due course, they are not happy at all with this definition on the part of the Minister, of their insurance policies as

investment products. They feel—it is a back-door attempt to destroy the trust that is created by the Insurance Act. Because, when an insurance company is required to create a statutory fund, the value of which must be equal to the assets of long-term insurance business, the value of the policy is protected by the assets in the statutory fund.

There is a view that this Bill, innocuous as it may seem, is intended to destroy that trust that is created by the Insurance Act. When I say “trust” I do not mean trust in the Government, I mean the legal definition of a trust, which is defined in the Insurance Act. Insurance companies are required to create a trust and place funds in a trust that will secure the value of policies of persons who take out policies with these insurance companies. By labelling “policies” short-term investment products, it is, in the minds of many people, a sinister attempt to destroy the efficacy of the Insurance Act and the sections that deal with statutory funds, which are contained in sections 37, 38 and so on of the Insurance Act. I would read that into the record. Section 37 under the heading “statutory funds” states:

“Every company registered under this Act to carry on long-term insurance business or motor vehicle insurance business”—et cetera—“shall establish and maintain a statutory fund in respect of each such class of business.”

Section 37(4) states:

“Every company carrying on long-term insurance business in Trinidad and Tobago shall place in trust”—this is where the trust concept comes in—“in Trinidad and Tobago assets equal to its liability contingency reserves with respect to its Trinidad and Tobago policy-holders...”

That is an important point, because the view is that by law, it is only the policies of persons from Trinidad and Tobago that are protected by the statutory fund, and there is a view among persons from Trinidad and Tobago that the Government’s move to lump foreigners with persons from Trinidad and Tobago, in terms of dealing with this issue, is in violation of the intent of this section. I would read it again.

“Every company carrying on long-term insurance business in Trinidad and Tobago shall place in trust in Trinidad and Tobago assets equal to its liability and contingency reserves with respect to its Trinidad and Tobago policy-holders as established by the balance sheet of the company at the end of its last financial year.”

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The Insurance Act requires insurance companies to place in trust assets equal to liabilities to policyholders from Trinidad and Tobago. It does not have any such requirement with respect to foreigners.

The Minister of Finance made all sorts of statements, but we need to go back in time. The Minister wanted to tell us somewhere along the way how the problem emerged and what the current situation is. He gave us a small history. I would like to give this House a small history lesson. I have in my possession three documents. One is dated March 1990, the other is dated April 1999 and the third is dated February 2003. I would read into the record a letter from the Government of Trinidad and Tobago, Office of the Supervisor of Insurance, Ministry of Finance. It looks like March 23, 1990. It is written to the Manager of Actuarial Services, Colonial Life Insurance Company:

Dear Sir

Executive Flexible Premium Annuity

I am directed to acknowledge receipt of your letter dated 15th March to the Supervisor of Insurance and to advise that the Executive Flexible Premium Annuity Policy—that word is important—is approved for marketing.

The Executive flexible Premium Annuity Policy was approved by the Supervisor of Insurance, Ministry of Finance in March, 1990.

Let us go now to April 1999. Again it looks like April, 02. It is definitely April 1999. Again, written from the Ministry of Finance, Insurance Division to Colonial Life and it goes as follows.

Dear Madam—they were writing to Marcia Tamax, Manager Corporate and Financial Actuarial Services.

Approval for foreign currency policies—again, it is important the word “policies” is there—Lifetime Advantage Flexible Premium Annuity, Executive Flexible Premium Annuity

Reference is made to all correspondence of the caption subject ending with your letter dated March 31, 1999. I am pleased to advise that permission is granted to marketing a foreign currency, the Lifetime Advantage Flexible Premium Annuity and the Executive Flexible Premium Annuity.

The heading, as I have said, is “policies”. That is 1999.

I do believe the hon. Member for Tunapuna was the Governor of the Central Bank in April 1999, I do believe so, when the Executive Flexible Premium and

Lifetime Advantage policies were approved in foreign currency. I do believe he was the Governor of the Central Bank at the time. One of the problems with this issue is the amount of misinformation in the system. People just need to own up. We are dealing with a problem here. There is so much emotionalism and, I have to use the word, tribalism. People need to deal with the issues. The Member for Tunapuna was the Governor of the Central Bank when these policies were approved for marketing in the foreign currency.

**3.00 p.m.**

I heard that hon. Member say that he is not involved in any of this, it happened after him and before him. But, anyhow, I just put that in the record. Now, February 2003, written by the Office of the Supervisor of Insurance to Colonial Life: “Approval of Executive Premium Annuity EFPA 2”, and I think EFPA 2 is here in this definition section, as I said, which seeks to change the description of these insurance policies and make them appear to be fixed deposits or something like that. And I do see item (b) Executive Flexible Premium annuity 2, so this must be what they are talking about.

I wish to advise that approval is hereby granted for Colonial Life to market the Executive Flexible Premium Annuity 2 policy.

So in all three letters, including the letter written when the hon. Member, the Minister of Finance, was Governor of the Central Bank and had responsibility for the financial sector; the instruments are defined as policies.

Mr. Speaker, we did not have to go all there, you know, we will just look at the statutory fund. If one looks at the statutory fund—you do not have to be an actuary; you do not have to be a financial expert—you will see it has been the practice since these policies were approved by various administrations, because 1990 was NAR, 1999 was UNC, 2003 was PNM. So it is through three successive administrations that these instruments have been defined as policies, and approved as policies. But you do not need to go that far, because the statutory fund which Colonial Life has been required to maintain—because it no longer has, according to the Minister—had up to 2007, I would say, assets to cover the annuity policies.

So for years, Mr. Speaker, between 1990 and 2007 and 2008, and so on, assets were placed in the statutory fund because they were deemed to be insurance policies. A lot of ol’ talk about these things: that they are fixed deposits, and short-term investments and so on, and that is a matter for the court. And that, in my opinion, will be dealt with in due course—at some future point in time. The

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court would adjudicate on whether these annuities are insurance policies, or not. Most people believe—certainly the policyholders believe, all 15,000 of them—that these things are policies, because they were marketed as policies, and they were told that they were protected by assets placed in the statutory fund.

So I would like the Minister to tell us why are you changing the name, why did you have to do that, why did you not just call them EFPAS, why? You see, and this is what creates this climate of suspicion. The problem here is credibility, because the figures do not add up, Mr. Speaker. I am not the only one who is saying that, when you look at what people say, the multitude of different sectarian interests, different political interests, different societal interests, which are not happy about the—what can be termed as the “Dookeran Plan.” It goes across the board of politics, of ethnicity, of class, of political persuasion, et cetera. I mean, you have people writing and complaining about this, people who do not support each other. You have people who are at loggerheads in court, all unhappy about what is taking place with respect to the Clico plan, Mr. Speaker.

You have persons from the UNC, who, in my opinion and my research, tell me, make up the majority of holders of EFPA’s, who are—that is my understanding—*[Crosstalk]* *[Interruption]* Yes I did. You see, Mr. Speaker, when the leaders of Colonial Life decided to support the UNC, in fact, you had a senior member of that group becoming a Cabinet Minister, the Minister of Works at the time. You had the head of Colonial Life at the time, Mr. Duprey, openly acknowledging his support for the UNC in many ways, but we would not go into that here. But when you had councillors—UNC councillors—on the board of Colonial Life, I mean the Members opposite they think that by laughing, shouting and screaming it will change the facts, but facts are stubborn things. They do not go away.

So there was a shift in the marketing approach of Colonial Life when the UNC came into Government in 1995, Mr. Speaker. You had a lot of interventions into areas of Trinidad and Tobago which traditionally supported the UNC. And as a result of that marketing drive if you look at the typical profile of a policyholder, an EFPA policyholder, you will see that—I would say that at least 50 per cent are persons who would support the UNC. Of course, there are PNM supporters inside of there; there are COP supporters inside of there. My understanding is the other largest segment after UNC sympathizers, the next largest group is COP sympathizers—that is my understanding—in terms of persons among the 15,000 persons who have policies—*[Crosstalk]* *[Interruption]* Mr. Speaker, please!



**Mr. Speaker:** Hon. Members, I would like to hear the contribution of the hon. Member for Diego Martin North/East, and I ask all Members to pay attention in silence and observe Standing Order 40: (a), (b) and (c). Continue, hon. Member.

**Mr. C. Imbert:** Thank you, Mr. Speaker. The point I am making, I do not know why the Members opposite are so jumpy. The fact of the matter is, when you look at the typical profile of these 15,000 persons they represent virtually every political persuasion in Trinidad and Tobago in large proportions. That is the point I am making. And they are not happy! And why are they not happy? Because of the conflicting statements made by the Government. I do not have a copy of the UNC manifesto, or the yellow book, whatever you call it, UNC-coalition manifesto. I do not have a copy, never had one, do not think I would ever want one.

I am willing to venture a guess today, I am willing to wager however many pages that document is, whether it is 50 pages or 100 pages, I do not know how long it is. Did the UNC-coalition tell the persons whom it was asking for its mandate that when it came into Government it would renege on the promise made by the Central Bank and by the Government of Trinidad and Tobago to satisfy policyholders in full? Is that in the UNC-coalition manifesto? I do not think so, and I do not think on any platform—the hon. Prime Minister was then the Opposition Member for Siparia, the Leader of the Opposition at the time—I do not remember the hon. Prime Minister saying on any political platform that “When we come into power we will renege on the assurances and the promises made by the Central Bank and the Ministry of Finance, with respect to Clico policyholders”. I do not remember that.

You see because there is a feeling of betrayal, Mr. Speaker; there is a feeling of betrayal, and you have to ask yourself—I heard the Minister [*Desk thumping*] make a statement [*Interruption*] I heard him make a statement [*Interruption*] “Yuh could say way yuh want yuh know it would not change the price of coffee.”

Mr. Speaker, I heard the Minister make a statement that he hoped that the litigation and the lawsuits would fade away. Let me get his exact words: “We would have hoped that legal challenges would have faded away.” Why have not the legal challenges faded away? Because people feel betrayed. You see, I am hearing the Minister of Finance mouthing something. He said “greed.” You see, when you make those statements, Minister of Finance, when you define and describe innocent, elderly, hard-working persons who put all their life savings in Colonial Life as greedy, when you intertwine a statement made by hon. Prime Minister that the Government would not surrender to criminals with a statement

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like, “We will not surrender the financial security of this country”, what is the point of prefacing your statement with “We will not surrender the country to criminals; we will not surrender the financial stability of this country?” [*Desk thumping*]

Words are funny things, I am warning the Government, be careful what you say, because when you describe these innocent persons as greedy and when you subliminally introduce the concept that they are criminals, they get angry and that is why you will be bombarded with litigations, I can assure you, Mr. Speaker. Do not think for one minute that litigation is going to fade away. We will have a lot to say about that in due course, but not at this point in time.

The question is, why the litigation continues and why it has not faded away? It is because persons feel betrayed, Mr. Speaker. It is because the Government just will not give us any information and when the Government speaks in the—whether it is the hon. Prime Minister who is speaking, whether it is the Minister of Finance who is speaking or somebody else, the statements do not mesh, they do not add up, they are contradictory and people take note of these things. They take note of them.

I was looking at an article, Mr. Speaker—and here is an article which is a record of statements made by leading members of the UNC coalition. This is an article in the *Guardian* published in March 2011, and it speaks to:

“Are Clico’s policyholders protected by the PP guarantee?”

Listen to this, a quote:

“In his contribution to the budget debate on September 23, 2010, Government Senator Patrick Watson, speaking about the 225,000 policyholders who bought into the classic insurance operations of Clico, said: ‘And in one fell swoop, in the statement from the Minister of Finance, the 90 per cent of the investors/depositors—I want to use that word very guardedly, those who put their trust in Clico—the reassurance was given in gold that they have absolutely, nothing to worry about.’ Prime Minister Kamla Persad-Bissessar, in her statement to Parliament on October 01, 2010, said: “All of the traditional, long-term insurance policyholders; group pensions, long-term annuities and so on, would be fully protected”.

So almost just about a year ago, Mr. Speaker, the Prime Minister said that:

“...All of the traditional long-term insurance policy holders, group pension and long-term annuities and so on, would be fully protected.”

The article goes on to say—there was a comment attributed to Mr. Dookeran as well.

“From their utterances, these three members of the current administration have sought to assure the 225,000 holders of traditional Clico policies that they will be fully protected, that their long-term annuities, group pensions”—et cetera, et cetera—“will be honoured when the time comes. Are the assurances given by these three high-ranking members of the Government worth ‘gold’, as Senator Watson would have the country believe? The first point that arises is that if Clico, which is directly controlled by the Central Bank, has refused to honour the monthly, or quarterly interest payments on EFPA policies—following a directive from the Minister of Finance”—the hon. Member for Tunapuna—“why should the company be trusted to honour any contract?”

There is tremendous skepticism within the country—and, as I said, this thing transcends race, it transcends class, it transcends politics and it transcends religion, Mr. Speaker—tremendous skepticism with respect to: can we trust the Government with respect to this matter? Because, as I said, in its election campaign of 2010, the Government never told the country that they would not honour the assurances given by the Central Bank and by the Ministry of Finance with respect to this matter. Never! And there have been contradictory statements afterwards that “All of your policies will be honoured in full” and so on, fully protected.

People listen, you know. When I hear the Prime Minister saying that “Your policies will be fully protected,” that means one thing to me: that I am getting everything. It does not mean that in September 2011 a Minister of Finance will come to this Parliament and tell me I have to take a haircut. It does not mean that. “In full” means “all” 100 per cent. It does not mean I have to take 80 per cent, 40 per cent, 60 per cent, and I might, if I am lucky—if Republic Bank shares maintain their value I might get 90 per cent. It does not mean that! It means all, Mr. Speaker!

### **3.15p.m.**

One of the things that Government spokesmen conveniently overlook is that these Clico policies were paying, on average, 8 per cent per year. So if the value is \$10.7 million or \$11 million, 8 per cent on that was almost a billion dollars. That \$1 billion has gone up in smoke; that 8 per cent that should have been paid between September 2010 and September 2011, gone. So the policyholders have

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already taken a haircut of 8 per cent because that is not even on the table, the question of the honouring of the insurance contracts and the honouring of the policies.

The Minister has wondered why people are going to court. Several policyholders went to court the other day and a judgment was rendered on July 22, this year. The judge dismissed the argument made by Colonial Life and ordered that the litigants—there were a number of them; you had St. Kitts and Nevis, a cooperative and there were a number of private citizens; I do not want to call their names. The court ruled in favour of the applicants and ordered—I will read:

There shall be judgment for the claimants against the defendant in respect of the US Executive Flexible Premium Annuity bearing policy No....

The defendant shall pay the claimant the sum of TT \$10 million, et cetera, et cetera.

The defendant shall pay the claimant—this is the important point—interest in the sum of \$827, 512 in accordance with the terms of the policy and so on; each one is the same.

If you go on:

The defendant shall pay to the claimant interest in the sum of \$395,000 computed at a rate of 8 per cent per annum in accordance with the terms of the premium annuity bearing policy No. ...

This matter has already been dealt with in the court and the court has already established that Colonial Life is contractually obligated to honour the terms of those annuity policies to pay the principal and the interest that is due.

The Minister is not talking about interest at all. To me, that is a sleight of hand and, I assure you, to many policyholders that is a sleight of hand and that interest is significant because that is what a large number of people used to live.

The human side of this issue needs some examination. Many of the policyholders are elderly people because Clico also targeted that demographic, in addition to going into areas of the country and marketing the product in particular geographic locations. They also targeted a particular demographic, the retired persons; the elderly person who had, maybe, just sold a house; had some cash on hand and needed some income to live. The majority of persons, in the 15,000 or so, were using that interest to live and they have not had any income except for a small number.

I heard the Minister talk about a compassionate window, about 450 people, I think; but it is about 15,000 persons he is talking about. Let us say 14,000 persons have not received any income with respect to their policies for the last 12 months.

It is easy when you are having these debates and you can appeal to certain so-called noble principles such as the rights of people not being allowed to supersede the public interest. Tell that to people on dialysis who need that interest from those Clico policies. Tell that to the people who are in old people's homes and who require the money to pay their bills. Tell that to people whose only source of income for themselves, their children and their grandchildren was the income they were earning from those Executive Flexible Premium Annuities. They are not going to be impressed by the high-sounding speeches of the Hon. Minister of Finance. They will not be impressed because they do not believe what they are hearing.

I listened to the Minister today and I have a document—you see the proof of the pudding will be in the eating. The Government thinks that what it is doing is right; it believes so. It is like the state of emergency—they think it is a good thing. The proof of the pudding will be in the eating.

I made a point previously, after this Government came in with the support of the trade union movement, why one year later are the trade unions threatening a national strike and police want to down tools? It is because they feel betrayed. Why are people going to court over these Clico policies? It is because they feel betrayed. The Government is taking a gamble and hopes it can persuade sufficient numbers of people that its approach to this matter is the best approach.

I have a question for the Minister of Finance. If this offer of 20-year zero rated bonds is so good, why do you want to stop people from suing you? If it is so fantastic [*Desk thumping*] and it is in the public interest, why do you want to stop people from suing you? Would not the court [*Interruption*] establish that? When you go to court on this matter, would not the court establish that it is in the public interest to do what you are doing? [*Interruption*] Why not let the court decide whether it is in the public interest or not? You see—[*Interruption*] you see—

**Mr. Speaker:** Let us have some order, please.

**Mr. C. Imbert:** Mr. Speaker, there are two hon. Members over there.

**Mr. Speaker:** Do not take on those Members. [*Interruption*] Hon. Member for D'Abadie/O'Meara, please. Just address the Chair. Ignore

**Mr. C. Imbert:** Thank you, Mr. Speaker. I was not complaining about their tendency to interrupt. It is that they just do not know what they are talking about.

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The other day I made a comment about the President of the United States being unpopular and that there was an opinion poll done on President Obama's popularity. He had sunk to below 50 per cent.

The hon. Member for D'Abadie/O'Meara pointed out: "You hear that on FOX News." The poll was done by the *Wall Street Journal*, which is a bedrock of the Democratic Party. It was a Democratic pollster that did it, Mr. Speaker, and now I hear the hon. Minister of Trade and Industry say: "Oh, de court does determine public interest?"

I get worried when I hear these things. The whole question of the validity of an ouster clause in legislation is determined by balancing private interest against public interest and it is the court that looks at the circumstances and establishes whether the public interest outweighs the private interest. That is basic law 101 and it disturbs me that a Government Minister could be so uninformed about basic principles of how you deal with a society and how you govern a society that he could shout out: "Which court determines the public interest?" We will deal with that in due course. That whole subject of public and private interest will come up in due course.

I listened attentively to the Minister of Finance and he said that what the Government has decided to do is that, for the first 10 years of bonds, zero interest bonds would be discounted on the market at the rate of about 80 cents to the dollar, and the Minister implied that some agreement had been reached with the banks. I heard that before, so we will see about that.

Taking what the Minister said at face value—that the banks have agreed, perhaps for some incentive, to give 80 cents on the dollar; they will buy the first 10-year bonds at 80 cents on the dollar and then the next 10 years, because the bank said they will only give 40 cents for that—you are getting a little more than 60 cents on the dollar if you cash in your bonds.

All these elderly people who need this money to live, I can assure you, Mr. Speaker, that they will be running to cash in those bonds and somebody will make a lot of money—you are already hearing about it—being the agent for these bonds; getting commissions out of the sale of these bonds. However, that will be dealt with in due course in another forum. We will find out exactly who has made the money out of the management/administration/sale and retirement of these bonds; whether it is some friend or whether it is some family member. We will find out, but that is for another time.

The fact is that the hon. Member told us the bank had said that on the second 10 years they could only give you 40 cents at best. They have now come up with a plan to give the policyholder Republic Bank shares on a dollar for dollar basis.

Mr. Speaker, I have in my possession notes of a meeting with the Governor of the Central Bank of Trinidad and Tobago in respect of arrangements for financing and monetizing the Clico zero-coupon bonds, August 29, 2011. That is just about two-weeks ago. In attendance were the Governor of the Central Bank, the Deputy Inspector of Financial Institutions, the Manager of Operations at the Central Bank and representatives of insurance companies.

The Governor of the Central Bank is alleged—because I was not there; I am simply reading the notes of this meeting—to have stated that Clico had \$4.2 billion in Republic Bank shares. The assets of Colonial Life is approximately \$2.2 billion in Republic Bank shares and \$7.5 billion in methanol shares and a remnant of \$2 billion from the previous disbursement of \$5 billion provided by the Government, totalling \$13.7, with liabilities of \$18.4 billion, a gap of \$5.2 billion. This is the information I have, Mr. Speaker. The Minister can correct me if I am wrong.

I have just heard the Minister say that the total value of the liabilities, not including interest, is \$10.7 billion. The first 10 bonds will deal with the first 50 per cent of that. So the second 50 percent is \$5.35 billion, but the Republic Bank shares are only worth \$4.2 billion. Where is the other billion? How can you give the policyholders a dollar for dollar exchange in Republic Bank shares when the Republic Bank shares, according to this information, are only worth \$4.2 billion? *[Interruption]*

Top up? I am not the only person who has access to this information. I am hearing, sotto voce, the Minister of Foreign Affairs saying, “We go top it up.” Top up what? The Minister said he is going to give the policyholders, for every dollar that is owed—and he has taken the interest already, so it is not for every dollar that is owed, it is for every dollar principal. That is what is really meant. He will give a dollar equivalent of Republic Bank shares.

**3.30 p.m.**

So from where is that \$1.1 billion in value going to come, Mr. Speaker? Are you going to have a share issue? Are you going to dilute the Republic Bank shares? Are you going to reduce the listed value of Republic Bank shares? I think the Minister needs to explain that because these are the questions that people will ask and these are the reasons why people will go to court. It is a question of credibility and it is a question of trust.

Mr. Speaker, the Minister was at pains to tell us that the value of Republic Bank shares moved from \$74 to \$92 over the last year or two. He is at pains to tell us that. But he did not tell us that before, that the value of Republic Bank shares went from \$102 down to \$74. He did not tell us that. He did not tell us that Guardian Life shares which were trading at over \$30 are now trading at \$15 and as low as \$12 a little while ago. He did not tell us that Sagicor shares were trading at \$11 and are now trading at eight dollars.

He prefaced his contribution by saying that it is a global financial crisis, that there is a problem in Europe, that German taxpayers are paying for the debts of the Greeks, that other countries in Europe are struggling. He said that there are problems in the world economy. So if there are problems in the world economy, why should a holder of an EFPA accept your shares in Republic Bank?

In the first place, the numbers “doh add up”. The value is less than the amount owing, so you have to sort out that problem. In the second place, what guarantee is there, with this large quantity of shares coming on the market, that the shares will retain their value? Who is going to buy them? Who is going to buy \$5 billion in Republic Bank shares, Mr. Speaker? Who in this country has \$5 billion to buy Republic Bank Shares on the stock exchange? Who? [*Crosstalk*] Probably!

Mr. Speaker, if I was somebody looking on with a little knowledge of the stock exchange and you send out all of these Republic Bank shares—hundreds, 100 million shares I would think. I think the last time I checked Republic Bank they had 270 million shares. That is my understanding of it. I used to be a shareholder. That is how I know the figures.

So if—and Republic Bank is worth about \$10 billion or \$9 billion, so you are talking about over 100 million shares in Republic Bank that the Minister wants to flood the market with. I am a shareholder looking on, I am someone with knowledge of the stock exchange, I see that Republic Bank dropped from \$102 to \$74; I see major insurance companies have also declined over the last five years; I know that when you put that wash of shares on the market, the first thing you are going to have is a dilution in value because you are going to have too many shares chasing too little capital. I am not accepting your offer.

I am just saying if I were the typical policyholder, I am not accepting your offer. You have already taken 8 per cent away from me, “you already take meh first 10 years and yuh take out 20 per cent and now you offering me shares” in some amorphous, nebulous, uncertain, risky political economic environment which you, yourself, hon. Minister of Finance, have told us that there are problems in the world economy.



Mr. Speaker, why should I take your shares? Why? Why is it that this Government feels it is doing these policyholders such a favour? You see, we have to go back into history. The Memorandum of Understanding that was entered into between the Governor of the Central Bank and the—[*Interruption*]

**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. McDonald*]

*Question put and agreed to.*

**Mr. C. Imbert:** Mr. Speaker, what was the Memorandum of Understanding between the Government of the Republic of Trinidad and Tobago and CL Financial? [*Crosstalk*] I do not need to. This is a public document. This Memorandum of Understanding that was executed in or around January 30, 2009 I am told, that:

The parties therefore agree; CL Financial agrees to take steps to correct the financial condition of CIB, Clico and British American by selling all of its shareholding in Republic Bank. Selling all of its shareholding in Methanol Holdings, selling all of its shareholding in Caribbean Money Market Brokers, selling all or any of their other assets as may be required to achieve the said correction. The proceeds of the sale of the assets referred to in clause (a),(b),(c) and (d) will be applied to satisfy the Statutory Fund requirements for Clico and BA under the Insurance Act and the balancing of third party assets and liabilities portfolio of CIB.

And then the most important part of this Memorandum of Understanding:

In the event that there is a shortfall after the application of the proceeds realized from the sale of assets set out in clause 1(a),1(b)—et cetera—CLF warrants and undertakes to provide collateral which may include a secured charge on the fixed and floating assets of CLF—et cetera, et cetera—in respect of that shortfall for the purpose of maintaining a public confidence and stability in the financial system—Mr. Speaker.

What did the Government say, Mr. Speaker? The Government also said if there is any shortfall they would make good the shortfall. This is evidenced in a press release which is still on the Central Bank website. They have not taken it down yet. It was there since January 30 or February 01, 2009—official document on the web from the Central Bank.

As regulator of the financial sector we wish to assure the public that: one, the Government of Trinidad and Tobago has committed to meet the obligations of Trinidad and Tobago, third party policyholders of Colonial Life Insurance Company consistent with the Memorandum of Understanding between the Government and CL Financial. Having assumed control of Clico under section 44D of the Central Bank Act, the Central Bank is providing support to restore stability and sound and efficient management of Clico. To this end Clico's operations are being restructured in line with proper business and risk management practices. In summary, we are committed to a transformed and vibrant Clico in which existing and future policyholder funds are safe.

Sounds very similar to utterances subsequently (1), emanating from the Government that their policies will be fully protected. Again, we have an August 2009 update on CL Financial from the Central Bank.

On January 30, 2009 the Government of the Republic of Trinidad and Tobago reached an agreement with the CL Financial Group for the provision of a package of support to the group financial services companies. The main provisions of the agreement—this is August, so this is some six months or five months after the signing of the MOU—The main provisions of the MOU are: one, protection of third party liabilities of CIB; (2), meeting statutory fund deficit of Clico and British American and it says: the Government would provide funding support to fully back Clico and British American to meet any statutory fund deficits; (3), reimbursing the funding support from the sale of CL Financial assets. It was agreed that CL Financial would sell, liquidate or collateralize its assets and allocate the proceeds to meeting in full all the requirements of the Statutory Fund for both Clico and British American.

So you have January 2009, they say your funds are safe, August 2009, the government would provide funding support to fully back policy. MOU signed saying that the government and CL Financial will make good any shortfall. Then we have an election, May 2010. Political parties formed a coalition campaign for votes; they would say a word about renegeing on those undertakings, that Memorandum of Understanding, that declaration from the Central Bank with respect to policyholders' funds being safe.

You see, until and unless the Minister can convince policyholders that his approach is the best, and that the information that the Government is putting into the public domain is accurate and truthful, then you are going to have a tidal wave

of litigation coming at the Government, Mr. Speaker, because the people of this country just do not trust the Government of Trinidad and Tobago with respect to this matter. [*Desk thumping*] They do not trust them.

My question to the Minister of Finance, if your offer is so great why do you want to block lawsuits? If you think that the people trust you, why do you want to block lawsuits, Mr. Speaker? Why do you not let the court decide what is in the public interest? [*Desk thumping*]

Mr. Speaker, in February of this year I received the following information from a policyholder who I shall not name.

Many persons have died since September 2010 because they could not get their money, interest or income for medicine and treatment. An ex-principal—I would not call his name—age 69 from Palmiste died on the October 24, 2010. He could not get his money to pay a nursing home. Another person died at Southern Specialist Centre in December 2010, could not get his money for foreign medical treatment. These are all Clico policyholders.

Another person died—[*Interruption*] “He feel I lying?” You are just living in dreamland, Sir. Another person died at the Siparia Health Centre, December 2010. He could not get his money either. Another person, aged 84, walking with a stick, awaiting money for medical treatment, may die any time now. Another person, aged 84, blind in both eyes, has no money to live on her policy which matured a year ago—suffering, Mr. Speaker.

You see, this is just a little snapshot of what is going on with those people who were given a promise by the Central Bank and a promise by the legitimate Government of Trinidad and Tobago that their policies and their income stream would be protected in full.

These are the challenges that we face here today, Mr. Speaker. You see, the Minister of Finance has a tendency to trot out all sorts of things, all sorts of figures, but I want to read into the record as well a sample page from one of these Executive Flexible Premium Annuity policies because there is a theory—you know that some of the Members who are no longer with us described it as a Ponzi scheme. In the usual inconsiderate, careless, heartless manner, Ponzi scheme—[*Crosstalk*] “Well is all right. De shoe on the other foot now”. I think I could refer to you as heartless. I think I can do so with some justification. I am reading a page from one of these policies.

The company will pay if the annuitant is living on the retirement date which is shown in the schedule of benefits, the first of a series of annuity payments as

determined under the provisions given on page 7. If the annuitant shall die during the continuance of this policy and prior to the retirement date, the company will pay the beneficiary a death benefit. Should the annuitant die after the retirement date but before the end of the guaranteed period, the company shall pay to the beneficiary the value of the cumulative annuity payments due to the guaranteed period. If the annuitant should die by accidental means during the continuance of this policy prior to the retirement date, the company will pay to the beneficiary the protection amount as shown on page 1.

Now, Mr. Speaker, this is a sample page from one of these policies. Everything I have read out there is in the language of a life insurance policy. It speaks to the benefits that the annuitant will receive in case of death. Those are the basic features of a life insurance policy. That is why, as I said, there is going to be a flood of litigation, because the Minister will not tell us what is going on with respect to Clico's balance sheet. Let me make a complaint to you on behalf of the Opposition. I almost forgot.

**3.45p.m.**

The Government had approached us sometime ago to support them in this madness, and we told them, before we could even contemplate looking at it, we want to know what the facts are. We did not ask for any big set of information. We wanted to see Clico's balance sheet and information on the status of the statutory fund. The Government gave us an undertaking to give us that information. Up to today the Opposition has not received—that is three or four pieces of paper. We did not ask for a book, we did not ask for a thesis and we did not ask for a dissertation. We wanted the balance sheet and some sort of status of the statutory fund, four pages, and the Government gave us an undertaking to give us that information, but they have not given it to us.

The Minister has come into this Parliament and he has not shared with this Parliament or the national community the true status of Clico's balance sheet and Clico's statutory fund. You see, it is complicated by some of their public utterances. When people hear this—this is an article in the *Trinidad Guardian*—“Clico's statutory fund back in the black,” by Asha Javeed, published on May 19, 2001.

“Finance Minister Winston Dookeran says the sale of Clico, once it becomes viable again, is part of Government's exit strategy in its involvement in the beleaguered empire once held by Lawrence Duprey.

This, he said, was one of the recommendations of a new plan which is before the Cabinet. Dookeran observed that Clico's statutory reserves had been restored by the Government's transfer of a percentage of Methanol Holding shares. Energy Minister Carolyn Seepersad-Bachan, in a presentation to Parliament in February, said the Government planned to admit 35.01 per cent of Clico's stake in MHTL to the insurance company's statutory fund. This would mean that Clico's entire 56.53 per cent stake in MHTL, which is conservatively valued at \$8 billion, would be in its statutory fund..."

And the main thrust of this article is a statement coming from Government's spokesmen, specifically the Minister of Finance, that Clico's statutory fund had been restored. What does that mean? In English that means that the assets and the liabilities are in balance in the statutory fund. That is what it means. When people hear this—when they hear Government Ministers pronouncing and even boasting that they have solved the problem with the statutory fund and then—this was in May—you are coming now four months later to tell us and to tell the national community that there is a problem; that there is a deficit. I suspect the Minister may get up and say, "I did not mean that yuh know, I was misinterpreted. They did not understand what I meant." But that is the whole problem, Mr. Speaker.

I would read into the record another commentary on this matter with respect to the issues as to what is really going on with Colonial Life and what is really going on with the Colonial Life statutory fund. Another article! "What is Clico's Statutory Fund worth now"? This is in February 2011, *Guardian*.

"In May 2009, Central Bank Governor Ewart Williams and former Finance Minister Karen Tesheira visited New York to make a presentation to the rating agencies (Moody's and Standard and Poors) on the country's financial situation. Slide 46 of that presentation...reveals that for the 2008 financial year...Clico had \$16.7 billion in policyholder liabilities and \$11.6 billion assets in its statutory fund."

But in May, the Minister announced to the world that the Government had cured that problem and restored Clico's statutory fund by the insertion of assets from the Methanol companies, Mr. Speaker.

"That Central Bank slide also reveals that Clico's total assets in 2008 were estimated at \$24.899 billion and its total liabilities were \$21.741 billion."

So it was in the positive there.

"The Credit Suisse/Milliman accounts, which as at November 30, 2009 indicate that Clico's assets amounted to \$20.4 billion and its liabilities to

\$22.7 billion. But, that \$2.3 billion balance sheet deficit would have been largely eliminated as a result of the appreciation of asset values between November 2009 and January 2011.”

So people are looking on, Mr. Speaker. The Government is not the only group of people in this country that could do maths.

So, you have a Credit Suisse audit in November 2009 that tells you that Clico’s assets in November 2009 are \$20.4 billion, liabilities are \$22.7 billion and deficit is \$2.3 billion. Since November 2009—the Minister said it himself—Republic Bank shares have gone from \$74 to \$92. That is a 20 per cent increase in value, Mr. Speaker. That has to be about \$1 billion, and methanol company shares have also increased tremendously. Since that time, there have been significant events taking place with respect to completion of projects and starting of new plants and so on with respect to the methanol companies, and the earning potential and value of Methanol Holdings Limited has increased considerably since November 2009.

So a fair-minded observer, having sight of the Credit Suisse audit report, seeing that in 2009 there was only a \$2 billion deficit, knowing that Republic Bank shares may have appreciated by \$1 billion since then; and knowing that the Methanol company may have gone up by \$1 billion or \$2 billion since then, will now concur that the liabilities and the assets are in balance, and it came out of no lesser a mouth than the mouth of the Minister of Finance. In May, since they have restored Clico’s statutory fund it is now in the black.

So, what options are available to policyholders? They could take this offer. They could take it if they want or they could refuse it, and because of the misinformation that has been put into the system by the Government—complete misinformation. One person says one thing and another person says another thing. One person says your policies are fully protected; no less a person than the hon. Prime Minister said that, “Your policies are fully protected.” The hon. Minister of Finance said Clico’s statutory fund has been restored. This was just the other day, two leading luminaries in the UNC coalition Government were telling people—telling 15,000 policyholders that, and then in September, what does the Minister do? He comes with the same plan he had in September 2010 that, “I have nothing to give you except what I offered you one year ago.” And he has taken a whole year to do this.

Why has it taken the Minister of Finance 12 months to do the same thing which he announced in September 2010? Why have you put 15,000 Clico policyholders through so much pressure, for you to come back and do the same

thing? This is why there is a credibility issue. The people just do not believe you. They do not believe—[*Interruption*—I can assure you they believe me even before they believe you when it comes to these matters. [*Desk thumping*] When it comes to this matter, they believe me before they believe you.

**Mrs. McIntosh:** All matters; all matters.

**Mr. C. Imbert:** They do not believe you, because—[*Interruption*]

**Mrs. McIntosh:** You must get nasty and personal.

**Mr. C. Imbert:** You know, Mr. Speaker—

**Mr. Speaker:** Hon. Member for Port of Spain North/St. Ann's West the language across the floor, please refrain from unparliamentary language and expressions. Member for Oropouche East and Member for D'Abadie/O'Meara, I would like to advise both of you, along with the Member for Port of Spain North/St. Ann's West, watch your language, please. Continue Member for Diego Martin North/East.

**Mr. C. Imbert:** Thank you, Mr. Speaker. Mr. Speaker, could you just tell me how much more time I have?

**Mr. Speaker:** You have until 4.04 p.m. hon. Member.

**Mr. C. Imbert:** I thought so. I thought I had about 10 minutes. Mr. Speaker, I am going to read into the record a communication sent to me in November 2010, and the person said as follows.

The following questions have been asked over and over and the Government and its representatives have been silent. [*Interruption*] I said a policyholder sent this to me.

Reginald Dumas—[*Interruption*—you want source now! He did not send this to me. I do not have to quote anything—in a public letter printed in the *Express* of October 13, 2010 he wrote:

“I am now at a loss to follow all the twists and turns, and I know I am not alone. Accordingly, I approached one of Minister Dookeran's advisers some weeks ago and asked whether the government would be so good as to issue a factual statement on the matter for the benefit of the public.”

This was in October 2010, almost a year ago.

“No commentary, no political spin, just the facts, and factual explanations where necessary—for instance, the differences, if any, among ‘depositors’,

*Purchase of Certain Rights Bill, 2011*  
[MR. IMBERT]

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‘policyholders’, ‘investors’ and ‘creditors’ and among FPAS, EFPAS, EFPA policies, etc. I was told that such a statement was at the time indeed being prepared and would shortly be available.”

This is Reginald Dumas, not a PNM. I think I could say without any fear of contradiction that Reginald Dumas is not a member of the People’s National Movement.

**Mr. Roberts:** Bright fellow.

**Mr. C. Imbert:** “Nothing of the kind has so far been made available.” This was October 2010, Reginald Dumas was complaining bitterly that he approached one of the Minister’s advisors and asked whether the Government issued a statement, no commentary, no political spin, just the facts.

“I was told that such a statement was at the time indeed being prepared and would shortly be available. Nothing of the kind has so far been made available.”

This is who I would call an independent citizen, issuing a cry for help, Mr. Speaker, and now this policyholder tells me, we are still waiting.

While the waiting continues, the demonizing of EFPA policyholders continues at every turn. It is important to note that when the Clico bailout was first announced in January 2009—this is under the PNM—no one accused EFPA policyholders of being greedy, you know. In this debate, I heard the Minister tell us that the lawsuits where people are trying to get what is rightfully due to them is fuelled by greed. He said that. This image was deliberately fostered by the current Government, in particular, the hon. Mr. Dookeran and Dr. Watson and policyholders would like to know the reason for this.

So-called traditional policyholders also chose Clico over their competitors because persons perceived they were getting a better deal from Clico. So these policyholders are no different. Why are EFPA policyholders being singled out for punishment?

You know, one of the other bits of discrimination that is in this approach from the Government is that holders of traditional policies—I dare say at the beginning of this statement, Mr. Speaker, I did indicate that I have a small policy with Colonial Life that has a cash value of \$45,000 or \$46,000 that would pay me a pension of \$1,000 a month when I hit age 55. *[Interruption]* Mr. Speaker, I, therefore, am being placed in a special class, because holders of traditional



policies at Clico are being given preference. Their policies and the income streams from their policies are being guaranteed, while the holders of EFPA annuity policies are being discriminated against and told they must take a haircut.

So how come the holders of traditional policies are not being given this kind of rough treatment by the hon. Minister of Finance? [*Desk thumping*] How come the holders of traditional policies are not being told to take a “haircut” too? You see, when people sit and look at what is going on, and arrive at the conclusion that they are being discriminated against, the reason they are coming to that conclusion—[*Interruption*—Mr. Speaker, the Member for Lopinot Bon Air/West is just mumbling behind me.

**Mr. Speaker:** Continue, hon. Member, continue, please.

**Mr. C. Imbert:** It is all right. I have grown accustomed to the mumbling. I have grown accustomed, as I have grown accustomed to the babbling over there from that side on top when they try to interrupt me.

Mr. Speaker, when annuity policyholders look on and they see they are being treated unequally and they know they are entitled to equal treatment under the law—that is a constitutional right—equal treatment under the law when somebody feels that his or her constitutional rights are being infringed, that he or she are being put into a special class and that he or she is being discriminated against, and the Minister says he wants us to join with them to serve the public interest over the interest of individual people, no one is going to take that basket because there has been fatal non-disclosure on the part of the Government, Mr. Speaker. [*Desk thumping*]

**4.00 p.m.**

I describe it as fatal non-disclosure. When you want to take away people’s rights, you must disclose everything, Mr. Speaker. You cannot take away people’s rights and keep important information a secret—and I sound a warning to the Government. The Government feels that it has won the battle against the policyholders, because that is what it is. This is a fight down. This is a war against old people, elderly people, people who put their life savings—it is a war. And the Government believes it has won the war, but I am sounding a warning to the Government because of its fatal non-disclosure, because of its unwillingness to let policyholders know and to take policyholders into its confidence, it is not going to be victorious in the long run. I thank you, Mr. Speaker. [*Desk thumping*]

**The Minister of Labour, and Small and Micro Enterprise Development (Hon. Errol McLeod):** Thank you very much, Mr. Speaker, for the opportunity to invest my two cents worth in this debate on the matter before us.

Mr. Speaker, I heard a while ago that the Government appears to be discriminating against EFPA holders, people who would have invested their hard-earned money in what you might identify as high-yield investments, and those investments, perhaps by no fault of their own, have collapsed, and it appears to me that I, like other taxpayers in the society who have no responsibility and would not have caused what has happened with those investments—I must pay for that. That is what we are being told, you know. That is what we are being told. But if there is discrimination in that, Mr. Speaker, then I want to suggest to this honourable House that the discrimination started when the former Minister of Finance withdrew her money—[*Desk thumping*]—and they are responsible for it. [*Desk thumping*] They must be responsible for it.

The Member for Diego Martin North/East did say that it is UNC Members, COP Members and perhaps other people who are non-aligned—[*Interruption*]—not MSJ, all right. And I wonder whether that is an indication that all of the PNM people who would have been affected, they withdrew their money. [*Desk thumping*]

**Ms. McDonald:** Objection!

**Mr. Roberts:** Except Port of Spain South.

**Hon. E. McLeod:** Raise your point.

**Mr. Roberts:** Except Port of Spain South. They did not tell her.

**Hon. E. McLeod:** Port of Spain South was discriminated against—[*Desk thumping*]—was discriminated against, perhaps because that Member was supportive of the abandonment of the Balisier tie. Welcome, Member for Diego Martin West. [*Desk thumping*]

Mr. Speaker, the matter before us is the Purchase of Certain Rights and Validation Bill, 2011. The Bill affects—of course it does affect the rights of certain persons, but, more than that, we are called upon today to defend the broader interest of the so many people in Trinidad and Tobago who do not have the means to access the grant of court orders and so on, to have their millions returned to them. And indeed, they must have access to their investments, we believe. But if their access to those investments would lead to the liquidation of Clico then everybody losses, and it makes no sense, Mr. Speaker. Everybody

losses! And it is on the basis of that and perhaps that only that the other side, if you truly represent the interest of the broad masses of the people of Trinidad and Tobago, you are going to support this action that we have brought here. [*Desk thumping*]

**Mr. Imbert:** “You think we blind and stupid?”

**Hon. E. McLeod:** Mr. Speaker, in 1937—

**Mr. Imbert:** Nineteen thirty-seven I was not born.

**Hon. E. McLeod:**—the struggle by the workers and their trade unions— [*Interruption*—1937. That struggle was for better wages and decent terms and conditions of labour. And often when I speak in this House and I mention trade unions and labour, there are one or two Members on the Opposite side who consider themselves to be put in a classroom to be lectured to, and I confess that I perhaps behave like that sometimes, but I regret that with all of my efforts they end up not learning anything. [*Laughter*]

It was a case, Mr. Speaker, or it is a case today, a case of sad irony, that nearly 75 years after 1937, the struggle by the children and grandchildren of those pioneers in the field of labour back in 1937, today 75 years later the children and grandchildren of those pioneers are now fighting to protect their earnings and their pension investments in Clico and CL Financial. And that is the point that I wish to discuss in this debate.

Since its scandalous collapse in January 2009, there came a simultaneous drastic decline in public support for Clico, and which held the distinction of being the first locally owned, indeed locally-developed and owned life insurance company. In the ensuing days and months of its fall from grace, the condemning headlines that were prompted by mainly emotional rage and shock, stretched as far as the Bahamas, Guyana and Barbados. Up the islands they hardly wanted to see a “Trini”, because they considered that “Trinis” were responsible for the adverse effects that they were experiencing in their economies—as banana like as those economies have been—the effects of what has happened here in Port of Spain with regard to Clico and CL Financial.

In February 2009, the Ministry of Finance of the Bahamas said the move to liquidate Clico Bahamas Limited was necessary to protect shareholders of the company, and the Registrar of Insurance Companies in that country had this to say. I quote:

“This action...”—That is the action of liquidating the company. “This action was precipitated at this time because of the continuing decline in the market

value of the real estate investment in the United States via Clico Bahamas Limited subsidiaries, CLICO Enterprises Limited and Wellington Preserve Limited, the uncertain financial position of its ultimate parent CL Financial Limited of Trinidad and Tobago, the inability of the company to pay claims surrender of policies in one of the jurisdictions where it operates and the lack of a credible plan by the company to address the shortfall in capital and liquidity in a reasonable time.”

I was about to say something that you might upbraid me for. I had better not bother.

“It was felt”—[*Crosstalk*]—“that to delay taking action would only further erode the assets of the company to the detriment of policyholders.”

That was the statement. But, Mr. Speaker, the institution known as Clico, CL Financial Limited, initially, had honourable intentions. There is absolutely no doubt about that. CL Financial got its genesis in 1993 as a holding company for Colonial Life Insurance Company. Clico, which itself was founded in 1936 by Cyril Lucius Duprey, a pioneer in the insurance industry in the Caribbean and whose guiding philosophy was “Give a man value, give a man service and he will support you”, that credo, Mr. Speaker, would change. It would change as the inheritors of that kingdom set about altering the mission of Cyril Lucius Duprey.

Clico became the first locally-owned life insurance company in Trinidad and Tobago, and when it opened for business on June 01, 1937, Colonial Life, as it was then known, offered coverage in the form of industrial insurance with premiums ranging from six cents to 24 cents per week. Nearly eight decades later in September 2011, the Clico, CL Financial debacle continues to pose a clear and present danger to the financial system and social cohesion of our country and the region. This is what we are attempting to stop, notwithstanding, our subscription to the rule of law and decisions of the High Court of Trinidad and Tobago.

**Mr. Imbert:** You want to take that away?

**Hon. E. McLeod:** Yes. We are suspending it.

**Mr. Imbert:** [*Inaudible*]

**Hon. E. McLeod:** We are suspending it in the interest of the common good of Trinidad and Tobago. [*Desk thumping*] And the very people whom the Member for Diego Martin North/East seem to be protecting in his robber speech are tomorrow going to be happier for the decision that this House is going to take today. [*Desk thumping*]

**Mr. Imbert:** It is only the court that will give them satisfaction.

**4.15 p.m.**

This company, with a configuration as a regional entity, ensures that whatever interim and long-term measures are subsequently adopted by the Government, will have lingering implications for most of the countries in the Caribbean region, where most of the daily business activities are based.

I remember during his presentation of the 2010/2011 Budget, the hon. Minister of Finance reiterated the sentiments of the Government, that this financial crisis was handled badly by those in positions of authority, from the very start. The Minister of Finance said, and I quote:

“This fiasco was a colossal, inexcusable multibillion dollar mistake. This fiasco has cost this nation enormously on several levels. This fiasco has put on hold the lives of thousands, and endangered their financial future.”

We are seeking to stop the haemorrhage and to bring back Clico CL Financial to its former glory, if that can be achieved.

Mr. Speaker, my own former constituency of the trade unions, and comrades at home and within the region, were particularly hard hit. Persons who would have invested their sweat, blood and tears, their hopes and dreams into the shining prospects of a better life for themselves and their families, saw those dreams crumble almost overnight, like the biblical walls of Jericho. In this case, however, the collapse was not the product of divine intervention or even the huffing and puffing of a big bad wolf, but rather that folly of the love of money, one says greed, that ensnared those who were bestowed with the mantle of authority and trust over our investments, small people’s investments.

If I might declare my own interest; my interest is to secure, as much as I can, the interest of the small people outside there, who could not go to court with their particular matter.

The problems of Clico CL Financial culminated—[*Interruption*]—What did you say?

**Mr. Imbert:** It is a class action lawsuit representing all 15,000.

**Hon. E. McLeod:** You might want to organize a fund to do that. Your \$46,000 might help you to organize a fund to do that.

**Mr. Imbert:** There is a judgment to that effect. I am willing. [*Laughter*]

**Hon. E. McLeod:** Mr. Speaker, the problems culminated with the leadership of CL Financial whose business modus operandi was left largely unchallenged by

the members of the CL Financial board. I wish to suggest that a more assertive, vigilant board would have observed and, perhaps, would have cautioned that in the lead-up to its demise, something was definitely not kosher in the affairs of Clico/CL Financial.

As children, we were taught that when a fish begins to rot, it does so from its head. Depending on the extent of the decomposition, we would either discard the entire fish and throw it out, or if the body was still reasonably firm, we would sever and dispose of the head. Regrettably, in the case of Clico/CL Financial, the former option was not considered and the latter was administered, perhaps a little too late; too little too late.

Up to 2007, Clico was “in good house”, as the old people would have said, but then “bad house” came calling. Pension fund investments were not segregated and managed separately, but rather were lumped together in a recipe that produced chaos and confusion. The magnitude of the current Clico/CL Financial crisis mirrors the failure of an economic and regulatory philosophy that proved increasingly influential in government, academic and policy circles over the past decade. [*Interruption*] I am not feeling so generous today. No, I will not be too generous to you. Would you support the measure?

**Mr. Imbert:** No. [*Laughter*]

**Hon. E. McLeod:** Then I am not giving way.

This philosophy, guided more by theory than historical experience, held that private financial institutions not insured by the Government, could be largely trusted to manage their own risks and regulate themselves. The aftermath of the Clico/CL Financial crisis has proven contrary to this school of thought. The evidence thus far would reasonably suggest that the management could not be counted on to police themselves.

What some have called a herd mentality was merely the result of speculators behaving rationally and noting the currency policies which they assumed could not be sustained. Nevertheless, a rational herd behaviour, precipitated by the onset of the Clico/CL Financial fiasco, produced mind blowing increases in asset values, lax lending and over-borrowing, excessive risk taking and outsized profits, followed by the resounding crash of asset values and huge losses.

Mr. Speaker, the force of such an impact could evaporate normal credit flows and undermine confidence, triggering deep recession and massive unemployment. When the financial system failed, on the scale the Caribbean and our country

experienced, the losers were not just those wealthy investors and big “sawatees” who took excessive risks. The really big losers were the average man in the street, the woman at home and at work and the youngster pursuing higher education. We did open a window to deal with such cases, contrary to what was said so far from the other side. The trade unions and their members, the workers and the credit unions who offer yeoman service to communities, have suffered serious losses themselves, and they are waiting to see what this Government would do.

It was not the Dupreys of this world who felt the brunt of these untrammelled abuses of power, but it was the public servants, the retirees, the students, the trade unions, the credit unions and even the young entrepreneurs or those now entering the workforce or embarking on homeownership. These are the real losers and these are the ones who we are attempting to protect, and we will not feel guilty at all of taking this measure in defence of the broad masses of the people of Trinidad and Tobago.

It is these individuals whose jobs, whose livelihoods and life savings have been destroyed and whose futures have been ruined, because of the demise of this once hallowed institution. Men build, men nurture, men help to establish institutions, but sadly, it is men who desecrate, defame and destroy important institutions.

Mr. Speaker, all of us present here as Members of Parliament, who took an oath to serve the people, some of us before His Excellency the President and all of us before the people of Trinidad and Tobago, are duty-bound in service to our constituents and the people of Trinidad and Tobago, to effect this measure that has been brought to help the smaller people in our society.

All of us, Members of Government and Members of the Opposition, are tested today on the question of support for the privileged few or defence of the broader national and citizen’s interest. In the smoldering wake of the Clico/CL Financial collapse, the People’s Partnership Government in particular has the onerous but necessary obligation to ferret out the flaws in the financial system and conduct a thorough post-mortem of the failures of regulatory responses that allowed this unnecessary predicament to have occurred at all. Yet, in executing this aspect of our duties, we recognize that as a Government we must also balance the scales of justice and work in tandem with all stakeholders to rectify or revamp the existing system so as to reduce the likelihood of another, this time, financial state of emergency, that would adversely affect our country and the region’s economic health and sustainability.

The gut-wrenching testimonies of fellow citizens at the recent Commission of Enquiry into the collapse of Clico/CL Financial, has strengthened the resolve of this Government to institute mechanisms that would ensure better protection of private pension funds. There are thousands of persons whose pension funds are going to be swallowed up or seriously devalued and will disappear in a liquidation of this concern.

Due to the increasing importance of private pension funds as a source of retirement income for individuals, and importantly, as a source of investment resources, the effective regulation and supervision of pension funds has increased by leaps and bounds in prominence. Yet, the regulation and supervision of these funds would not be as simple as any walk in the park. Indeed, there exist some acutely complex issues that would require very careful examination and detailed consideration.

Pension regulations are increasingly focused on governance and risk management issues. The matter that we are discussing today points to an abandonment of proper governance and a proper management of risk in that Clico CL Financial empire. Risk is a critical feature of the financial system. Indeed, the continuing international development of financial markets and the ever increasing innovation and sophistication of risk transfer mechanisms within the financial system, are readily observable trends. Such developments are likely to continue to test the ability of our regulators to maintain the strengths of the regulatory framework at the level expected or demanded by the community. [*Interruption*]

**Mr. Speaker:** It is a good time for us to pause to have some tea. This sitting will be continued at 5.00 p.m. This sitting is suspended until 5.00 p.m.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

**Hon. E. McLeod:** Thank you, Mr. Speaker. Mr. Speaker, at the break I was underlining the importance of our protecting the deferred earnings of workers particularly, which earnings, deferred as they are, or are identified usually as pensions. I was attempting to paint the picture of threatened pension funds affecting the lives of thousands of workers who, by their contributions to such pension funds, administered and carried by the particular Clico empire that we are talking about, those very pension fund contributions assisted in building that empire.

The empire, as it started to crumble under the weight of greed, threatened the well-being of the beneficiaries of those pension funds. Pension supervision can be



regarded as a structured process aimed at identifying potential critical risks facing each pension fund or plan, and through a focused review by a designated supervisor, assessed the pension fund's management of those risks and the pension fund's financial vulnerability to potential adverse experience.

Mr. Speaker, the objective of pension supervision is to protect the interest of pension fund members and beneficiaries and safeguard the stability of the pension industry as a whole. It is very important. A pension fund itself has the responsibility to conduct adequate risk management for alternative investments and to comply with any statutory provisions.

A pension fund supervisory authority would seek to ensure that the pension fund fiduciaries properly identify and mitigate the risks associated with such investments in light of the international organization of pension supervisors, whose core principle of proportionality and the response of their supervisory authorities' subscription to the risks advising or their warnings against the risks arising from alternative investments, which should take into account the specific situations of the pension fund it supervises and the nature of the risks arising from the alternative investments it holds.

The managers or fiduciaries responsible for a pension fund should not undertake alternative investments unless they fully understand the characteristics of the investment concerned and their associated risks. I am relating to the point, Mr. Speaker, which I made earlier, about pension funds not being segregated from the rest of Clico/CL Financial's business, and thereby being put at great risk.

Mr. Speaker, they have to avoid investment they do not understand. Those are the pension fund supervisors I am talking about, and managers. They must avoid investments that they do not understand in their entirety. The due diligence investigation is the most important process stage with regard to investments in alternative investment funds, not least because it enables those concerned to confirm whether their understanding is correct. If we seize the opportunity to learn, Mr. Speaker, from the crises of ENRON—remember ENRON—Dot Com and now our own Clico/CL Financial, we know that the one consistent lesson throughout these examples is that it pays to effectively manage risk and over the past couple years from 2007, 2008, 2009 when the first intervention was made, there was an absence of effective management of risk at that conglomerate.

An effective risk management system is comprised of strategies, processes and reporting procedures necessary to identify, to monitor, to assess and report on

a continuous basis all material risks, whether at an individual or an aggregated level to which the pension fund or plan is or could be exposed and their interdependencies.

This risk management system needs to be well integrated into the organizational structure and in the decision-making process of the pension fund. The governing board of a pension fund or a plan should determine and regularly review its overall risk management strategy. This process involves understanding the risk run, setting acceptable levels of risk and outlining how these risks will be measured, monitored and controlled. The Clico/CL Financial system took a tailspin and crash-landed, because the integrated approach to business adopted by Clico/CL Financial in collaboration with other large organizations failed as a result of taking excessive risks. The domino effect of their failure drastically affected other social institutions and actors such as trade unions, credit unions and retirees as individuals and as organizations.

Undoubtedly there are many incalculable benefits to be gained by reducing the inherent risks that allowed Clico/CL Financial, its subsidiaries and other large interconnected institutions carte blanche, to do as they please. The sum of their collective actions resulted in massive failures as a result of engaging in highly risky behaviour and the contagion that their failure brought to others.

I wish now, Mr. Speaker, to identify two of the major issues that the Clico/CL Financial collapse brought to the front burner. One, whether the Government of Trinidad and Tobago ought to issue financial institutions with their own consolidated regulator and list of regulations; and whether there should be the creation of a single consolidated regulator for all large financial institutions. In respect of the first point, the current Clico/CL Financial crisis has amply illustrated that it is very difficult to identify in advance institutions that pose systemic risk. The regulatory system that failed the citizens of this country and the region was based on the premise that banks and other financial institutions are legal entities with legal personalities of their own, that have the responsibility for managing their own affairs through an appointed board of directors.

Mr. Speaker, the regulators cannot simply override this practice in an attempt to regulate the actions of institutions in this country. However, in this particular crisis not only did the regulators fail to prevent excessive risk-taking by CL Financial, but systemic threats came from other quarters as well. It is therefore exceptionally difficult to identify a systemically important institution until it is on the point of bringing the system down and then it may be too late.

Secondly, if we visibly isolate and restrict the activities of the systemically important institutions and set stricter rules for them than for other financial institutions, we would run the inherent risk of steering risky behaviour outside the strictly regulated setting and the next systemic crisis will then likely come from outside of the ring. Some voices have argued for the creation of a single consolidated regulator with responsibility for all systemically important financial institutions in this country.

However, to pursue this action would be akin to cutting one's nose to spoil or to spite one's face. Making any of our financial regulators serve as the consolidated regulator of megainterconnected institutions would weaken the focus of those bodies on monetary policy and the overall stability of the financial system and it would threaten their independence. A stricter regulation for large, interconnected institutions makes common sense, however, I would favour creating a new financial regulator. This new institution could be similar to the UK's FSA, that is the UK's Financial Security Act but structured to be more effective.

The United Kingdom's financial Security Authority is an independent non-governmental body that was given statutory powers by the UK's Financial Services and Markets Act, 2000. It is a company limited by guarantee and financed by the financial services industry. It regulates most financial service markets, Exchanges and firms and also sets the standards that they must meet. I should repeat that, it regulates most financial service markets, Exchanges and firms and also sets the standards that they must meet. In the event of non-compliance it can take action against firms if they fail to meet the required standards.

To date, the FSA regulates over 29,000 firms that have a diverse range of sizes and activities. The legal framework may appear to be very clear, but the practical issue deserves special consideration. In practice, many rules and regulations are violated in closely held companies especially, and it is also very difficult to allege some *mala fides* just because a company could not follow the procedure strictly. As such, the issues of rights of shareholders and the protection of their interest are very complicated in view of the majority rule and the protection of the minority against oppression and mismanagement.

### **5.15 p.m.**

At a time when faith and vested interests in a reputable financial institution were all that everyday investors in Clico/CL Financial had, its collapse brought

*Purchase of Certain Rights Bill, 2011*  
[HON. E. MC LEOD]

*Wednesday, September 14, 2011*

about a collapse in the credibility of the last administration and a near similar collapse in the good faith of our fellow citizens and cherished social institutions. On that fateful day, citizens' faith in business as usual was lost. The future no longer resembled the past in any way that allowed financial assets to be guaranteed. Savings and investments were nearly wiped out and access to capital became increasingly difficult.

There also followed a collapse in the faith of our commercial entities when faith that the market shall provide was lost. At this stage came the political collapse of the last administration. Faith that the government will take care of you was lost as government officials of the past administration attempted to mitigate widespread loss and perform political damage control. The political establishment of the day lost legitimacy and relevance. But for the gracious intervention of God, our country nearly entered the stage of social collapse. Faith that your people will take care of you was nearly lost. Trade unions, credit unions, social welfare institutions and even educational institutions were nearly turned upside down by the dramatic decline of Clico/CL Financial. The People's Partnership Government is working assiduously to prevent the final stage from ever seeing the light of day.

This final stage is a loss of faith in the goodness of humanity and the belief in the inherent goodness of our people.

**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. [*Hon. A. Roberts*]

*Question put and agreed to.*

**Hon. E. McLeod:** [*Desk thumping*] Thank you, Mr. Speaker, and hon. colleagues.

In January 2009, the then government of the day, through the auspices of the Minister of Finance then, intervened to rehabilitate Clico, the Clico Investment Bank, (CIB), British American Insurance Company (Trinidad) Limited and Caribbean Money Market Brokers Limited (CMMB), and, of course, to retrieve her own interests. In January 2009, the Central Bank of Trinidad and Tobago also intervened and placed the distressed financial institutions of the CL Financial group under section 44D control. The decision to intervene was taken due to requests by the CL Financial group for substantial government and Central Bank support for what was then described as a temporary liquidity problem.

It is the view of this Government that the former administration completely mismanaged the Clico Financial matter, making it into the crisis that it is today. In that same year, the previous administration also entered into a Memorandum of Understanding with CL Financial to protect the interest of depositors, policyholders and creditors of Clico Investment Bank, Clico, the British American Insurance Company (Trinidad) Limited. At the time of the intervention the then Minister of Finance indicated that the authorities assumed the liquidity issue was one that could be funded temporarily by the Government and recovered in the short to medium term. To date, that ill-advised intervention has cost this country more than 10 per cent of the country's gross domestic product and affected the daily lives of at least 250,000 citizens.

As at June 2010, barely a month into office, the People's Partnership Government noted with extreme concern the figures presented to us which suggested that both Clico and BAT combined had total liabilities of US \$4 billion but total assets of only US \$3 billion. The number of traditional long-term policyholders affected by this crisis, covering pensions, life and health insurance, was about 225,000 and accounted for US \$953 million in liabilities.

To stem the growing tide of uncertainty and indecision, and also return order, dignity and decorum to Clico and BAT within the confines of fiscal responsibility, the Government proposes to separate the insurance business from the short-term investment and mutual funds business to protect the insurance policyholders. This is responsible Government that we did not have before. [*Desk thumping*]

With respect to the credit unions, trade unions and educational institutions, the issue of the stability of the credit unions is a matter of urgent concern. According to acting General Secretary of the Guyana Trade Union Congress, Norris Witter, Clico has been far too silent on a matter that has implications for the savings and investments of thousands of Guyanese and, perhaps, for the economy as a whole. He further opined: Clico's cageyness on the question of disclosure is unacceptable. In his words, and I quote:

“One of the labour movement's immediate concerns is with the fact that there are more than 60,000 Clico policyholders in Guyana. In addition to this, we are told that the national insurance scheme (that is the national insurance scheme in Guyana) has investments totaling billions of dollars with Clico. This is actually quite serious, since assuming that Clico is in financial trouble, there is every likelihood that this might have a knock-on effect on the NIS and on the financial fortunes of the various pension holders, many of whom have no other source of income.”

Small people again. I want to give my assurance—

**Mr. Imbert:** “They voting for you now?”

**Hon. E. McLeod:** Mr. Speaker, I am told that that is a manufacturer’s defect across there. [*Laughter*]

I want to give assurances to comrades at home and in the region, that the Cabinet of Trinidad and Tobago has established a special window to address the dilemma of credit unions, trade unions and educational institutions, and to date we are operating out of the modality of that window. And if you would like further information in that regard, as at September 09, 2011, the following payments went to Clico and BAT investors under the settlement offer announced in September 2010: payment of up to \$75,000 was made to 8,184 Clico investors and 1,631 BAT investors with principal balances less than \$75,000. Total payments equalled \$301 million, 89 per cent of a total of \$340 million. These payments equate to an 83 per cent response rate from investors with principal balances less than \$75,000, that is, 9,815 paid out of 11,895. Payments up to \$250,000 were made to 433 approved compassionate applications, amounting to \$94 million in total.

And there is more. This country has worked out the most prudent plan that satisfies the debt, while at the same time investing in making Clico a viable operation. We are trying to save Clico. Others, if we were to follow what they are suggesting, would see the demise and the interment of Clico.

This country has worked out the most prudent plan that satisfies the debt while at the same time investing in making Clico a viable operation, with the hope that one day all the mechanisms would have been developed to comprehensively protect the interest of all. In the case of credit unions, 10 of these institutions were identified by the hon. Minister of Finance as having exceeded the 15 per cent limit which was placed on capital invested in Clico’s Executive Flexible Premium Annuities (EFPAs), to the tune of \$422 million in investments. There were four that exceeded the 30 per cent level and one as high as 66 per cent. On a more positive note, 37 per cent of the credit union sector has an exposure of 5 per cent that can be considered absolutely liquid.

As the hon. Minister of Finance indicated last year, these figures may suggest that Government has established the risk on the question of stability of the credit unions and to a lesser extent the trade unions and educational institutions, and the total additional amount that is required to meet that commitment on an immediate basis is in the order of \$830 million.

Government has agreed to look at the special situation of the credit unions which, together with trade unions, hold some \$605 million in insurance giant, Clico, and other CL Financial subsidiaries and which would be affected by Government's bailout plan. Credit unions and trade unions had \$605 million; state enterprises, \$285 million; other CL Financial entities, for example, Clico Investment Bank, a total of \$400 million and non-state corporations, \$445 million. We will continue these discussions, but the model that we have put forth is clearly the model that supports the principle of fiscal responsibility, on one hand, and, on the other hand, it provides the maximum welfare support that is required in these circumstances to allow the people to move on and build something in the future.

There are in excess of 400,000 taxpayers who are affected by this decision, because they are the ones who will have to pay for whatever is being proposed. There are also 225,000 policyholders in Clico and BAT who hold traditional insurance products, who were at risk as a result of what has happened. There are approximately 25,000 investors in Clico and BAT on short-term investment products, that is to say, EFPA's and mutual funds. Continuing on its revised fiscal trajectory, Government also intends to conduct a detailed review of CL Financial and its subsidiaries and will introduce measures, including the disposal of some assets by sale, to reduce CL Financial's debt and recover public funds.

At this time, permit me to highlight another important element of this crisis that has not been sufficiently ventilated. I speak of the approximately \$10 billion of the \$12 billion EFPA and mutual fund liability that is due in the short term. The \$12 billion liability includes approximately \$10 billion owed to individuals; \$600 million owed to credit unions and trade unions and \$1.1 billion owed to corporations. Inability then of the parent company, CL Financial, to repay Clico and BAT the billions that were borrowed, was exacerbated by the 2008 global financial crisis and due to the fact that CL secured some of the assets of Clico and BAT for other CL Financial third-party borrowings.

**5.30 p.m.**

Mr. Speaker, the Clico/CL Financial debacle was and continues to be a scandal of epic proportions. In discretionary wisdom, our People's Partnership Government has sought to provide some manner of urgent relief to Clico and BAT policyholders, and investors, on the one hand, while at the same time ensuring that fiscal responsibility is not compromised in any way. To this end, Government has sought to eradicate the gaps in financial intelligence gathering on local companies like Clico and their financial stability, and assessing that stability.

While chasing growth, the Clico/CL Financial conglomerate closely linked the incentives of their managers to growth and profitability indicators, prompting them to turn a blind eye to cash flow measures and balance sheet measures. As a matter of policy, the People's Partnership Government will ensure that policy directives for financial institutions in particular require that incentive schemes reward growth and performance measures related to cash flow and the balance sheet. After taking this immediate action, it is important for the management of these entities to lay the groundwork for a more strategic approach to manage their finances.

The current market respite provides ample opportunities for all financial institutions and businesses in this country to take measure of their current situation, invest in the right capabilities and establish a blueprint for future growth. The Enron Corporation was one of the largest global energy services and commodities company. Before it filed for bankruptcy under Chap. 11, it sold natural gas and electricity, delivered energy and other commodities such as bandwidth Internet connection and provided risk management and financial services to clients around the world.

Mr. Speaker, while the notorious Enron Corporation was so highly lauded and esteemed by outside observers, internally it had a highly decentralized financial control and decision-making structure which made it practically impossible to get coherent and clear views on the corporation's activities and operations. Of course, the problem was not executively due to poor managerial performance. However, board members, executives and managers bear primary responsibility for the absence of corporate culture, clear accountability and transparency of the company. If operations management work properly in its full force and if it was given possibility to work in such a way, there could have been a chance of escaping this tragedy.

Questionable accounting methods and techniques provided Enron with possibilities to be listed as the seventh largest United States company, and was expected to dominate the market which the company virtually invented in the communications and power securities. But instead, the corporation became the largest corporate failure on record in global history, and an example of well-planned and institutionalized corporate fraud in the United States of America. Today, we will be identifying persons behind bars for having perpetrated what was done against small people and their benefits in Clico/CL Financial.

The survival of commercial companies depends on the ability of each entity to focus and mould its operational assets and resources to meet the expectations of



its stakeholders, its customers, its employees and its shareholders, expressed in organizational strategy. Operation managers should be able to translate strategic aims and objectives into clear operational objectives and actions, and to implement, design and improve the products of the company themselves and the processes of their delivery. They have to know how changes incorporated to external factors influence the operation, and how changes in one aspect of the operating system influence other aspects.

Mr. Speaker, the Enron Corporation had an operations management department which, according to their official source, fulfil the functions such as set up accounts and notify utilities, file transfer to the customer and determine the reporting requirements of the customer. Besides limited scope of functions assigned to the operations management in Enron Corporation, another important point concerns the quality of their performance and overall corporate culture and atmosphere created within the corporation.

The managers of Clico/CL Financial have already been found guilty in the court of public opinion and paid a heavy penalty. They, along with their financiers and executives, should now expect the law to take its course and be made to feel the full weight of the law on them. In similar fashion to the lessons of Enron and accountant Arthur Andersen. Remember that name? Andersen was found guilty in an American court of law by a jury that said the decision was based on Andersen's alteration of an internal memo that was critical of an Enron earnings release. In holding the accountant accountable, the jury in essence sanctioned the entire bean counting industry for its failure to police rogue corporations. However, the People's Partnership Government is more inclined to examine and implement solutions rather than dwell in the past. We want to rejuvenate the once unblemished reputation that Clico/CL Financial enjoyed not so very long ago.

Mr. Speaker, hon. Members and fellow citizens in the wider listening public, one of the hallowed symbols of local ownership and entrepreneurship, Clico, is dying rapidly with the passage of each day. Time is of the essence. I repeat, today, we are all under the microscope of our people who generally form and generate public opinion. We can take a decision that action should be taken, which action would result in the liquidation of Clico/CL Financial, in which case everybody loses and perhaps more than that—[*Interruption*]

**Mr. Imbert:** Nonsense!

**Hon. E. McLeod:**—it is going to—“ah go deal with you outside”. The respect I have for this Parliament, I will deal with you outside.

**Mr. Imbert:** How will you do that? You will beat me?

**Hon. E. McLeod:** “No, I will not beat you up. I sorry for you.” More than that, Mr. Speaker, is what effects that will have on the economy of Trinidad and Tobago, and that is the point. One or two people might benefit. In a process that leads to liquidation, some people may get their money and perhaps the more money that you have invested is the more powerful you might be in determining who gets what and when you get it. But the majority of people are going to be adversely affected and the economy of Trinidad and Tobago can end up in such doldrums from which we might take a very, very, very long time to recover.

The actions recommended by this Government will go a long way towards assuring the remaining managers, the agents and the clients that Clico still offers a secure future. Now is the time for all of us to answer that clarion call to serve and preserve what is ours. And just as Angostura Bitters would have associated very closely with Trinidad and Tobago, Clico, born in 1936, was seen as a Trinidad and Tobago product. Cyril Lucius Duprey assisted in putting us on the map as entrepreneurs in a small—and it happened during the days of colonialism. Are we going to be divided by a Balisier symbol, or on this side rings and the rising sun; or are we going to come together in the interest of Trinidad and Tobago, abandoning for the time being our particular political persuasion? [*Interruption*]

**Mr. Imbert:** Empty words. Somebody write that?

**Mr. Speaker:** Member! Member for Diego Martin North/East, would you kindly keep the peace consistent with Sanding Order 40. Continue, hon. Member for Pointe-a-Pierre.

**Hon. E. McLeod:** Thank you, Mr. Speaker. I admire you kindness and generosity. I will deal with him more harshly.

**Mr. Speaker:** Hon. Member, please.

**Mr. Imbert:** He said he will deal me more harshly.

**Mr. Speaker:** No! Please! Please!

**Hon. E. McLeod:** Waste time and threaten you, waste of time. “You is boo.” Because of our subscription to the humanness that the Member for Diego Martin North/East spoke about, because of our commitment to Trinidad and Tobago, because of our love for this country, and because too of our love for Clico/CL Financial, I recommend, Mr. Speaker, that we all support the measures that have been brought before this honourable House today.

Thank you very much. [*Desk thumping*]

**Miss Donna Cox** (*Laventille East/Morvant*): Thank you very much, Mr. Speaker. I rise to speak on this Bill, the Purchase of Certain Rights and Validation Bill of 2011. I note that this Bill seeks to provide for the purchase of certain rights belonging to holders of short-term investment products with Clico and British American Insurance, and to empower the Minister of Finance to make payments and issue bonds for the purchase of those rights and to validate funding by the Government to Clico and British American Insurance Company.

In the preamble to this Bill, reference is made to the funding provided by the Government amounting to \$5,100,000,000, and the purchase of rights in respect of principal balances not exceeding \$75,000.

With regard to the term “certain rights”, I would like the hon. Minister of Finance to define in his winding up “certain rights”, so as to avoid ambiguity, interpretation and difficulties in the future, and in the event that someone who has accepted this offer seeks to challenge its validity. I believe that “certain rights” must be defined.

What is the position of those that do not accept this offer? If the second Bill is passed and a stay of proceedings is in effect for an indefinite period of time, then these people can be in limbo between the devil and the deep blue sea as they cannot enforce their rights. So I guess they will just have to sit and wait. What is the plan with giving these people the ability to exercise their right to get their cash back? Is the Government going to come to the Parliament and give a timeline of when the company will be able to meet these obligations? Well I know that this may not be hard for them to do because, after all, I understand that they have hired some great financial experts at Clico.

Mr. Speaker, my other concern is—I start with my concern, Minister of Finance—we were not provided with a copy of the agreement of this short-term investment product that investors are required to sign. I would have liked to see what they have to sign, what they have to buy into, and I would like to get some more information on it.

**5.45 p.m.**

Mr. Speaker, in the event of this challenge later, the State will have to bear the cost to defend any such action. So, out of caution and since it will be affecting rights, I would like to have a copy of this—whatever they have to sign—for comments.

Mr. Speaker, I wish to refer to the interministerial sub-committee headed by the Minister of Food Production, Land and Marine Affairs, Sen. the Hon. Vasant

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Bharath. I recall that after the Budget presentation of the Minister of Finance 2010, he outlined proposals to deal with STIP holders particularly those who held more than \$75,000 worth of products. I am informed that there was widespread rejection of that plan by affected investors who felt it extremely onerous that they should be strung out over a period of 20 years with no interest payments, bearing in mind that many of them were pensioners who had their lifesavings threatened, and they were of the view that they would die long before the maturity of these bonds if they opted to wait for the maturity of these instruments.

There was also a statement by the Minister of Finance that the bonds in the varying maturities would be marketable, and could be traded at a discount. Investors were concerned that the discount which they may be offered could be so deep that they can lose as much as 50 per cent of their principal value if attempts were, in fact, made to trade the bonds prior to maturity.

It was in this context, Mr. Speaker, that the Prime Minister announced in Parliament on Friday, October 01, 2010, the establishment of an interministerial subcommittee, and I quote the Prime Minister:

“We understand, Mr. Speaker, there may be instances where Clico and BAT”—British American Insurance—“investors may face life and death hardships due to this crisis. We understand that people’s livelihoods and saving plans may be adversely affected by the plan proposed by the hon. Minister of Finance. We are a Government that listens. During the budget debate I said we must first listen and then lead. So we want to give the stakeholders an opportunity to voice their concerns.

At Cabinet yesterday, we agreed to establish an interministerial subcommittee of the Cabinet to meet and engage in discussions with various stakeholders to take their views on board. This interministerial subcommittee will be chaired by the hon. Vasant Bharath and includes several Members of the Cabinet. They will be supported by technocrats from the Ministry of Finance, and in the service of the people this committee will be mandated to listen to the people.”

End of quote.

Mr. Speaker, those were the words of the hon. Prime Minister on Friday, October 01. Lofty words; lofty ideas by the hon. Prime Minister.

Mr. Speaker, the other appointed Members of this interministerial committee were as follows: The Hon. Dr. Tim Gopeesingh, Hon. Prakash Ramadhar, Hon.

Vernella Alleyne-Toppin and the Hon. Carolyn Seepersad-Bachan. You will agree with me, Mr. Speaker, that this was indeed a very high-powered committee and, given what is before us today, it would appear that this high-powered committee made no contribution of substance to this Clico matter. This leads me to ask pertinent questions. Was the establishment of this committee mere window dressing? Was it created just to appease the investors at the time but knowing full well that it was never the intention of the Minister of Finance or the Government to change any component of the original proposal? I wonder how the Minister of Food Production feels. I would like to hear the thoughts of the other committee Members.

I raise this because this is my understanding that the Minister of Food Production assumed his duties as head of this subcommittee enthusiastically, and proceeded to meet with organizations representing Clico policyholders including the Clico Policyholders Group, the credit union league and other organizations. These organizations were invited to submit proposals and make representation to the subcommittee to which they complied.

After several meetings of the policyholders, we were led to believe that a set of proposals which reflected the deliberations and which met with the support of the committee was submitted to the Minister or Ministry of Finance for consideration. This was also reflected in a *Trinidad Guardian* report on October 07, 2010 under the caption “Govt open to new proposals” in which the Minister of Food Production, Land and Marine Affairs was quoted as saying, and I quote:

“...the People's Partnership assistances plan announced in the 2010-2011 budget may not be the final solution for Clico shareholders.”

I understand further that these proposals which have modified the budget proposals were rejected outright by the Ministry of Finance—I am not sure if it is the Ministry or Minister of Finance. I do not want to cast blame when I am not sure where it is supposed to go, but I guess the Minister will tell us. In fact, it is my information that the feelings were so strong that persons in high places threatened to resign if the proposals were to ever see the light of day. So, what I heard then, Mr. Speaker, and what I am hearing now with this Bill, then what I heard seemed to be the reality today, because the Bill is the identical proposal contained in the 2010 Budget; and a lot of people, particularly the investors, feel that they have been hoodwinked. Mr. Speaker, one may even say that they were subjected to planned deception.

Mr. Speaker, the Minister of Finance came this afternoon with a revised offer; I would like to know how long he knew about this offer. Why was the Opposition

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not given this information concerning the offer? Because we were working on what we saw in the Bill. Why were we not given a copy of this new revised order so that we can study it?

Mr. Speaker, as I look at the Bill, I would like to know whether policyholders belonging to the over \$75,000 group—had bought into this. Has there been any genuine consultation with these investors about this new revised offer? I would like to take this opportunity to look at the intent of this Bill and examine the implications of this measure for the citizens generally and senior citizens in particular.

Last Friday, the hon. Minister of Finance delivered an address at the Investor Conference organized by the Trinidad and Tobago Unit Trust Corporation entitled: “Reset Your Investment Strategy for Growth”. I am sure that he will agree with me that it was a most informative and enlightening session. Indeed, with the likes of Prof. Joseph Stiglitz, Nobel Prize-winning economist; Paula Boyer Kennedy, world-renowned financial expert; Ali Velsh, CNN chief business correspondent, together with our local experts, the conference attracted international attention. The Minister of Finance would have observed that one of the sessions at that conference was entitled “Planning For Retirement”. In fact, I am not sure if the Minister was at that session, but I do not think he was at the session because, if he was there, I do not think that he could have brought this legislation to the Parliament today, and I will tell you why.

Firstly, he would have heard that one of the critical socio-economic issues facing the citizens of Trinidad and Tobago generally is the fact that people are ill-prepared for retirement, and, as a consequence, many of them, after they have ended their active employment, are unable to have a decent standard of living in the post-employment phase of their lives. Many factors would contribute to that, one of which is inadequate financial planning for retirement.

Mr. Speaker, I understand the Financial Literacy Programme of the Central Bank of Trinidad and Tobago, of which the Minister of Finance was a past Governor, has retirement planning as one of their core programmes. And I am sure that the demographic of STIP investors in the over \$75,000 category, will show a significant proportion of persons who are, in fact, retirees. These are people who would have done the right thing in terms of their financial planning for their retirement. They would have satisfied some pleasures in their earlier life by saving some of their resources in drips and drops over a long period of time,

perhaps for decades, to realize an investment of substance which they planned to rely on in later life for their sustenance. How are these senior citizens being treated by this piece of legislation?

The story, however, started in May 2010. Up until that time, the affected investors were being paid their interest, and they had access to their resources; and felt assured that their savings were secured. So, many of them opted to roll over their investment, and in, comes this UNC Government and what happened. They could no longer have access to their resources; interest payments were stopped; the 2010 Budget said that they could only access their funds over a period of 20 years; zero coupon bonds will be issued in 20 maturities to facilitate this.

One year later, although a promise was given that the formula would be reviewed by the interministerial subcommittee, I am yet to hear the report of that subcommittee but, more than that, a law is brought to Parliament today to deny these law-abiding citizens, who are prudent savers, the right to their property and to have recourse. This is nothing short of abuse, particularly to our senior citizens. One may even say this is State terrorism being inflicted upon a group of helpless citizens, and, if pursued, will unleash such psychological and mental trauma on these investors that could prematurely send them to an early grave.

Mr. Speaker, I know many persons who are catching their royals because they thought they were doing the right thing by investing for the future. A couple in my constituency came to me crying because they invested their retirement savings at Clico. I know a church that put their building fund money there and now the pastor and congregation are ready to purchase the land and ready to build, and of course, no money. Seventy-five thousand dollars could not even purchase the land.

Mr. Speaker, I see nothing in the Bill for compensation for trauma. I hope that the Minister of Finance—because I heard the Minister of Food Production, Land and Marine Affairs speak about compensation for trauma, and in a situation like that, I am sure these persons are traumatized, especially the senior citizens. I hope that the Minister of Finance could consider such compensation given the trials and tribulations that these investors were forced to endure by his actions contained here.

Mr. Speaker, what is the current state of all the assets managed by Clico and CL Financial? We would like to know before we can make an informed decision. What is the current state of all of the assets managed by Clico and CL Financial?

We would like that information. Mr. Speaker, an independent assessment of the assets and liabilities is urgently needed. What if the value of assets in Clico and CL Financial turned around, would policyholders now be compensated for any principals, balances and interest foregone?

Mr. Speaker, clause 6 states that:

“The Minister may, by Order, designate—

- (a) the Central Bank; or
- (b) a financial institution,

the Fiscal Agent under this Act.”

I would like to know which financial institution would be the fiscal agent under this Act. I would like to know because we are involved in this transaction so I would like the process to be as transparent as possible because I do not trust this Government. And I would like to know which financial institution because I am seeing a financial institution is supposed to be the agent because I do not want it to be like the Minister of Transport—choosing his own lawyers. [*Desk thumping*]

**Mr. Dookeran:** All.

**Miss D. Cox:** Okay, thank you. I do not want it to end up like the Minister of Transport—choosing his own lawyers and trying to kick out the others. Clause 8(3)(a) and (b) says, and I quote:

“For the purposes of this section, principal balances means the capital sum payable to holders of STIPs”—short-term investment products—“as at issue date or last renewal date, where applicable, minus—

- (a) any capital withdrawal made by; or
- (b) loans made to,

the holder of the STIPs, prior to the 8<sup>th</sup> day of September , 2010.”

**6.00 p.m.**

I am just wondering if the Minister of Finance will clarify this, because at (b) I believe that these loans must be made on the security of the short-term investment products and not just to the holder of the short-term investment products as stated in the clause. I would like you to check it. It is clause 8(3)(b) where loans are



made to the holder of the short-term investment products prior to September 08. I believe it should be made on the security also of the short-term investment product.

I would like the Minister of Finance to clarify this in his winding up and I hope you would be allowed to wind up today because the last time I spoke in this House I asked a lot of questions and the Minister of National Security did not wind up to answer my questions. I hope you would be winding up today, Minister of Finance.

Many persons who have millions in Clico are now, of course, unhappy with the decision to be given only \$75,000 plus bonds. That is clear. The Minister of Finance has to state clearly what the new proposals are, with respect to payments of the balances greater than \$75,000. We want to get that clear, because I would have liked to see it in black and white. Clarity would be needed with respect to discount rates and other terms so that policyholders can get a firm idea as to the net value of cash flows.

In conclusion, I speak and I plead on behalf of the depositors of Clico and British American Insurance Company Limited. I also speak on behalf of the retirees, and according to the Member for Pointe-a-Pierre I speak also on behalf of the small man, most important, because I represent a constituency with small men, Laventille East/Morvant. [*Interruption*] You know what I mean. I speak on behalf of all of them. "Men" covers men and women. We do not want to waste your time talking for talking sake.

I urge the Minister of Finance to rethink his position on this matter, have some more consultations and come with a better offer. Come with a better offer to the people of Trinidad and Tobago. Thank you very much.

**The Minister of Trade and Industry (Hon. Stephen Cadiz):** Mr. Speaker, the Member for Pointe-a-Pierre quoted the philosophy of Mr. Cyril Duprey, which was "Give a man value, give a man service and he will support you." Over the years, hundreds of thousands of Trinidadians and Tobagonians supported the Clico group.

Before I start, I do not have any interest at all in any of the Clico group of companies, none whatsoever, never had and to date I still have none. Hundreds of thousands of Trinidadians and Tobagonians put their trust in Mr. Cyril Duprey and invested billions of dollars with him. Up until the time of the collapse of Clico, there were approximately 250,000 Trinidadians and Tobagonians who had money there. From a population of 1.6 million people, that is just short of 20 per

cent of the population that was at risk in some form or fashion. Whether it was a \$5,000 policy or it was a \$100 million investment it did not matter. The fact of the matter is, there were 250,000 people affected. Here it is, I think, for many of us, we are very quick to forget the history of financial institutions in Trinidad and Tobago.

I am going to bring back a couple of names of companies. I am sure there are people still alive today in Trinidad and Tobago who are still affected by what happened in the late 1970s and early 1980s; names like Trade Confirmers; Summit finance; International Trust—hear the name. The Member for Diego Martin North/East was speaking earlier on today about the word “trust” and what an important word it was in the financial sector—South Western Atlantic Investment Trust (SWAIT); Matt Securities Limited; and Southern Finance—all gone, all taking Trinidadians’ and Tobagonians’ money.

On August 07, 2008, in the *Trinidad Guardian*—I want to read part of an article entitled “Failed financial institutions”. I quote:

“In 1996, 232 depositors”—of Southern Finance Limited—“lost a ten-year struggle to regain millions of dollars they had invested in Southern Finance after Justice Margot Warner dismissed their constitutional motion.

She noted the frustration that depositors, the majority being pensioners, must have felt at battling for years to recover their savings.”

That is one part of the history of financial institutions, and here she is saying how she felt because the majority were pensioners. Here we are today in 2011, and we are talking about a failed financial institution. These depositors with Southern Finance had lost millions of dollars, these pensioners had lost millions of dollars. The same thing could very, very well happen here if we do not do what a responsible government is supposed to do.

I hear people talking about liquidation. Liquidate what? If you put this Clico group on the chopping block, what are we going to get back? How many people are actually going to get back anything at all, far less any sort of percentage of their money? The leverage—the Clico group was leveraged to the hilt and if you start breaking up those assets and start liquidating the group, at the end of the day you are going to end up just like the 232 depositors of Southern Finance Limited, with practically nothing to go home with. That is what we are talking about here.

Mr. Speaker, on January 30, 2009, the then Minister of Finance, on Clico's bailout, was in fact a person by the name of Mrs. Karen Nunez-Tesheira. This was a media briefing and this is how she ends it. I quote:

“I wish to reiterate this Government's commitment to ensure that depositors' assets will not be at risk.

We are going to weather the storm. All of us.”

Including—I think she had passed the storm already because this is January of 2009. The storm had already passed her and she was safe in safe haven. I continue:

“...the only way to do it is to take action swiftly and decisively. In this way our financial sector will remain healthy and our people will be able to depend on those systems which are so integral to our present security and future prosperity.”

Here, she is taking about the Memorandum of Agreement that was signed. That Memorandum of Agreement was dated January 30, 2009. What is of interest there is the Member for Diego Martin North/East read out a number of items that the parties had agreed to:

“CLF agrees to take steps to correct the financial condition of CIB, CLICO and BA by:

- a. selling all of its shareholdings in Republic Bank...;
- b. selling all of its shareholdings in Methanol Holdings...;
- c. selling all of its shareholdings in Caribbean Money Market Brokers Limited...; and.
- d. selling all or any of their other assets...”

It goes on with all the different clauses in the Memorandum of Understanding. Yet still, from January 2009, what exactly happened to the Clico group? From January 2009, we finished 2009, we started 2010 and what do they do? What did the then government do? Remember, the Minister of Finance, at the time—again let us go back to what she said:

“...to ensure that depositors' assets will not be at risk.

We are going to weather the storm...And the only way to do it is to take action swiftly and decisively.”

For nearly 18 months, absolutely nothing was done to protect those same depositors. Nothing was done. Sorry, I take that back. A lot was done, because what they continue to do—here it is that a company is bankrupt. This company cannot pay its bills. The Government of the day injects \$5 billion into the kitty. They spend two and one-half billion dollars of taxpayers' money—not Clico's money—two and one-half billion dollars of taxpayers' money go into the kitty and what happens? Do you know what they do? They continued to pay commissions. They continued—the Member for Laventille East/Morvant just said it—to pay interest; the same interest that busted the company in the first place.

There is no way any company could have continued to pay that interest, and here we have a Memorandum of Agreement and we say all that we are going to do from January 2009, and all they did was take taxpayers' money, part of which was my own, because I am a taxpayer in this country—and start to pay commissions to agents when their deposits came up and they had to renew their deposits. You are paying commissions to agents? You are taking taxpayers' money to do that? You are taking taxpayers' money to pay that very, very high interest which nobody—I would not go that far—but which was unsustainable? They want to know what happened then.

We know what happened in May 2010. All of that went out the window, because by the time the very responsible Minister of Finance, the Member for Tunapuna, came to this Parliament in September 2010, that is three months after the haemorrhaging. Remember, here it is you are pumping blood into your body and you have a vein busted on the other end. That is basically what was happening. You just keep bringing the blood, keep pushing and getting the blood through the body and instead of it staying in the body, all it is doing is just exiting on the other side. Here it is the responsible Minister of Finance of this very responsible People's Partnership Government comes here to the Parliament and says: "Stop it. We are going to stop the haemorrhaging." That is where the noise of Clico started. All of a sudden, people knew all along what was going on was wrong. They knew it. They knew the company could not sustain that level of interest. They knew the company could not sustain that level of expense with the commissions and what have you being paid, and the only time they opened their mouth was when the Member of Parliament for Tunapuna comes here and says: "Enough is enough. No more taxpayers' money going into the system. We are not going to use taxpayers' money to support something like that where there is no end to it."

You hear the Member for Diego Martin North/East talking about careless and being heartless. We all know which heart he is talking about. The Member comes

here and tries to tell this nation—the Member for Diego Martin North/East is my Member of Parliament—[*Interruption*]

**Mr. Roberts:** Oh, poor you.

**Hon. S. Cadiz:** Thank you for expressing those sympathies.

**Mr. Roberts:** Empathy.

**Hon. S. Cadiz:** Mr. Speaker, he comes here and what? Instead of telling the people of this country exactly what the position is because he is a very bright man and he can understand—he says for a fact that 50 per cent of the depositors left in Clico are members of the UNC; a learned individual like the Member for Diego Martin North/East coming here to fool the public.

**6.15 p.m.**

And you know something, Mr. Speaker? All of this is being televised and he stands here and tells this nation that he knows for a fact that 50 per cent of the depositors in Clico is UNC?

**Mr. Roberts:** “He do ah MORI Poll.”

**Hon. S. Cadiz:** He talks about the human side, he talks about, [*Interruption*] “If this plan is so good, why do we have to come to the Parliament to get this Bill passed, why is it? Why do we not go before a Judge and let the judge decide, because the judge will determine for public interest, okay, public interest?” And here it is that in 1996 Justice Margo Warner said she noted the frustration of the depositors. And I will tell you something. If we do not do what we have set out to do here today, we are all going to note the frustration of the depositors to the tune of billions of dollars.

He wants us to come here now, the Member for Diego Martin North/East, try this thing in front of a court. He says that I should know better, that if you go before a court and you say: “Your Honour, I built a stadium in the interest of the public and it fell down and, therefore, I am being sued by this individual and, therefore, in the interest of the public I went ahead and built the stadium. So what if it fall down? I should not be held liable for that”. And that is the level of logic that we have, when we are talking about—and again, Mr. Speaker, going back to 1996—

**Miss McDonald:** Mr. Speaker, 36(5), imputing improper motives.

**Mr. Speaker:** Yes. Well, I understand the point—I would ask you to tread carefully on what you are saying. Continue, Member.

**Hon. S. Cadiz:** Mr. Speaker, I would not refer to any stadiums falling down again. [Laughter] Justice Margo Warner wants, according to the Member of Parliament for Diego Martin North/East, us to go before a judge, so the judge can then tell us that she notes our frustration, but sorry, they cannot do anything about it.

Another thing again, and I am always very interested to hear what my Member of Parliament says, because I need to know how effective he might be in my constituency. That if there are issues in the constituency, I need to be able to go to him and I will say, “You know something, every time I speak to my Member of Parliament, he is the most truthful person, and he is an honest man, and he would be able to help me and if I get caught in the curfew, he might be able to make—I do not know, make a call or something.”

He quotes Republic Bank shares at \$72 and if you pick up the *Guardian* of democracy—

**Mr. Imbert:** I said 82. You are deaf.

**Mr. Roberts:** He said it. He said 72. Check *Hansard*.

**Hon. S. Cadiz:** It is very true.

**Hon. S. Cadiz:** [Crosstalk] He said 72, we will check the *Hansard* and it is actually \$92.17. You said 72.

**Mr. Imbert:** [Inaudible]

**Mr. Roberts:** Would you like it to clarify?

**Hon. S. Cadiz:** But, Mr. Speaker, that is how the other side operates. When we get down into the real meat of the problem of the Clico group, it really is about saving people’s lives here, it is about securing their pensions, [Desk thumping] it is about securing their investments.

The Member of Parliament for Tunapuna, the very responsible Minister of Finance, has gone through all the figures, how many depositors, [Desk thumping] he has gone through and talked about the percentage; who has what percentage, the amount of depositors they had with under \$75,000; over \$75,000; the contagion risk that we would have if we do not do the right thing and pass this Bill today. What would happen to the credit unions? What is going to happen to the labour unions? This is a serious, serious matter.

In the 70s and 80s those failed financial institutions which ran amok in this country, exactly like what is happening here now, ran amok in the country and

tens of thousands of honest Trinidadians and Tobagonians lost their shirt. I knew persons—they keep quoting that “they met ah lady and they met ah man and the man tell them how much money they have.”

I met persons in the 70s and 80s—Mr. Speaker, that is a long time ago, but I am not so old, I might be looking like it, but I am not so old. And I remember persons who took their pensions and put it into those institutions and I am pretty sure there are persons in this Parliament right now who know persons who lost every single thing, their entire life’s savings in the 70s and the 80s. Persons aged 65 had to go back to work to be able to live.

And here it is we have come—we make a full circle now, and here we are in 2011 and the same thing is happening again, and this has to stop. This must stop. But this responsible Government is not going to do like what happened in 70s and 80s, and allow persons to lose everything. This responsible People’s Partnership Government is going to do the right thing. [*Desk thumping*]

When we look at what happened again I hear the talk: “Ah year passed and all yuh eh do nuttin”. What is this? Eighteen months passed, zero was done, even though—look, all of this is the memorandum. [*Holds up a document*] Two pages long of memorandum and absolutely nothing was done. Here it is we came into office after a landslide victory at the polls, for obvious reasons, and we come here and we start, and then all the information starts coming in now, because for some unknown reason the previous 18 months the information was very scattered, it was very difficult to get, nobody knew what the real story of Clico was, and I cannot explain that; there must be a reason for that.

How come it is only when we came into office and within three months we start to dig and find out all kinds of issues regarding Clico—the issue of the commission still being paid, the issue of the high interest still being paid? How come we could find out all of that. Yet still the other side who was in office at the time sits there, utilizes \$2.5 billion of—again this is not Balisier House money, you know people, okay? “Dey like to say PNM gih yuh dis and PNM gih yuh ah house and all ah dat”. This is taxpayers’ money, every single person here who pays taxes and pays VAT, taxpayers’ money, just gone into a big, big hole and they knew nothing about it.

So in other words, if that election had not been called by the Member of Parliament for San Fernando East—because I do not think any of them called election, you know; one man called that election, and if the Member for San Fernando East had not called that election, what would have happened to Clico?

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[*Crosstalk*] Totalitarian. What would have happened to Clico? They would have found maybe another \$5 billion of taxpayers' money to put right back into the same hole they put the first set, okay, and this country would have been none the wiser. Because when the other side starts to talk about transparency and being honest and what have you, this is the side which is transparent, this is the side which is honest. [*Desk thumping*] They would have spent the rest of their term filling a hole which could never have been filled unless you did what the Minister of Finance did in September. [*Desk thumping*]

So it is painful, Mr. Speaker, painful sometimes to come here and hear persons try to justify things that they never did and they were never capable of doing. It is very, very hard to come here and stand here to even fathom what would have happened to those poor pensioners. What would have happened to the 15,000 persons—I think is 15,000, Minister of Finance—the \$75,000? [*Motions to the Minister of Finance*]

**Mr. Dookeran:** Sixteen thousand.

**Hon. S. Cadiz:** Sixteen thousand! What would have happened to those 16,000 persons who had less than \$75,000 in Clico? They would have ended up like Southern Finance, they would have ended up like Trade Confirmers, they would have ended up like all of them; no money for you.

Mr. Speaker, when they turned their back on the people of this country, the 250,000 depositors in Clico—Clico was utilizing \$100 million per month. It was flying through Clico at a speed. It was like the Concord was flying through with the money; the speed it was going through. And what did they do?

**Mr. Roberts:** PNM did that?

**Hon. S. Cadiz:** What did the then Minister of Finance, Mrs. Tesheira, do? Absolutely nothing, nothing! TT\$100 million! I wonder how many people in this country can imagine what TT\$100 million looks like; how many three-tonne trucks you would need to be able to fit that amount of money. We would have to move them into big trailer trucks rather than three-tonne trucks, because that is a huge amount of money.

And this is poor people. How many out of the 250,000 depositors and policyholders of Clico, are financial managers? These are ordinary people who, if you go on Frederick Street now you would see them walking on Frederick Street, going about their daily business depending on the management of Clico, depending on the institutions of this country, depending on the then government to secure their interest, Mr. Speaker.



Those are the people, ordinary, ordinary people like all of us here, going to work in the morning, working hard, coming home in the evening, every night saying their prayers saying: “Lord, look after Mr. Duprey. Lord, look after Clico. Lord, look after the government, because I want dem to mind meh money for meh.” Then the whole thing breaks open wide, and they turned their backs on the people. For 18 months they turned their backs on the people, because this famous memorandum of understanding dated January 30, 2009.

I would like when the Member for Diego Martin North/East, gets up to speak again—not now, when he gets up to speak again—let us go through the memorandum and find out what the People’s National Movement government did with this memorandum of agreement. Go through line by line to say, “This is what we did and this is how we achieved what we set out to achieve, and this is how we protected the man in the street.”

Let them tell us that, because when they come here and based on this—oh! I do not know how I could forget, because I was here yesterday. I understand that the Minister of Finance with a full team of technocrats sat right here in this Parliament Chamber, called on the Government, who came; called at another time on the Independent Senators, who came; called on the Members of the Opposition to come and sit to understand every single thing that there was to understand about Clico, so when we came to this Parliament to debate we would not be talking, and accusing this side of being what, careless and heartless. They were able to sit with the Minister of Finance, with his technocrats, with whoever they wanted from the Ministry of Finance, wherever they had to come from, to sit and go through line by line what the situation with Clico was, and Mr. Speaker, people of Trinidad and Tobago, I hate to tell you, not one single Member of the Opposition—[*Interruption*]

**Mr. Roberts:** Shame!

**Hon. S. Cadiz:**—neither the Lower House or the Upper House came—[*Crosstalk*]

**Mr. Roberts:** No man! Shame!

**Hon. S. Cadiz:**—to try to understand how to save those poor pensioners’ money. Not one single one of them came here! And yet still they want to come here and “gallery and make ah set ah bravé danjé business with us?” No!

**Mr. Roberts:** Shame!

**Hon. S. Cadiz:** “Dey not coming.” And the reason they not coming: “We doh want to know, because we doh like people—we not going to sit down here for no three hours to listen to how we going to save pensioners’ money. We are not interested in that. That has nothing to do with us. Our sole interest is the next election that is our sole interest, we have nothing to do with the people of Trinidad and Tobago.”

**Mr. Roberts:** “Buh invite dem to ah cocktail party fuh strimps and dey will come—strimps.”

**Hon. S. Cadiz:** [*Crosstalk*] So, Mr. Speaker, I will—[*Crosstalk*]

**Mr. Roberts:** “Scotch and strimps dat is what allyuh like, not work.”

**Hon. S. Cadiz:** So, Mr. Speaker, again I am not going to go through the details. The Minister of Finance, he is the best person to come before this Parliament and to give details, because when the Member of Parliament for Tunapuna, the very responsible Minister of Finance, gives those details, when he gives those figures, they are the correct figures. It have no other figures other than that.” These are the correct figures. [*Crosstalk*]

So, Mr. Speaker, I am going to do what all other responsible Parliamentarians would do. When I have nothing else to say, I will take my seat.

I thank you [*Desk thumping*]

[*Crosstalk*]

**Mr. Roberts:** “Yuh gorgeous!”

**6.30 p.m.**

**Mrs. Paula Gopee-Scoon** (*Point Fortin*): Thank you, Mr. Speaker. I would like to get back to the Bill at hand after that interlude. Before I do so, as required by the Parliament, I would like to say that I did have an interest in two policies in Clico and I no longer have an interest at this time.

I would like to get back to the Bill at hand, which is, the Purchase of Certain Rights and Validation Bill, 2011. I am speaking on behalf of the citizens of Trinidad and Tobago, in particular on behalf of my constituents, many of whom are at a loss at this time with regard to these Clico policies.

I speak on behalf of businesspersons, some of them members and supporters of the other side, but it does not matter; I am their Member of Parliament. These business people have toiled and risked everything they have had; their lives; running businesses at all uncouth hours of the night to put away for a rainy day.

I speak on behalf of the pensioners. This is their life's savings; and I also speak on behalf of all those persons to whom these sums of money may have been bequeathed by their loved ones; and, of course, a lot of circumstances in which persons have found themselves.

On the face of it, this Bill really appears to be quite harmless and straightforward. There is no point in reading what it says. It purports to do a number of things but, in essence, it purports to classify certain life insurance products of Clico and British American and that is where I take issue and, I think, we take issue.

The Member for Diego Martin North/East had gone down that road just a bit, but I would like to take it further. The Bill purports to classify certain life insurance products of Clico and British American as short-term investment products.

I go to the definition section of the Bill where it says:

“Short-Term Investment Products or STIPS’ means—

- (a) an Executive Flexible Premium Annuity, Executive Single Premium Annuity, Group Advanced Protection or Guaranteed Annuity Advanced Protection Policy issued by CLICO; and...

Of course, it lists a number of products as well by British American. Mr. Speaker, if you hear me refer to the EFPA, it is because it is the one we are most familiar with. Some of these other products I am not too sure about at all; but, in essence, they seem to be annuities.

The other thing I have concerns over is that the Bill allows for the purchase of rights belonging to the holders of these short-term investment products. Among other things, the Minister is able to issue bonds. I have no problem with that. Clause 4 says:

“The payment of all moneys under this Act shall be a charge on the Consolidated Fund.”

I have no problem with that as well. It also seeks to validate the Government of Trinidad and Tobago's expenditure of \$5.1 billion in Clico and BAT in the period February 2009 and I think it was May 2010. It also attempts to validate the purchase of rights from those persons with deposits under \$75,000 from March 04, 2011.

The major issue is with the classification of the short-term investment products. On the face of it, this classification appears to be unlawful in that it causes a breach of trust in respect of the Clico statutory fund. There is also a breach of promises and undertakings as well—which I will speak to at the end—to honour the obligations of Clico to its policyholders. Those obligations and promises were made by the previous administration, the PNM.

Just to go back to the basic facts of the events—I think the Minister would have outlined them—that led to the unfolding of the debacle, the catastrophe in which we now find ourselves. On February 06, 2009, the Central Bank had intervened and taken over the management of the affairs of Clico and, subsequent to that, there were a number of statements, promises and undertakings made by the Central Bank and Clico stating that the Government of Trinidad and Tobago stood behind Clico and was committed to fulfilling all the obligations and liabilities of Clico to its policyholders. Those promises and undertakings to honour the obligations of Clico to the policyholders, I have to admit, were made under our administration.

However, subsequent to that, the current Minister of Finance, hon. Winston Dookeran, Member for Tunapuna, assumed office in June 2010 and, in his budget speech, he announced a radical change in policy to what the PNM had put in place. The most significant and relevant package of the speech, allow me to quote from the budget speech given by the Member for Tunapuna, in September 2010. That was when I first started to get worried. He said:

“...we will separate the insurance business from the short-term investment and mutual funds business to protect the insurance policyholders; and the obligations of 225,000 policyholders will be honoured, backed by the statutory fund.”

The issue at hand, therefore, coming out of these events is: can these EFPA policyholders be excluded, not only the EFPA holders, but the holders of other products mentioned in the definition section, from the class of beneficiaries of statutory trust created under sections 37 and 39 of the Insurance Act?

This means that all of these thousands of holders of the EFPAs are all going to be affected by this new plan, which the Member for Diego Martin North/East coined as the “Dookeran Plan”. There are thousands of people who are going to be affected by this plan and this classification as well.

The question you want to ask yourself is: can this be lawfully implemented? The answer to that is that it cannot be lawfully implemented with the

classification as it is. This means that this action will result in a permanent loss of their position as beneficiaries under the Statutory Trust Fund as created by the Insurance Act, sections 37 and 39. There will be a permanent loss as they are required to give up their rights and, therefore, they will no longer be in the position of beneficiaries and have the protection of the Statutory Fund. [Interruption]

It is true. If you speak after, you can refute that. In effect, the EFPA policies and the other products as well will be treated as a product other than a long-term insurance policy. It will not be treated as it was supposed to be treated; as a long-term insurance policy. The holders will be giving up their rights and these products will no longer be treated as an insurance product. It means that those persons will not be entitled to recover the premium paid into the EFPA from the assets in the statutory fund. They are giving up that right. They will no longer be entitled to recover their premium paid into the EFPA from the assets in the statutory fund.

Go back to the basics. What kind of business is Clico involved in? Clico is involved in carrying on long-term insurance business. That is what it is about and that is so under the provisions of the Insurance Act. What does long-term insurance business mean? It includes, not only insurance policies as we know it, issued on the lives of individuals, but it also includes contracts to pay annuities based on human life. It is not just the ordinary insurance policy as we know it, but it includes the contracts to pay on human life annuities. Therefore, these annuities fall under the definition of long-term insurance business. I do not see it as a short-term investment product.

Who is charged with the responsibility to supervise and regulate the conduct of these insurance companies within Trinidad and Tobago? It is the Central Bank of Trinidad and Tobago. The Member for Diego Martin North/East read into the record several letters—I will not repeat them—which were written by the Supervisor of Insurance, authorizing—I am looking for them, Mr. Speaker. There were three letters written in 1990, 1999 and 2003, by the Supervisor of Insurance authorizing the marketing of the EFPA, first in TT currency and also the Executive Flexibility Premium Annuity II. The agreements are there and the acknowledgement that it is a bona fide annuity came from the Supervisor of Insurance and is there for all to see.

Sections 37 and 39 of the Insurance Act obliged Clico to establish this statutory fund in respect of the long-term insurance business, which includes the

annuities. They were required to place assets in trust to cover Clico's liabilities and contingency reserves with respect to Trinidad and Tobago policyholders.

This is how the fund was actually created and I want to make reference to the actual subsections 37(1) and (4) of the Insurance Act. It reads:

“Every company registered under this Act to carry on long-term insurance business or motor vehicle insurance business, or both, shall establish and maintain a statutory fund in respect of each such class of business

- (4) Every company carrying on long-term insurance business in Trinidad and Tobago shall place in trust in Trinidad and Tobago assets equal to its liability and contingency reserves with respect to its Trinidad and Tobago policyholders as established by the balance sheet of the company as at the end of its last financial year.”

Mr. Speaker, a trust has been created. It is in existence to support all of these EFPA holders of EFPA products. The trust has been created by virtue of sections 37 and 39 of the Insurance Act.

The question of the definition of “long-term business” under the Insurance Act we have spoken to, but I just refer to paragraph (1)(a) of the First Schedule. What is the meaning of ordinary long-term insurance business? It means business of any of the following classes:

- “(a) the effecting and carrying out of contracts of insurance on human life or contracts to pay annuities on human life;”

It is very clear by virtue of the Insurance Act that the provision applies not only to holders of life policies but also to holders of annuity policies. In this case, the EFPA policyholders and all of the other policyholders—all of the products spoken to in the classification—all those persons are holders of annuity policies.

**6.45 p.m.**

And then I also want to refer to the Insurance (Amendment Act) of 2009. No. 3 of 2009, clearly says that the word “policy” includes annuity contracts as well. So that there is no room for this classification of Short Term Investment Products because it is very clear that it is a long-term product and that the holders are entitled to the proceeds of the statutory fund to back their asset. Further, the Governor of the Central Bank is reported to have admitted as well that the EFPA annuities are, in fact, bona fide annuity policies and that the term, “long-term insurance business” includes both types of policies.

Mr. Speaker, permit me to again reiterate and to endorse all that I am saying. I wish to refer to case law to demonstrate the legal nature of an annuity contract. I want to refer to a Canadian case *Gray v Kerlake* where Lock J. made reference and a justice expressed his views on annuities. This is what he had to say:

“Their usual purpose is simply to provide by the deposit either of a lump sum or of payments over a period of years, a sum of money sufficient, with accumulated interest, to provide an annuity to commence in one’s later years, either for the life of the annuitant or for a fixed term of years”.

The relevant words there being, Sir—“...lump-sum for a fixed term of years” and that clearly speaks to the EFPA policy as we know it. They were for lump sums and they were fixed term of years. Those persons who hold those policies will also be protected, Mr. Speaker, and that speaks to the nature of an annuity. It is very clear that it can be a lump sum and for a fixed term of years.

Mr. Speaker, then you ask yourself: why is a trust for such assets to be established by statute? It is established by statute and it is to provide moneys or financial security from which to pay benefits to the policyholders as they become due.

The effect of the Dookeran plan will result in these EFPA policyholders being permanently deprived of their vested status as beneficiaries of the trust. These persons are going to be permanently deprived. Once this is made law, they are permanently deprived of their vested status. There is no turning back! Therefore, its implementation into legislation of this classification which is spoken to in the definition section, and which is referred to in all of the succeeding sections of the document of the Bill.

It is referred to in the validation clauses as well, it is referred to in section 3 where the Minister is authorized to sign agreements and make payments to and issue bonds; it is there, Mr. Speaker, therefore, I would like to say that this document is null and void, it is illegal and cannot be used at all, [*Desk thumping*]*—*simply because its implementation violates the entitlement of the EFPA policyholders and it violates them in terms of their belonging to the class of beneficiaries of the statutory trust under sections 37 and 39 of the Insurance Act.

What the Government is seeking to do by this classification is to reclassify these policyholders as short-term investors to their detriment. And I am saying, this is illegal, this is unlawful, this is contrary to the provisions in the Insurance Act—37 and 39—and this is why we cannot support. We cannot support, Mr. Speaker, the Government seeking to reduce the class of beneficiaries who have had their liabilities backed by the assets in this statutory fund.

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These persons are being placed, as it is, outside of the protection of the statutory fund. They no longer will have the protection of the statutory fund. We cannot support that these persons will be giving up these rights and benefits. Mr. Speaker, I want to say that the Government, through the Minister of Finance, is not empowered to exclude EFPA holders. They are not.

Mr. Speaker, there was a deed that was signed, a deed which is on the website and which the Member for Diego Martin East spoke to. There is a deed of assignment and declaration of trust which further supports this claim of unlawfulness in this Bill. I want to—[*Crosstalk*]

**Mr. Roberts:** Sit down.

**Mrs. P. Gopee-Scoon:** Well, you were calling me gorgeous before. I am getting it right; I am taking it in steps. [*Crosstalk*]

**Hon. Roberts:** Standing or seated you are still gorgeous.

**Mrs. P. Gopee-Scoon:** Thank you. Mr. Speaker, that deed of assignment and declaration of trust was used, and it is on the website in relation to EFPA policyholders with moneys under \$75,000. The main effect of that document, the deed, was that in return for receiving up to \$75,000 under the plan, those EFPA policyholders who executed same they have assigned their rights under the policies to the Government and to Clico, and they have given up any claim against Clico. So by virtue of that document, those persons under \$75,000 have given up their rights and assigned their rights to the Government and to Clico. That, in itself, Mr. Speaker, is a recognition that the policyholders are entitled to a benefit and that they have given up. It is the same for under \$75,000; it is the same for over \$75,000. These persons are giving up their rights.

Clearly, the Government intended to be dealing with potential illegality and invalidity cases relating to the plan. And there is recognition of this by virtue of paragraph seven that the separation is exposed to a finding of illegality and invalidity. Mr. Speaker, they can refer to paragraph seven in that document.

In conclusion with regard to the classification, again I say and we say on this side that it is illegal, and the EFPA policyholders do have an interest, they do have a beneficial status in relation to the trust fund assets. Any such exclusion from that status is deemed to be illegal, it is deemed to be invalid.

Mr. Speaker, I now go, just quickly, to the breach of promises and undertakings given by a previous government, and that is the PNM administration—[*Interruption*]—I am not ashamed to say it at all. [*Crosstalk*]



**Dr. Moonilal:** Not ashamed.

**Mrs. P. Gopee-Scoon:** The passage of these two Bills today—and yes they are conjoined somewhat—so passage of this Bill and the Central Bank (Amdt.) Bill will cause a breach by the People’s Partnership Government of promises and undertakings given by the previous PNM Government. That is as it is. And Mr. Speaker, there was a maxi taxi case; there were maxi taxi drivers cases, I think, that are along similar lines as well. The point about it is, the effect of this decision is these promises and undertakings that are now reneged upon, these promises and undertakings are actionable. They are actionable, Mr. Speaker.

I just want to go to the question of—a little more detail on the promises and undertakings and it is that around January 30, 2009 we all know that the memorandum of understanding was entered into, and there was a media release by the Central Bank, and the head of that media release, the Government of Trinidad and Tobago and the Central Bank of Trinidad and Tobago’s move to protect investors. It reads:

“In a move to protect the interests of depositors and policyholders, the Minister of Finance...and the Governor of the Central Bank of Trinidad and Tobago today announced that the Government has reached an agreement with the CL Financial Limited Group for the provision of a package of financial support for the group’s financial services companies.”

There were objectives in that agreement being to stem the increasingly serious liquidity pressures being faced by the financial services companies within the group. Also, the objectives included maintaining public confidence in these intuitions. Also to ensure the continuing stability and integrity of the financial system.

One of the elements of the agreement is that CL Financial will sell, liquidate or collateralize its assets and allocate the proceeds to meet all the requirements of the stat fund for both Clico and BAT as well. It said that the Government will provide funding support to fully back Clico and BAT to meet any statutory fund deficits. Ultimately, those promises and undertakings were there, they are still on the website, and the point about it is that these promises and undertakings are, in fact, actionable, and that is where we are with that.

On the question of the validation, whilst we would really and truly have no problem to the validation for the funding of \$5.1 billion—*[Interruption]*—no, no, no; if you are not familiar with the Bill then you would not know that we are speaking on the same Purchase of Certain Rights and Validation Bill. You are

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unfamiliar, you have not read it. Generally we would not object to something like that, to the validation—it has to be done—but, however, in it too it refers specifically to the purchase of rights from and a payment of moneys to holders of the Short-Term Investment Products, and that is what we take issue with: the classification of Short Term Investment Products which we have explained. The classification is illegal and invalid and we are not supporting.

So any reference to the STIPs sat all and classification again, I said, we find illegal and therefore void. Mr. Speaker, again I do not want to belabour the point, but I think I have covered the crucial areas as to why and given the reasons as to why we cannot support this illegal Bill and invalid Bill. I thank you.

**7.00p.m.**

**The Minister of Finance (Hon. Winston Dookeran):** Thank you, Mr. Speaker, and may I thank hon. Members who have contributed to this debate. I would like to reply to some of the questions that were raised and, in so doing, also note that there is an amendment that is being circulated for consideration at committee stage.

Mr. Speaker, the Member for Diego Martin North/East indicated that the Government in using the term “STIP” to remove the protection of investors from the statutory fund. In response, the term STIP is a generic name used for ease of reference to refer to the many variations of the EFPA-type practices and, therefore, does not in any way diminish the right of EFPA policyholders to the statutory fund protection. Both STIPs and traditional policies are protected by the statutory fund. Where a STIP holder accepts Government’s bailout offer, he assigns his rights to the statutory fund to the Government. *[Interruption]* It seems as if these questions are not expected to be answered, and I am doing you the courtesy of answering all the questions you have asked.

Mr. Speaker, a second question that was asked with respect to the issue of NEL II is: “Where will the extra billions come from”, to use his words. The assets which would be placed in the NEL trust account will comprise FRBL shares as well as other assets which will be contributed by Clico. These assets could include bonds and cash and, therefore, it is without doubt that the assets of the trust account will be able to pay 100 cents on the dollar for the 11th—20th year bond.

We want to clarify that there is no danger of dilution of the RBL shares, because they will not be placed on the market, but will be held in trust for the benefit of the unit holders of the trust. Units would be traded in the same manner

as shares are normally traded. In fact, what this will do is provide a ready market for RBL shares, thus contributing to the development of the capital market.

Mr. Speaker, on that score, I also wish to indicate that in our deliberations with the banking community and the insurance community, they have expressed their desire to also support in a very tangible way the efforts of the Government in this regard, and have indicated to us their willingness to add up to \$300 million to the NEL 2 as a contribution in the interest of financial stability of Trinidad and Tobago. This represents the total commitment of the banking and insurance community to work towards ensuring the stability of the banking system. In that respect, we should acknowledge the contribution that they have indicated they will make with respect to this particular involvement.

Mr. Speaker, I believe it was the Member for Laventille East/Morvant who indicated that she would like to see the actual agreements to be signed for the provision of the rights that are being attributed. The agreement which the policyholder under 75K is required to sign is, indeed, available at the websites of Clico/BAT and the Ministry of Finance, and it is for public information, and there is an agreement for policyholders over 75K who will be so similarly treated.

In addition, there was the suggestion that the former government made a guarantee, but making a guarantee and not providing the funds to support that guarantee is an empty guarantee. It was a hollow guarantee. You can talk in words about a guarantee, but in order to ensure that the guarantee has meaning legally and financially, there must be the concomitant sums provided to support it. That is the fundamental difference between the so-called guarantee that the Member for Diego Martin North/East spoke about, and what the People's Partnership Government has put forward. [*Desk thumping*]When they talked about a guarantee, they only provided \$5 billion when more like \$12 billion was really needed to make Clico hold.

In other words, it was a guarantee that was empty and had absolutely no chance of it being honoured with the kind of commitment they have made. And further, Mr. Speaker, those funds were, in fact, utilized without being assigned to the Appropriation Bill, and that is why one of the clauses in the Bill before us, as I explained, is to validate that decision of the previous government. When we undertook the task we had to find funds to deal with the under \$75,000, and we have used the special deposits to do so, and the Bill will also take into consideration that in these accounts.

So, Mr. Speaker, it is more than disingenuous for the Opposition to base its argument that there was a guarantee that they had provided. Indeed, what we have

provided in the People's Partnership programme is a firm commitment backed by sourcing the funds through the bonds; sourcing the funds through the sale of shares. In other words, what we have provided today is not only a commitment to meet what we can meet in the interest of all the varying claims before us, but we have provided the necessary resources to make it happen, and that is the difference between the Opposition and this Government. When they speak, they speak glibly; when we speak, we speak with substance and credibility. [*Desk thumping*]

Mr. Speaker, I say that because I have sensed a trend in those who have spoken to try to penetrate the issue of credibility. I want to advise hon. Members opposite that merely saying that we are not credible does not make us not credible. [*Desk thumping*] The credibility of our programmes and policies are determined by the population of this country, and they know when we say we are doing something, we move to do it, and that is where the credibility is determined. [*Desk thumping*] But it is a political ploy to try to penetrate this sense of trust and credibility. Credibility will come by not what you say but what you do. That is why, even before this Bill came before this honourable Parliament, we had already agreed and implemented the payment for over 10,000 persons who have already got the money. [*Desk thumping*]

I could assure you that they are all very happy. I was told by the Clico administration that they have never seen people so relieved and happy when they came to collect their cheques for \$75,000 [*Desk thumping*] and 10,000 of them throughout Trinidad and Tobago have that sense of satisfaction here today. [*Desk thumping*] That is credibility, not to offer \$5 billion, \$2.5 billion of which was used to pay off Clico's depositors who had growing interest, and had led us in a position if we had not stopped that, we would have had no money whatsoever to deal even with the recurrent expenditure of Clico. [*Desk thumping*]

**Mr. Roberts:** "They done pay off Karen and dem."

**Hon. W. Dookeran:** So, Mr. Speaker, I wanted to put on record that the guarantee, of which they speak, is not a guarantee. It was an empty, hollow statement made by a government who did not know what they were doing or what they ought to do. [*Desk thumping*]

**Dr. Moonilal:** Repeat that!

**Hon. W. Dookeran:** When we came into office we were faced with that situation, and we said whatever we do must be done in a structured way; whatever we do must be done in a credible way. That is why over the last year we took the

trouble to go through this exercise with major consultation. The Member for Laventille East/Morvant talked about the committee that was established under the chairmanship of the Minister of Food Production, Land and Marine Affairs by the hon. Prime Minister who indicated that it was necessary to listen to the people. This is what we did, and the results of the deliberations of that committee eventually were reflected in the provisions we have brought before this House here today. [*Desk thumping*] So to kind of suggest that was a facade is really, at this stage, itself a facade.

So, Mr. Speaker, that point, as I mentioned, was also raised with respect to the Clico's balance sheet, and I believe it was the Member for Diego Martin North/East who constantly and continually used half-truths and half-statements to make broad inferences. As I said, on the last occasion it is, in the interest of our children who need to understand the value of truth, that we put the record straight. Clico's balance sheet was, in fact, subsequent to the meeting he referred to which was done in New York and the presentation to the rating agencies. He listed a number of figures from that meeting based on the information that had taken place.

Since then, I am advised that there have been impairments on Clico's balance sheet to the extent of the following: moneys owed from CLF, \$4.1 billion; moneys owed from CIB, \$5.1 billion; moneys owed from other CLF subsidiaries, \$2.4 billion, resulting in a total impairment of \$11.6 billion. [*Interruption*] Mr. Speaker, I am saying that the Member's claim that those figures were not accurate has been substantiated subsequently by the impairments that we have spoken to and identified in the balance sheet.

Just to point out for clarity, the Bill before us will find immediate beneficiaries among 16,000 investors made up of 14,000 individuals and 2,000 businesses and corporations. Mr. Speaker, 3,000 of the 16,000 have principal balances that exceed \$1million. However, these 3,000 investors are owed approximately \$8.7billion out of a total of \$11.7 billion. Those are the beneficiaries: 14,000 individuals, 2,000 businesses and corporations, in terms of their direct benefit as a result of this particular legislation before us.

But, as I indicated to you, the major beneficiary lies in the people of Trinidad and Tobago who I can say, at this stage, have been saved from the collapse and the implications of that collapse to the Trinidad and Tobago financial system and its economy. One year after, the previous regime having spent almost 18 months paralyzed as to what to do, we were able in one year to do all the necessary work

that had to be done, seek the necessary consensus that was required in this situation and come forth with a firm, guaranteed programme that will, indeed, bring closure to this issue. [*Desk thumping*]

**7.15 p.m.**

It is an issue that was created by the misdiagnosis of the last government. And may I also point out while I am on this score, the Member for Diego Martin North/East seemed to attribute the blame for this whole fiasco on me, when I was Governor of the Central Bank—imagine that—imagine that. Imagine when I was Governor of the Central Bank in 1999, and the bank gave authorization for a certain kind of account to be deemed a banking insurance account, he seems to use that particular issue which I will check as if that caused the financial crisis when therein fact was a result which brought this about. [*Desk thumping*]

And may I also point out to you that when I was then the Governor of the Central Bank, I took the initiative and sought international consultants to come in and talk about extending the ambit of the Central Bank's regulatory functions to include the insurance company, and that is when it started. [*Desk thumping*] And it was not until 2006, by that time I had left the bank then the legislation came to Parliament on this score, but I can say to the hon. Member, rather than I being blamed for this problem that I was in fact from then looking at the possibility of finding a solution to this problem. [*Desk thumping*] But, I do not think that small political points really make any difference, but that is all they can do, make small political points in a major debate of national interest.

**Dr. Moonilal:** It is a bigger conversation.

**Hon. W. Dookeran:** So, Mr. Speaker, I know that this is a fairly technical debate, and I know there are many questions that are still lingering in the minds of the population, many questions that cannot be answered in this kind of forum, but many questions that are still relevant, so what we have prepared is a list of questions and answers that we will circulate in due course to the wider population, identifying all the relevant questions that are of significance. This is a Government totally committed to transparency, openness and confidence of the people. [*Desk thumping*]

The questions will be answered, Mr. Speaker, on all those things that are raised here and more, and we will be supplying this information to the public at large, so that we would have done our duty in providing the information that has been raised. I would not go through that at this point in time, but to indicate that this is part of a continuing programme to build the confidence of the people, to

answer every specific question they may have and if there are other questions, we have found a way to deal with that as well, but we will start by providing this information to all and perhaps I will make the request that the Opposition gets the first copy of this information. [*Desk thumping*]

Mr. Speaker, I believe those are the critical issues that are being raised. I may also, just for the record, put on the *Hansard* that this Government has taken action against the wrongdoers in the Clico crisis. You will note that we have established a commission of enquiry that was appointed by the President and that will take its course. In addition, based on the forensic investigation reports that have been forwarded by the Central Bank of Trinidad and Tobago to the DPP, as it relates to the breach of fiduciary duties and fraud that was committed by certain wrongdoers, these reports have now been submitted for the due consideration of the DPP.

The Government has taken a firm position to deal with the financial woes; a firm position to deal with the economy; a firm position to deal with the policyholders in a manner that nowhere else in the world it has happened to them where we have provided between 80 cents to 92 cents of discount; [*Desk thumping*] a very firm position on these matters, and beyond that we have taken a firm position within the rule of law to provide the avenues for justice to be done in this particular matter. [*Desk thumping*]

In one year, Mr. Speaker, we have brought this all together and all the aspects of public policy interest have been brought together within one year, and we have now come to Parliament for the final legislative authority to issue these bonds. This shall be the beginning of the closure. The country can feel a sign of relief. The banking community can feel that they are now in a banking system that has shown a sense of resilience, and today, the threat of meltdown does not exist.

So, Mr. Speaker, this measure before us which is going to be placed to the House for approval is meant essentially to start the closure of this. We are keen on closing this issue of Clico so that we can start the process of development in Trinidad and Tobago on a fresh slate, with a clean approach, and with a new direction. [*Desk thumping*] This has been one of the many inheritances that we have had to deal with in the last year, and on the previous occasion when we spoke about increasing the limits, I spoke about other inheritances, but this has been the big one. This is the one that the entire community has been looking at to see how we can solve it. And I feel confident that we have come to the end of that particular development.

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There is still a lot to be done because the execution will take some time, but it is very clear that this country now can have a sign of relief that the Clico situation is not going to haunt us anymore. The financial sector should feel a great sense of comfort that they are involved in a financial system that is immune to those kinds of developments.

We have to face up to the challenges ahead, and no doubt, what is happening in the world today, in Europe and the United States to which I made reference earlier, will be a new challenge; a new challenge for which we must now anticipate what has to be done, and it is opportune for us to deal with this today, because I am not too sure in one year's time what the situation is likely to be, therefore it is important and urgent for us to close this chapter and begin our new challenges to deal with the new situation ahead of us. [*Desk thumping*] We will never sleep in the interest of the people of Trinidad and Tobago. [*Desk thumping*] Mr. Speaker, I beg to move. [*Desk thumping*]

*Question put.*

*The House divided:* Ayes 28 Noes 9

AYES

Moonilal, Hon. Dr. R.

Warner, Hon. J.

Dookeran, Hon. W.

McLeod, Hon. E.

Sharma, Hon. C.

Alleyne-Toppin, Hon. V.

Gopeesingh, Hon. Dr. T.

Peters, Hon. W.

Rambachan, Hon. Dr. S.

Seepersad-Bachan, Hon. C.

Volney, Hon. Dr. H.

Seemungal, J.

Roberts, Hon. A.

Cadiz, Hon. S.



Baksh, Hon. N.  
Griffith, Hon. Dr. R.  
Ramadharsingh, Hon. Dr. G.  
Ramadhar, Hon. P  
Khan, Hon. Dr. F.  
De Coteau, Hon. C.  
Indarsingh, Hon. R.  
Baker, Hon. Dr. D.  
Samuel, Hon. R.  
Douglas, Hon. Dr. L.  
Roopnarine, Hon. S.  
Ramdial, Hon. R.  
Partap, Hon. C.  
Khan, Mrs. N.

## NOES

McDonald, Miss M.  
Cox, Miss D.  
Hypolite, N.  
Imbert, C.  
Jeffrey, F.  
Browne, Dr. A.  
Thomas, Mrs. J.  
Hospedales, Miss A.  
Gopee-Scoon, Mrs. P.

**Mr. Speaker:** Hon. Members, the results of the division are, 29 Members voting for, 9 Members voting against—let me repeat those results please. The results of the division are as follows: 28 Members voting for, 9 Members voting against—no abstention.

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*Question agreed to.*

*Bill committed to a committee of the whole House.*

*House in Committee.*

*Clause 1 ordered to stand part of the Bill.*

*Clause 2*

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

**Mr. Dookeran:** In clause 2, I will like to make the following amendments:

- A. Insert the following definition in the correct alphabetical sequence:  
“ “CIB” means the CLICO Investment Bank incorporated under the Companies Act.”
- B. In the definition of “Short-Term Investment Products or STIPS”-
  - (i) Delete the word “and” at the end of paragraph (a):
  - (ii) Insert the following new paragraph:  
“(b) Colonial Life Core Fund Series 6, being one of a series of mutual funds known as the Colonial Life Core Fund created by trust deed dated 15<sup>th</sup> March, 2003 and in respect of which CIB was established as Trustee; and”
  - (iii) Renumber the original paragraph (b) as “(c)”

*Question put and agreed to.*

*Clause 2, as amended, ordered to stand part of the Bill.*

**7.30 p.m.**

*Clauses 3 to 8 ordered to stand part of the Bill.*

*Preamble approved.*

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

*House resumed.*

*Bill reported, with amendment, read the third time and passed.*

**CENTRAL BANK (AMDT.) BILL, 2011**

**The Minister of Finance (Hon. Winston Dookeran):** Mr. Speaker, I beg to move:

That a Bill to amend the Central Bank Act, Chap. 79:02, be now read a second time.

In February 2009, the Central Bank Act, Chap. 79:02, was amended to provide for emergency intervention into insurance companies, with the result that Colonial Life Insurance Company (Trinidad) Limited (Clico), British American Insurance Company (Trinidad) Limited (BAT) and the Clico Investment Bank (CIB) were placed under the control of the Central Bank of Trinidad and Tobago, in accordance with the provisions of section 44D.

As is already known, this intervention was necessary as it had become clear that the interest of Clico/BAT depositors, creditors, policyholders and members had become threatened and, most significantly, that the financial system of Trinidad and Tobago had become in danger of disruption and substantial damage. Having intervened in the affairs of these companies, the actions of the Central Bank together with the Government created certain expectations among the various stakeholders and critical policy decisions must now be made as to the restructuring of Clico and BAT.

It is unfortunate, however, that any restructuring solution which the Central Bank may arrive at, consistent with the powers under section 44D, would, in fact, be thwarted by the institutions of legal proceedings against Clico and BAT. Such legal proceedings would have the effect of negating the very powers with which the Central Bank was conferred in the first place.

The People's Partnership Government is therefore constrained to pilot a Bill which would augment the powers of the Central Bank by allowing for the implementation of a stay of proceedings in respect of institutions over which the Central Bank has invoked its emergency powers. By so doing, the Central Bank would be placed in a position to enable it to carry out the mandate with which it has been provided in its enabling legislation. The Bill before this honourable House therefore is one that would give the Central Bank the relevant authority to invoke the responsibility which has already been given to it.

I wish to emphasize at this point that the implementation of an automatic stay of proceedings in the current Bill is only triggered where the emergency powers of the Central Bank, under section 44D of the Central Bank Act, have been

invoked. The proposed stay does not seek to deny citizens their right of access to the judicial process, but merely suspends the operations of those rights for a limited period, in order to provide a sufficient opportunity for the Central Bank and the Government to attempt to save and resuscitate a failing institution that poses a systemic risk and thereby to protect the financial system of the country.

Furthermore, upon further deliberation and analysis, and upon the receipt of advice from Queen's Counsel, this Government is now of the firm view that the introduction of a stay of proceedings should not hinge upon the provision of financial assistance by the Government, but should only be triggered by section 44D being invoked by the Central Bank. The Government is of the view that it is critical to devise a strategy to provide space for an economic solution which would protect the interests of all stakeholders, including policy holders, shareholders, creditors and taxpayers.

After significant consideration, it has become apparent that the introduction of a stay of proceedings is the only mechanism by which creditors can be prevented from enforcing remedies against an ailing financial institution and its assets. A stay is an effective tool to control the insolvency process and allows for equal treatment of creditors. It protects the collection of assets and prevents a multiplicity of proceedings to determine claims, thereby giving that institution the satisfactory breathing space to enable the Central Bank and the Government to find a more enduring solution to the issues involved.

Mr. Speaker, the enhanced recovery by investors in Clico and BAT, which I spoke of in my contribution on the Purchase of Certain Rights and Validation Bill, is a mere piece in the puzzle in a proposed restructuring of systemically important companies and implementation of a comprehensive solution. However, without the amendment to the Central Bank Act, which would allow for a stay of proceedings against Clico and BAT while under the control of the Central Bank under section 44D, any proposed restructuring of CLF and its subsidiaries to facilitate enhanced payouts to the 16,000 depositors, protection of the 260,000 traditional policyholders and mitigation against the significant exposures to the financial sector would be rendered futile.

This is so, as the existing Central Bank legislation does not provide the required tools or special mechanisms to deal with the orderly resolution of distressed and systemically important financial institutions and non-regulated holding companies or of a financial crisis, in the interest of all stakeholders. Thus, resolution strategies introduced by the Central Bank during the period of emergency control can be unravelled or never come to fruition as the institution

remains exposed to proceedings by creditors. Judgments can then be executed against the assets of the institution or creditor driven winding-up proceedings shall commence while the Central Bank is in control of the institution.

In respect of Clico, the execution of judgment against the assets of Clico or a creditor driven winding-up, could thwart any resolution strategy and lead to a disorderly dismantling of Clico and even its parent company, CLF. This could place Clico and BAT's 260,000 traditional long-term insurance policyholders at risk, including thousands of pensioners, employees of state enterprises and other corporate institutions with life and health insurance policies held by Clico. This could also undermine the Government's ability to recover the substantial financial injection that has been made into Clico and BAT.

Furthermore, given the linkages of Clico and CLF in the financial sector, the disorderly dismantling of these entities would have serious effects on the stability of the sector as a whole. Mr. Speaker, the provisions of the stay of proceedings are quite comprehensive and shall apply to actions brought against the regulator, so as to protect the Central Bank and its officers and employees from litigation, while the bank is taking steps to rescue distressed institutions.

It is intended that this stay will continue in force until the cessation of the assumption of control by the Central Bank, that is, when there is no longer a threat to the stability of the financial system. However, in an effort to ensure transparency and accountability, the Central Bank shall be required to file quarterly reports to the High Court on the proposals to restructure the institution, and the progress of the implementation of those proposals over the course of the stay. By the inclusion of such a provision, the Government is demonstrating commitment to preserving the individual rights of citizens, while balancing the need to ensure financial stability.

**7.45 p.m.**

Mr. Speaker, I wish to emphasize at this stage, that the employment of a stay of proceedings in the circumstances where an institution is under the control of a national regulator, is not ground breaking in scope, but is one which has been utilized in many jurisdictions the world over. In New Zealand for instance, when a bank is under statutory management of the Reserved Bank of New Zealand, there is an automatic stay of proceedings; a bar to enforcement of security agreements and a bar to levying distress. Similarly, the Australian Banking Act, 1959, provides for an automatic stay of proceedings when the Australian Prudential Regulation Authority takes control of a bank. The position is much the

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same in Jamaica, where the Minister of Finance may reconstruct a licence, and in that regard apply to the High Court for a stay of proceedings as well as in the United Kingdom and in Singapore.

The Government is simply introducing an amendment that will bring Trinidad and Tobago in line with more established jurisdictions. It is also noteworthy, that the stay of proceedings was included in the Trinidad and Tobago Bankruptcy and Insolvency Act that was passed in this honourable House under the former administration in 2007, but this Act was never proclaimed. However, this Act did not cover financial institutions regulated by the Central Bank or other regulators, hence the need for an amendment of the Central Bank Act that is before you today.

In fact, Mr. Speaker, the truth of the matter is that the automatic stay of proceedings will also form part of the country's legislative landscape, as part of the Insurance Act 84:01 up until February 2009. That is prior to the Insurance (Amdt.) Act of 2009. The Central Bank was possessed of the authority to intervene in the company through the application to the High Court for the appointment of a judicial manager which triggered a stay on all claims and enforcement action. However, this judicial management procedure was replaced by compliance directions and suspension as the process for the appointment of the judicial manager was not suitable where the Central Bank was required to act expeditiously. This was so as the judicial manager could only be appointed after the passage of 30 days during which the company was allowed to make representations.

Mr. Speaker, while the People's Partnership Government concedes that the introduction of a compliance direction has had a positive impact in treating with regulatory concerns, we have said that the previous government did not pay sufficient consideration to the dangers involved in removing the stay of proceedings as a necessary tool in a restructuring exercise, and erred in its failure to ensure that the Central Bank was fully equipped to discharge its obligations under this Act. Accordingly, the Insurance Bill which is to be piloted before this House, before the end of the year, shall include provisions which address the necessity of imposing the stay of proceedings.

Mr. Speaker, I now turn to the provisions of the Bill. Members will note that there is a preamble to the Central Bank (Amdt.) Bill which declares that there are provisions which are inconsistent to sections 4 and 5 of the Constitution, and as such will require the support of at least three-fifths of the Members of this honourable House. Mr. Speaker, this Government has not entered into the

decision to amend the Central Bank Act lightly. The inclusion of provision which will allow individuals to apply to the high court to set aside the stay has been considered as such provision to provide the necessary due process coverage that will obtain, that will obviate the need for a special majority. However, the inclusion of such protective provisions could effectively negate the usefulness of the stay of proceedings provision, as it will inevitably result in a multiplicity of applications before the court in order for the stay to be suspended.

Clause 1 provides for the short title of the Bill. Clause 2 of the Bill amends Section 44C of the Central Bank Act to provide definitions in respect of the terms: “claim”, “creditor”, “secured creditor”, “security agreement” and “security interest”. Clause 3 of the Bill stipulates that the Bill shall have effect even though it is inconsistent with clauses 4 and 5 of the Constitution. Clause 4 of the Bill amends Section 44E of the Act by inserting new subclauses (4), (5), (6). This new clause 44E(5)—[*Interruption*]

#### PROCEDURAL MOTION

**The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):** Mr. Speaker, in accordance with Standing Order 10(11), I beg to move, that the House continue to sit until the conclusion of the business at hand, that is, the debate on the Central Bank (Amdt.) Bill, 2011.

*Question put and agreed to.*

#### CENTRAL BANK (AMDT.) BILL, 2011

**Hon. W. Dookeran:** Thank you, Mr. Speaker. Mr. Speaker, as I was indicating, clause 4 of the Bill amends section 44E of the Act, by inserting new subclauses(4), (5) and (6). The new section 44E(5) (a) provides that where the Central Bank has given notification of the takeover of property in control of an institution, no person shall have any remedy to commence or continue any action against that institution, its successors or transferees of its assets until the Central Bank publishes a notice to lift the stay. Enforcement of judgment whether obtained in Trinidad and Tobago or some other jurisdiction is also barred. The Central Bank is obligated under this provision to publish the notification to lift the stay, where the stability of the financial system is no longer under threat or the bank has taken steps to prepare for the lifting of the stay.

The new subclause 44E(5)(b), provides for a stay of proceedings against the Central Bank, its directors, officers, employees or any person acting on behalf of the bank or appointed by the bank in the same terms as provided for in section

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44E(5)(a). The new section 44E(5) shall provide that any provisions of the security agreement lease or licence between the institution under the Central Bank's control and a creditor, secured or not, which stipulates that on winding up, insolvency proceedings or restructuring, reorganization being commenced to continue or ordered, the institution loses its right to deal with its assets to get reduced rights is of no effect until the Central Bank lifts the stay. The same shall apply to provisions of a security agreement which provides upon default of the security agreement the rights of the security are nullified or reduced.

Mr. Speaker, the effects of the new section 44E(5)(d), are that provision in any contract or agreement which gives a party a right to acquire assets of an institution on the basis that there has been a change in control of that institution, on some grounds of insolvency shall have no effect until the Central Bank has lifted the stay of proceedings. Section 44E(6) clarifies that the reach of the amendment Bill extends the rights, property and assets located in Trinidad and Tobago or in any other jurisdiction and that, that agreement, leases or licence referred to are those governed by the laws of Trinidad and Tobago or any other law.

The new section 44E(7) would impose an obligation of the Central Bank to report quarterly, to the High Court on proposals to restructure the institution under its control and the progress of these proposals. The obligation shall continue until the stay has been lifted by the Central Bank. The new section 44E(8) provides where an institution which has been brought under section 44D control of the Central Bank prior to the coming into effect of the amendment Bill 2001, and that that control has not been terminated under section 44(g), the stay of proceedings, provision shall immediately apply upon the coming into effect of the Central Bank (Amdt.) Bill, 2011.

Mr. Speaker, in conclusion, may I indicate that the amendments that we are seeking to the Central Bank Act will provide it with the regulatory authority to enforce its regulatory responsibility. May I also indicate that that provision is not within our legal framework at this point in time, that it was at one time included in the Insurance Act, but in fact it was omitted when that Act was revised in this Parliament?

May I also indicate that what we are seeking is not something that is extraordinary because it applies to many jurisdictions, which I have mentioned before, that do have that kind of authority. May I also indicate that in arriving at this conclusion we had serious and difficult issues to resolve and we have done so with the advice of legal counsel here and abroad?



We have followed to some extent the tradition in the English Parliament in dealing with these matters, and therefore we feel that we are on the strong basis, not only to protect the rights of the citizens but also to protect the right of the Central Bank to be able to restructure a failing institution in a time of distress and crisis. That is what public policy is all about and we hope that this provision will seek the support of all Members opposite. Although much of my contribution has centred around the need for a stay of proceedings as it relates to Clico, the reality is that there is an urgent need to have a clear and predictable legal framework in place to govern how ailing financial institutions should be reorganized or liquidated in an orderly fashion. In the absence of such legislation, this country may well find itself in a situation which could undermine the stability of the financial system.

In light of recent developments of new financial tremors that are now affecting the global economy, that are now affecting major countries in Europe and in the US and are likely to be contagious beyond those borders, it is important for us to be prepared for any eventuality as we navigate in the years and months ahead our dealings with these new financial tremors. It is therefore appropriate at this time not only to deal with the issues before us but to set in motion the framework that is required to navigate the tremors ahead of us.

Trinidad and Tobago has been able to be resilient in these matters in the past. We have dealt with these matters in the past and we want to be able to be prepared to deal with it in the future. So the Bill before us is not only a reaction to what is the story that we have to deal with today but is in preparation of placing this country's financial system and the financial landscape in such a way that it will withstand—at least have the legal authority to withstand any further tremors that may take place, and in today's world those possibilities do exist. And so, Mr. Speaker, I beg to move.

*Question proposed.*

**8.00 p.m.**

**Dr. Keith Rowley** (*Diego Martin West*): Thank you very much, Mr. Speaker. Mr. Speaker, I want to begin in the context of your admonition, or should I say, advice, by putting on the record that I have had, I do not now have and I have no knowledge of any expectation to be the beneficiary of any of the proceedings of Clico in all its forms, fashion—[*Interruption*]

All right, since the Member for Chaguanas cannot hear me, let me raise my decibel. Mr. Speaker, I have not had, I do not now have and I have no expectation

known to me at this time to be the beneficiary of any of the proceedings of the business of the house of Clico, its associates, its friends and its beneficiaries. I put that for the record, unreservedly.

I am sure that I would enlighten no one if I go into the details of the numbers, because I am not sure who knows the numbers, but I simply want to make a new observation on this matter that we are dealing with today, and I want to make it not in the context of a depositor or as a Member of this House but in the context of Trinidad and Tobago as an environment and the Minister of Finance as an officer of that environment, an officer of the State.

I was a little surprised when I heard the Minister of Finance today, in presenting a Motion to authorize the Office of Minister of Finance to make certain payments in the context of the Clico responsibilities, speak about the people who are likely to benefit from any improved condition as greedy. I could not understand, for the life of me, how the Minister of Finance, a person well known to me and well known to the national community, could refer to the people who thought that they were saving in this country—something went wrong. A lot of things went wrong, and if they now lay claim to their savings, why are they being regarded as greedy?

I raise that in the context that for many years the Minister of Finance spoke to us about the economy of Trinidad and Tobago, and in those years we did not have a Clico problem as we have now, but what we had was high consumption and a low savings rate, and I seem to recall on many, many occasions, the current Minister of Finance was the spokesperson to us in this country, and I dare say, I took some of his advice. He always said that the level of savings in this country is too low. That was one of the problems we had in trying to develop this country. In those days we were relying very heavily on external borrowings and we were quite constrained in our capital programme, and the Minister of Finance, in an earlier incarnation as an intellectual and an economist and an officer of the State here and there, I remember when he was in his early days in the Parliament, that was his advocacy, that the level of savings in this country is too low, and what is required to accelerate economic growth, literally pulling ourselves up by our bootstraps, was to increase our level of savings.

Over the years wealth grew in this country, and many persons were fortunate to see their personal wealth or their business wealth grow, and those persons, many of them could have taken their money out of the country, and that was one of the things that the Minister of Finance in the early days said was a bad thing, and the thing to do was to increase our savings here in Trinidad and Tobago. I do

not know who has the money, but I saw a document, a discussion draft on the Clico issue, done by people organized by the State to look at this problem when it eventually reared its head, and this is a scenario we are looking at.

It appears as though—I should not say “appears”; these are the numbers—persons with up to \$50,000 in that company, 8,079; from \$51,000 to \$100,000, 3,899; \$101,000 to \$500,000, 9,441; \$501,000 to \$1 million, 2,075. So persons with the ability to save up to \$1 million per person, 23,494; \$1 million to \$5 million, 3,633; \$5 million to \$10 million, 286; \$10 million to \$20 million, 121; \$20 million to \$100 million, about 57 for another 4,097 persons. In total, 27,591 persons put their savings in Trinidad and Tobago in one of our premier business houses.

I think many of those persons would have been influenced by the advice of the Minister of Finance prior to doing this, because he told them it was a good thing to save, and that is why today I was so surprised to see that he is now being called upon to deal with a problem of the nature that is in front of us, one that has its genesis maybe far away and long ago, but his reaction to the efforts of these people, and in response to their claim on the business house, is that they are greedy.

I think that argument runs counter to everything that we know in this country. Trinidad and Tobago does not live or exist in a vacuum. We have an environment called Trinidad and Tobago; we have conducted our business in a certain way in Trinidad and Tobago. That is what makes us Trinidad and Tobago and not Timbuktu or Iran, Iraq or London; we are Trinidad and Tobago, and we conducted our business in a certain way.

Clico’s difficulty that we are treating with now is not unique and it is not a surprise to any of us in Trinidad and Tobago. I recall a few years ago we had a fairly robust stock exchange, and many of us, including myself, decided to do some savings by investing in the stock exchange. I got up one day and heard that a directive has come from the Central Bank that investing agencies must, within a very short timeframe, divest themselves of all the investments they made in the stock exchange above the limit that was allowed by the regulations, the reason being, that the laxity of our business and national supervisory environment was that pension funds, business houses, who were restrained by regulations to limit their investments, limit their exposure to a particular level, had, with the full knowledge and, I would say, consent by inaction of the authorities, because the stock market was a good place to invest, disregarded the limits and invested very heavily in the stock exchange. And what happened?

The reason why that instruction was there not to go above that limit was to protect the owners of the pension fund and to protect the investment. They got an instruction: “Divest yourself of that within a certain timeframe”, which was short. The number of buyers was restricted. And the next thing we know, there was a sell-off on the stock exchange, and it has not recovered since.

Since that happened in this country the stock exchange has not recovered, and this has nothing to do with the international global financial crisis of 2009; it had to do with actions that were local, confidence that was damaged here, and trust that was surprisingly not there. There were those who thought that this could not happen because the regulatory agencies should have been in place to make sure that the original purchases were not done, not held on to, to come to a point where an instruction puts the Exchange in a tailspin. That is Trinidad and Tobago.

So what happened at Clico where we are trying to find out how could this have happened under regulatory arrangements does not surprise me. What surprised me, though, is the extent to which this Government has gone to spin a path of least resistance, to pretend not to know what the problem was and to offer an alternative on the backs of blaming others. I do not think that would sell, because I would say elections serve three purposes.

One is to adjudicate on the incumbents. The incumbents are forced to come before the electorate on a particular day and say, “I am doing a good job. You see what I have been doing; you know what I have been doing, please allow me to continue.” That is one aspect of elections.

The other one; a person who is outside of authority saying to the electorate: “They are not doing a good job; they do not know what they are doing; we can do better for you. Put us into office.” Then the election also allows you to ventilate current issues or impending issues and put a position to the electorate so they can choose managers.

I am putting it to you tonight that when this current Government was outside of office, they had a good idea of the Clico problem. Many of them were in the Opposition when the matter came to the Parliament for the bailout. I was here, as a Member of the Government, and I seem to recall as a Backbencher in the Government of the day that I asked harder questions than Opposition Members at that time. I do not recall any objection to the idea of bailing out Clico, or the nature of the bailout that was being entered into, because we got up one morning and discovered that a huge chunk of our GDP was in danger of imploding, and the Government of the day had to act, and I am sure that the Opposition did not vote against it.

But, of course, you go into an election campaign and nobody is told by the Opposition that what is in place is unacceptable, and it would be replaced by a policy which is quite, quite different, because Clico did not belong to the State; Clico belonged to the shareholders and its assets belonged to the investors in that company and the contracts the company entered into with persons who put money in there.

What happened at the time of the bailout was that the Government intervened, took responsibility to keep Clico as a going concern to protect what the Government perceived to be a systemic risk in Trinidad and Tobago. What is happening here now is that the new Government is distancing itself from a commitment made by a previous government, and the question is: what is new? This is Clico. It is a billion-dollar thing, but it is no different from the people who got their jobs on contract under the previous government when this Government says, "You must lose your work".

It is no different from the contract for the OPVs that this Government says: "The previous government did it, so we are going to cancel that contract." It is no different from the aluminum smelter where this Government says, "The previous government had that idea; it is a bad idea, we are going to cancel that." It is not different from this Government being in office for 15 months and invoking a state of emergency to fight crime, and saying, "We are going to do it now; the previous government did not do it", not that, "We have decided to do it now", but, "because the previous government did not do it". This is the approach to governance of the people in government in Trinidad and Tobago today. [*Desk thumping*] There is absolutely nothing that is different with the Clico matter than with your other examples.

My colleague, the Member for Diego Martin North/East, had read out some legal clauses this evening to prove that when the previous government intervened to bail out Clico, that the Government of Trinidad and Tobago at the time made no attempt to try to change the nature of the contracts; the nature of the existence of contracts. This Government set about—in fact, one Minister of Government. Well, he was not a Minister; he was pretending to be a Minister.

One Government spokesperson heard the term "Ponzi scheme" used with the Madoff problem in America, and he decided to label the Clico situation, a situation of investors investing in a business house with the clear understanding that the approvals of the approving authority were in place, a Ponzi scheme. And those who knew of the approvals sat there silently and watched a Government spokesman describe what the Central Bank approved as insurance policies under

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the Insurance Act; sat there and watched a colleague tell the country it is a Ponzi scheme and they went after high risk and, therefore, they must lose because high interest equals high risk.

I have not heard one Government spokesperson, not one, not even the Minister of Finance, say, “No, no. It was an investment in a climate which has gone bad, because of reasons best known to those who know.” Because we do not know over here, and I will tell you why.

**8.15 p.m.**

I will tell you why. The Government talks confidently now about solving this problem, but I want to draw your attention, Mr. Speaker, to the fact that this Government never knows what it is doing. This Government has no plan on any significant matter in this country. [*Desk thumping*] You only have to look at how they are making a mess of their recent escapade of a state of emergency to understand that that is visible to you. You could stay home and look at the TV, listen to the news—[*Interruption*]

**Mr. Roberts:** [*Inaudible*]

**Dr. K. Rowley:** Mr. Speaker, I sat here quietly and I did not interrupt anybody on the Government side. I am speaking to you, Mr. Speaker. I am not talking to any of them. I am talking to you, Mr. Speaker, and I would like to speak uninterrupted.

**Mr. Speaker:** You have my full protection.

**Dr. K. Rowley:** Thank you, Sir. Not one of them could say that they did not know. I can say now, without fear of contradiction, that nobody on the Government side promised that they would review this Clico situation and do what they have been doing, which is, fixing the country’s problem. It appears as though this Government without any previously thought out or analyzed plan has taken the position that any time it has to do anything about the country’s business, it has to be done in an environment where the rights that they met on May 24 last year have to be tampered with and have to be removed so that they could fix the problem with the country. [*Desk thumping*]

I cannot recall this Government in the last election campaign telling anybody that they will have to suspend rights, amend any Constitution and amend the Central Bank Act to fix the loan problems. Basically what they said, Mr. Speaker, is that the current Government is stupid, the current Government is incompetent, the present Government is wicked and, as a result of that, people thought that they

were going to get a new crop of managers with ideas to improve on our situation. Little did they know that for the Government to do anything of any consequence in this country, the Government's understanding of governance is that we cannot function with the existing rights and privileges, and they have to move those to give us room to act. That is what is happening with the Clico thing.

You cannot fight street crime with the current constitutional arrangement in place. You cannot do that. We need a state of emergency to pick up people in the road, to jail them for 21 days so that my little taxes that I am paying to buy medicine, to buy chalk for the school and to pay teachers have to possibly pay criminals for improper incarceration. Of course, notwithstanding the fact that the Minister of Finance at the time said last year September that he had the solution to the Clico problem, we have seen a year past and we are here now with the solution.

In the intervening period he has spoken about stabilizing the economy; he has spoken about blue skies; he has taken credit for fixing the Clico problem, not once, not twice, but repeatedly. All of the PR, because the Clico problem is still in front of us and what is going to happen here tonight is not going to fix it. It is not going to fix it because you see, Mr. Speaker, notwithstanding the outcome of the last election, notwithstanding the new management style and the new managers, we still operate under the rule of law and our final Court of Appeal is across the Atlantic Ocean in London.

Now that the Government has done all that it has done and finally come to Parliament to pass a law to do what this law says is going to do, notwithstanding the best expectation and wishes of the Minister of Finance, I will be surprised indeed if somebody does not go the full length of the legal corridor and eventually get one of our adjudicators to adjudicate in a way that says, "What the Government is doing here is improper in a society that has a reasonable respect for the law." So I wish the Minister of Finance well. If he thinks that by using the 29 votes here to pass this that it is insulated from challenge, he has another thought coming. [*Desk thumping*] You see, Mr. Speaker, there is a history to the matter, and anybody looking at the matter will not look at it from tonight.

Mr. Speaker, anybody looking at this matter will see that the Government of Trinidad and Tobago is a continuum. Previous Government, this Government and the next Government, is the Government of Trinidad and Tobago. They will see that the laws were in place when the investments were made. Whatever you think of the management, whatever you think of the manager at Clico, the laws were in place and people had an expectation to be protected by regulations, and regulators

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were in place. That is the beginning. They would have seen the state of Trinidad and Tobago take responsibility under the Central Bank Act to intervene and gave a series of assurances which I can quote for you. Let me give you a couple just to make sure that you are following me. This was published on our Central Bank of Trinidad and Tobago website and it says:

“As Regulator of the Financial Sector, we wish to assure the public that:

The Government of Trinidad and Tobago has committed to meet obligations of Trinidad and Tobago third party policyholders of Colonial Life Insurance Company (Trinidad) Ltd. (CLICO) consistent with the Memorandum of Understanding between the Government...and CL Financial.

Having assumed control of Clico under Section 44D of the Central Bank Act, the Central Bank is providing support to restore stability and the sound and efficient management of CLICO.

In summary, we”—meaning the Central Bank—“are committed to a transformed and vibrant CLICO in which existing and future policyholder funds are safe.”

Another statement again published by the relevant authorities:

“In accordance with the Memorandum of Understanding the Cabinet has approved a first tranche...”

It goes on to say:

“These steps would convince policyholders”—and my colleague, the Member for Diego Martin North/East, this afternoon demonstrated that the people who we are talking about are policyholders, not Ponzi scheme players like the Government had us believe—“that Clico has the full backing and commitment of the Government and the Central Bank of Trinidad and Tobago.”

Unconditional guarantee. It says:

“Policyholders should also feel confident...”

In case policyholders did not know how to feel, the Central Bank and the Government told them how to feel. It says:

“Policyholders should also feel confident that their funds are protected and this should encourage the maximum roll-over of policyholder funds. At



worst, to facilitate an orderly recovery of Clico we would request that policyholders do not seek withdrawals before their maturity dates.”

**Miss McDonald:** Ooooh!

**Dr. K. Rowley:** Mr. Speaker, that is the commitment given by the Government of Trinidad and Tobago, speaking through the Central Bank, and through the mouth of the Government of Trinidad and Tobago, to the people of Trinidad and Tobago—an unconditional guarantee. Whether they like it or not, the bottom line is, this was the Government’s position to the people involved. If they are coming up with a different plan, that is okay. You have the authority so to do, but in advancing the plan they must not pretend as though these antecedents did not exist.

So it is one thing to try and disown the paternity of the policies that are involved—that they are not policies. They are Ponzi scheme items—it is another thing to disregard the contract between the company and the people, it is another thing to disregard the Government’s commitment at the time of the crisis initiation, and it went on in many ways. In many ways it went on to comfort the people who made their investments in that arrangement.

So, where are we? “Savings turn to greed”, but even as we are doing this against a background of a Government that in its short life has made a career of not honouring contracts, this not honouring contracts in this problematic area of Clico is but another example. I heard the Prime Minister say twice—the first time she spoke she said, “Contracts are sacrosanct in Trinidad and Tobago”—*[Interruption]*

**Miss McDonald:** “That is right.”

**Dr. K. Rowley:**—and I wondered who wrote that for the Prime Minister of Trinidad and Tobago to read. It could not have come of her own volition. Some speech-writer wrote that. Contracts are sacrosanct. Sacrosanct contracts, except the ones that we know about that they cancelled left, right and centre. Whether you are a UTT teacher, whether you are a student at UTT with an expectation to be there with a course that is in place, whether you are a contractor building ships, whether you are a CEPEP contractor, whatever you are, one thing this Government has made quite clear is that contracts mean nothing to them. *[Interruption]*

**Miss McDonald:** That is right. They dismantled it.

**Dr. K. Rowley:** So when the Prime Minister says contracts are sacrosanct and the Government has behaved the way it has been behaving and is behaving on this

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Clico matter, nobody will believe them, except that they will say the Prime Minister spoke again and they would have listened, and she says that Trinidad and Tobago is perfect for investment where contracts local and foreign, contracts large and small, contracts corporate and personal have been shredded by this Government at their whims and fancy. What is perfect about an environment like that?

This is a Government that had no problem in cancelling a contract between Trinidad and Tobago and China. This is a Government that is saying that “We are not going to honour contracts in a company that we have taken over because the people with bigger accounts in there are greedy, totally disregarding the laws which make no distinction between big deposit and small deposit.” All I am saying, these are the facts.

There was a time when we set out to diversify this economy in a way that they did not approve of. We acknowledged that we had hydrocarbons in the form of oil and gas, we have some manufacturing, we have some tourism and we still thought that a quantum leap could have been made in further diversification by getting involved in financial services in Port of Spain.

After 9/11, where the New York Wall Street “douens” looked a little shaky in the eyes of some and they were looking for other places in the world to put some of their assets, we thought that Trinidad and Tobago could have cashed in on a model where we already had become a major funding centre for Caribbean development programmes, where our banks came out of the environment of the global recession quite strong and unscathed, and we thought that we could build on that by making Trinidad and Tobago the financial centre of the region.

### **8.30 p.m.**

Of course, since this Government came into office, I have not heard one person subscribe to that, so I take it to mean that that idea is as dead as a dodo. But even if it had a bit of life; even if it was breathing in the shallow way, this arrangement engaged in this Bill, the statement of the Minister of Finance and his colleagues, the behaviour of the Prime Minister and her Cabinet will ensure that Trinidad and Tobago has no chance of becoming any financial centre because nobody will trust us in this country; would not trust us.

Let me read to you what the law says; let me tell you the law that they are trying to pass tonight; the law that they will pass in the saddle of blaming the PNM. This is not a PNM issue this is a Trinidad and Tobago issue. But I will tell

you what—Mr. Speaker, I crave your indulgence to read—*[Interruption]* Mr. Speaker, I would like to be undisturbed by the Member for D’Abadie/O’Meara. *[Interruption]*

**Mr. Speaker:** Please, please.

**Dr. K. Rowley:** Mr. Speaker, I crave your indulgence to read clause 4 of the Bill in front of us an Act to amend the Central Bank Act, Chap. 79:02, subsection (b)(5), and it says:

“On and after the publication of a notification under subsection (1)—

- (a) no creditor, shareholder, depositor, policyholder or any other person shall have any remedy against the institution in respect of any claim, and without prejudice to the generality of the foregoing, no creditor, shareholder, depositor, policyholder or any other person shall commence or continue any action, execution or other proceedings or seek to enforce in any way whatsoever without limitation in Trinidad and Tobago, any judgment or order obtained in Trinidad and Tobago or other jurisdiction, against the institution or its successor or the transferee of the whole or any part of any property, assets or undertaking of the institution for the recovery of any claim or in respect of any other liability...”

Mr. Speaker, it is as broad as it is deep. In other words, what that means, Mr. Speaker, is the protection of property rights that existed when depositors went in to put their savings in this company under the protection of the state agencies, the State is now saying, “You made a mistake—big mistake—you are out the road; you are up the creek without a paddle.”

The State, using the 29 votes of the Government Members will strip away from you that bastion of our freedom. The right to go before the court to complain that “I am aggrieved”, notwithstanding any complexion that they want to put on it or any fear mongering they want to add to it—truth or otherwise—that right to go before the court to complain that “I have been wronged”, the Government is saying, “We will use our majority in the Parliament and slam the doors of the court in your face.” Mr. Speaker, they are asking us to support that.

And he said that that will go on until the bank publishes a notification to lift the stay. Any idea of the timeframe of that? One year? Three years? Five years? You would think that if a government devises a policy and a programme like this, knowing how draconian it is, against people who started out with rights and who

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are losing their rights along the way, the Government would have been in a position to have some model of how things could change over a period of time, and give some kind of idea as to when the Central Bank might consider lifting this; but no. *Ad infinitum!* No idea, maybe for the rest of your life—that is what the Government is asking us to vote for.

I want to quote, Mr. Speaker—they say it must go on until the circumstances no longer pose a threat, but given what this Minister of Finance had said to us, given what he had said to us about the economy, and what the reality is—where he fixed Clico last year—he is supposed to be better off this year, but we are going down this road, and of course—I do not want to restart another debate, but I simply want to say that here it is the Government takes upon itself the right to do this for life; for life! There is no limit to it; no limit!

Mr. Speaker, I want to read clause 4(b)(5)(b) and it says:

“No creditor, shareholder, depositor, policyholder, or any other person shall commence or continue any claim, action, execution or other proceedings or seek to enforce in any way whatsoever...”

What that means is, if you went to court already and the court ruled in your favor, this Government is passing retroactive legislation saying that it will prevent you from enforcing that. Mr. Speaker, what the Government is doing is trampling on our expectation of protection under the separation of powers. Let us admit that. Because the Executive has come up with a plan to solve this financial problem, but to solve it, it must stymie the Judiciary. Mr. Speaker, I do not know that the Privy Council will accept this but we could find out, and we will find out.

It goes on to say:

“...any judgment or order obtained in Trinidad and Tobago or any other jurisdiction, against the Bank, its directors, officers, employees or any person acting on behalf of the Bank or appointed by the Bank in respect of any act...”

So they are not only blocking savers from attempting to get the court to rule about their savings, but if in the proceedings somewhere, any individual, any director, any officer has questions to answer, we passed a blanket indemnification here and say, “No Sir”.

So here it is, I could lose my—and by “my” there, I mean I am thinking about somebody who has money there; I have no money there; I have no interest there—but here is a person saying, “Okay, the Government has used its authority

in the Parliament to prevent me from protecting myself or complaining to the court; the proceedings that they are offering are unsatisfactory but there is somebody or some director or something happened where this should not have happened, I cannot even think about holding anybody accountable because the Government has made it such that all persons involved”—and I am sure in some of the documents that I have read here I have seen questions or phrases or statements about responsibility not properly discharged. I am sure I have seen that in some of these documents—two volumes less for me to quote from tonight.

So, if that is so, why then is the Government so careful to enact into law that all persons involved in this matter—I presume on the State side or even on the private sector acting for the bank—to protect it? This is the same Government that is currently engaged in hiring English QCs to go after ministers of Government of a previous Government holding them personally liable for public expenditure from which they have not personally benefited.

This Government has issued, to the best of our knowledge, at least two or three broad-brush pre-action protocol letters against directors at eTeck; against a Minister of Works; against Prof. Copeland I think it was; former Minister Regrello had his name slandered—pre-action protocol letter. I have seen a pre-action protocol where the Government has, in fact, hired Queen’s Counsels who tells them that I should be charged for moneys missing in HDC—subject of two previous Commissions of Enquiry—not one, two Commissions of Enquiry on that matter. But this Government is paying for and is receiving advice to go after Cleaver Heights money when the Commission of Enquiry said, in no uncertain terms—

**Dr. Moonilal:** I just want to clarify. Member, you are saying that this Government and recently since May 2010, this Government—some letter that you have seen, a legal letter to take action against you?

**Dr. K. Rowley:** If you do not know what is going on in your Government, ask me and I will tell you. [*Laughter*]

**Dr. Moonilal:** Well, I am asking you.

**Dr. K. Rowley:** I have said it in simple English. The Attorney General has engaged English QC to go over the Cleaver Heights nonsense, and to issue pre-action protocol letters to the directors, management, and, by extension, to investigate the Minister; that is your Attorney General—spending taxpayers’ money on that. And while the Government is doing that, they are enacting into law a blanket protection for director, officer, employee, any person acting on

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behalf of the bank under any Act, and, of course, the Minister of Housing does not know what the Attorney General is doing in his Ministry. How then, Mr. Speaker, can we take this Government seriously? How then?

**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. McDonald*]

*Question put and agreed to.*

**Dr. K. Rowley:** Thank you very much, Mr. Speaker. So that is at the governmental level. At the level of the Minister of Finance himself, I have great difficulty accepting anything the Minister of Finance says because it could be the subject of a mistake, misinformation, or I dare say, just general incompetency.

Mr. Speaker, in dealing with this Clico matter and looking at the situation of what exactly are we dealing with, I was heartened when I heard the Minister of Finance of Trinidad and Tobago—the man whose hand is on the wheel; I dare say, the tiller of this matter—said that the statutory fund with respect to Clico had been restored.

**8.45 p.m.**

When I heard that I said: “Well, one big piece of puzzle is now in place and it would make it easier for the other pieces to be put in place over time, to create the picture of stability and confidence and comfort that you are looking for.” And I took the Minister of Finance at his word—knowing that the Government had indicated publicly before that it intends to make certain injections—especially against the background where many spokespersons, many times, are on record as saying that \$7 billion of taxpayers' money had gone into Clico, not once, not twice. The Prime Minister herself has been saying that over and over.

I am not sure I heard the Minister of Finance say that, but I heard other Government Ministers say it; that the amount of public moneys that went to Clico was \$7 billion. When I put this \$7 billion against the Minister of Finance's statement of the restoration of the statutory fund, I automatically assumed that \$2 billion had gone into that fund and had made the fund whole, based on some numbers that were passing around before. You would have heard the numbers from my colleague earlier on. If \$2 billion were put in by Government, it may have brought the situation to reality.

I checked, only to find out that once again the Minister of Finance of Trinidad and Tobago, on a serious matter, has completely misled the population. I am advised that contrary to what the Minister of Finance has said, that the statutory fund has been made whole and, therefore, covers the exposure, the liabilities to savers in that company that that statement is totally erroneous coming from the Minister of Finance of Trinidad and Tobago, that the fund has not in fact been restored.

That falls in the same ballpark as the said Minister of Finance, seeking to score political points against his predecessor, telling this country early in his tenure that the PNM government had not made any deposits into the Heritage and Stabilization Fund for the year he came into office; that all the money that came during the fiscal year 2009/2010 that no money was paid into the Heritage and Stabilisation Fund.

It took a few days of contradiction to get the Minister of Finance of Trinidad and Tobago to admit that he was wrong and to admit that he had misled the population on a very simple, straightforward matter, because had he asked the Permanent Secretary what is the situation with that fund and its recent deposit, no Permanent Secretary in the Ministry of Finance would have told the Minister of Finance that no deposits were made into the fund. It turns out hundreds of millions of dollars were in fact deposited into that savings fund. I think the figure was \$800 million or something like that.

Some huge amount of money was deposited into the fund and the Minister of Finance, who can get the correct information by just talking to the Permanent Secretary in the corridor, far less giving her an assignment to look for it, told the country, most irresponsibly, that no deposit was made—seeking to create the aura, the caricature of the previous government wantonly wasting the money and putting none into the savings fund, the Heritage and Stabilization Fund. Here we have two foot-in-mouth statements, this one about Clico's statutory fund being fully satisfied.

I would like the Minister, when he winds up tonight, to address this issue. I want to hear from him in the Parliament what is the position with respect to the fund that he has spoken of as being satisfied/restored, because the statements from the Minister of Finance have serious consequences for persons who do financial business in Trinidad and Tobago.

Mr. Speaker, the Minister of Finance tells us that other things happened elsewhere and he started earlier in the evening talking about Barack Obama and

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what he did. The Obama environment, in dealing with American problems, cannot be used as the yardstick for decision making here in Trinidad and Tobago, if only for one reason and the reason is this: I know more about Lehman Brothers and the American banks and their stress test results than I know about Clico. That is a fact.

I would demonstrate to you, Mr. Speaker, because a few months ago—I cannot remember the exact date but the record is there—this particular Bill—I have not been able to find any difference between the Bill before us and the one that was laid in Parliament a few months ago. I looked to see if I could find any difference. There might be a difference, but if it is there it is so microscopic as to be unobservable.

I remember I was in the office a few months ago, I think it was a Thursday or a Wednesday afternoon—it must have been a Thursday afternoon; it was approaching the weekend—and it came to my attention that the Government, after a lot of chatter and responding to the people who were talking about Clico’s private investment interest—delivered to the Parliament, a Bill with the intention of doing exactly what this Bill is meant to do, which was to amend the Central Bank Act, to prevent people from taking the Clico issue to court.

That document was laid here in the Parliament. When I heard about it, I contacted the Parliament and it was confirmed. It must have been a Thursday, because within a matter of 24 hours, there was a statement from the Government. I think it was the Prime Minister herself who rejected the principle that is now being enacted into law tonight. The Bill was never laid in the House, but it was prepared and sent to the Parliament.

I have to say, when I was in the Cabinet, there was a certain pathway by which documentation came to the Parliament. I do not know if it has changed. I would not be surprised if it has changed since. When I was in the Cabinet, a Minister, on his or her own volition or under the guidance of Cabinet on any issue, would have prepared a Cabinet Note that would have come to the Cabinet and be shared with all Members of Cabinet, and every Member of Cabinet will have the opportunity to read the note, to question the Minister at Cabinet and to take a position on it.

Sometimes, on matters of this nature, it may be sent to—in fact, in the PNM’s situation all matters like this would go to the Legislative Review Committee—a committee of the Cabinet that reviewed legislation—and will come back to Cabinet, after the review, dotting the “i”s, crossing the “t”s, or working out



intractable sections of the Bill. Only then would the Bill be accepted by Cabinet as government policy and then a decision is taken by Cabinet to send that document to the Parliament, and Parliament receives it as a document coming from the Cabinet of Trinidad and Tobago.

When that Bill came to the Parliament, I presumed it walked the same road, but immediately there was a howl in the country. I recall, as Opposition Leader, issuing a statement then saying there is no way that we are going to support any such legislation. And by Saturday evening Government spokespersons were disowning the Bill, and the Bill never saw the light of day, because somehow Cabinet Ministers, including the Prime Minister, pretended not to know how this Bill got to the Parliament and the public domain, but disowned what it meant to do. I am advising you and the national population, do not trust this Government. They do not speak the truth.

A few months after, notwithstanding the Minister of Finance's praising of himself that he sticks the Clico issue and that blue skies were above us and that he stabilized the country's economy, the Opposition was asked to support, basically, the same measures which the Government itself had abandoned in 48 hours a few months before. I was at pains to ask the Minister of Finance: "Is it the same Bill? Are you sure it is the same thing?" He told me on every question: "Yes, it is the same Bill." I am asking him: are you sure it is the same Bill? He said: "Yes." I said to him: "Well, listen, as much as I would like to trust you, a lot of time has passed between then and now. Send me a copy of the one that you have today, just in case any changes were made between then and now."

The one I have in my hand, I can find no difference, so I think he was right when he said to me that it was the same Bill. All I would ask tonight is: how come, when this solution was first advanced out of the Cabinet into the Parliament then and was abandoned then before it saw the light of day in the House, how come it was disowned then, but tonight it is being advanced to us as the only option and solution available to the Government of Trinidad and Tobago. How come? What happened between then and now, except that, according to the Minister of Finance our circumstances should have improved and, as far as we know, some of the asset bases of the company would have improved?

We were asked to support this measure a few months ago. We are not "buying cat in bag". The Government knows that we are in fact cooperative on matters of national importance. We voted for the budget. We voted for the Interception of Communications Bill. We worked in committee on the Anti-gang Act and the Bail (Amdt.) Bill and we have provided our support to the Government of

Trinidad and Tobago on matters in the public interest. But, when we were asked to support this, even before we could even contemplate it, we asked the Government to share with us the information that the Government has on Clico.

Would you believe that it turns out that the Government wanted us to support this blindly, because once we ask for the information that you have—you are making a decision, you are saying this is the way to go, you have all the information and you came to us for support and all we said to you, with our record of supporting public interest issues in this Parliament, we asked the Government to share with us the information on Clico. The Government promised to do it and did not do it. The next thing we know, a few days ago we got an invitation to receive some presentation from public servants on this matter.

The record of the Government's vacillation on this matter, the record of the Government's position, the record of the Government's chameleon policies on this matter tells us in no uncertain terms that we are not to be advised by public servants, we are to be advised by the Government, by the Cabinet of Trinidad and Tobago on the Parliament floor. That is why we are saying to the Government, anything you have to tell us, tell us on the Parliament floor.

Because it was in Joint Select Committee that we sat with the Government and put our best foot forward in the common goal in fighting crime, creating new criminal offences, 25 new offences, and coming to the Parliament with the Government and saying that this is our response to the criminals out there.

**9.00 p.m.**

What does the Government do? Come to the Parliament, ignore the legislation, do its own thing, create mayhem, make a fool of the police, and now the whole country is trying to figure out just exactly what is going on in Trinidad and Tobago; and try to label us [*Desk thumping*] as being supporters of criminals, we who worked in Committee with them, we who established unanimous vote in this Parliament for a piece of legislation which we never understood; and this Government never understood, that somehow in an environment of the rule of law, this Government has gotten the police to go out there and think that they could pick up persons, charge persons without evidence, as if the courts did not exist, as if the third arm of the State does not exist.

We are the Parliament, Mr. Speaker, arm number one; legislators. We work legislatively with the Government. The record will show that the legislators in this Parliament fought and put in place certain mechanisms. The Executive chose to do its own thing executively, tried to demonize its colleagues in the legislature and then behaved as though there is no judiciary.

I take comfort, Mr. Speaker, in the fact that the Government has not been able to undermine the arms of the State; and executive power has a limit and this Government will understand that; this Government will understand that executive power has a limit, then and now. Even with this matter that they are going to somehow pass tonight, something which they rejected themselves—they rejected this themselves! When it first came to the Parliament, it lasted 48 hours before they disowned it, and when they pass it into law tonight, without our support, they will discover that there is a limit to executive authority in Trinidad and Tobago. [*Desk thumping*]

Mr. Speaker—[*Interruption*—well, if they would not use their majority let us go home. Mr. Speaker, this Government is a coalition Government, and part of the coalition is the COP, which up until recently was led by the Minister of Finance. There is a new leader now and I presume that it is the same party, and the same principles. I saw that Member for Tunapuna in the newspapers recently. He was reported as saying that the COP must stay with its original tenets, so notwithstanding the fact that there is a new leader, he was saying, “We would stay with our original tenets.”

One of the things I remember being advocated very strongly, and which got favor in my constituency in particular, was the COP’s advancement of this whole policy of consultative governance. They promised that they would consult on everything, and they had this programme of circles within circles, and wheels within wheels, and that the Government will do nothing that was not the outcome of widespread consultation, and it sounded so good that “a lot of my constituents leave me and gone and vote for them.”

Mr. Speaker, as I told you earlier on, I have no interest in this matter, but I speak for my constituents, I represent a lot of persons from the \$40,000 persons; to the umpteenth of million dollar persons and what the country is doing is important to all my constituents. So as far as I am concerned, I am simply doing the job for which I am being paid.

Mr. Speaker, given the nature of this problem and given the fact that we are in the environment and the era of new politics, I have not seen the consultative process which would have put before the interested parties the owners of the assets in particular. I have not seen a process of civil coming together for discussion where persons could have had the kind of involvement and the options could have been made public, and then the choice of an option could have been reviewed in full public glare.

Because I want to make the point again, Mr. Speaker, that contrary to what the Government says, governance is always about choosing options. Granted they did not like the PNM options, they can describe it in the worst possible way, put the worst complexion on it, but now they are exercising another option. And all I am saying to you is that there were always options in this matter, not one, not two, not three, not four, a number of options were available to the Government and each option might have a different outcome. What the Government is doing is identifying an outcome and saying, “This is the outcome we want and, therefore, this is the option that gives us that outcome. That is what it is. But, of course, they would not stand by that and say, “This is how we take responsibility for what we are going to do. It must be broadcasted that this is as a result of what the previous government did.

**Dr. Moonilal:** Thank you very much, Member for Diego Martin West. I just wanted to clarify a matter, particularly before you were finished, in the event that you needed to respond. I had taken note earlier of a statement which you made to the effect that the Housing Development Corporation and the current Attorney General had in some way began or continued some investigation into Cleaver Heights and the role of the Member for Diego Martin West, a former Minister of Housing.

Since you have made that statement I have been in touch with the current Attorney General and the Housing Development Corporation; and I am informed that no such investigation had begun, or continued. I want to remind the Member it was—I came to this House a few months ago and indicated to the Member that it was the former Minister of Housing, under the PNM administration, Sen. Emily Dick-Forde something, who was the Minister of Housing at the time when the Ministry of Housing paid \$5 million to Bob Lindquist and others to pursue an investigation involving yourself as the subject of that investigation.

So that, you may be mixing up the current administration with Sen. Emily who was the Minister of Housing before in the administration of which you were a member. I am sure you are not suggesting that we continue or reopen that investigation. That is the information I have. So that I would appreciate very much if you have any other evidence to the contrary that you may share that.

**Dr. K. Rowley:** Mr. Speaker, I simply advise the Minister of Housing and the Environment, the Member for Oropouche East, if you do not know what the Attorney General is, do not take his word. I will tell you something else too, I might even lend you a copy. There is a document on cabinet government which I

read very early in my experience, and one of the things that that book pointed out—I am not sure I still have it, I might have lent somebody and I do not think I have it. I would lend it to you if I have it.

It says that members of Cabinet are required to be open and truthful with their colleagues. If it is that you have just communicated with your colleague, the Attorney General, and he has told you what you have just put on *Hansard*, all I will say to the Member; be careful with the Attorney General. And now that you have put on *Hansard* that it was done by the previous government, I think I would have to assist you and disabuse your mind of that, because I am confident that the hiring of Alan Newman QC, would not have been done by the PNM, it was done by the current Attorney General; that much I know.

Mr. Speaker, tell my colleague I am trying to help him, I am trying to steer him away from the Attorney General, but he wants to hold on—all right, you stay with him—

**Dr. Moonilal:** [*Inaudible*]

**Dr. K. Rowley:** Okay well you say that. You can say that if you wish. Mr. Speaker, I stand by whatever I said on that issue and if you want a copy I will make it available to you.

Anyway, Mr. Speaker, I simply want to say that the Minister of Finance, one year after the solution of last year September said, and I agree with him, the story is not yet over.

**Mr. Speaker:** Hon. Member, your time is up, but I will give you half a minute to just wrap up.

**Dr. K. Rowley:** I agree with the Minister of Finance that notwithstanding what is being brought to the House here, notwithstanding what has been said, given the history and nature of this matter, the story is not yet over.

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

**The Minister of Works and Infrastructure (Hon. Jack Warner):** Thank you, Mr. Speaker.

Mr. Speaker, we are here to honour a commitment by this Government and the previous government, and that is to protect the interest of the depositors of Clico and British American Insurance. I listened to the last speaker, the Member for Diego Martin West, and it seems to me that he was speaking on the first

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Motion, not the present one, and because he spoke on the first Motion, and made, what I consider, some very damning statements, I feel obliged to address those statements which he made—at least not all of them but some of them.

Mr. Speaker, the Member for Diego Martin West said, among other things, what is happening here will not fix the Clico problem. I beg to differ. At least no one can fault us for trying, for giving it our best shot. Unlike when I was a young teacher and I was told by the then PNM government to put my little “cacadah” in Workers Bank, and that, of course, it would be a good investment, and when Workers Bank went bust, my money went pfff! Pfff!

Nobody, of course, came in to help me then, there was no government intervention, Mr. Speaker, as you have now. There was no caring Minister of Finance as you have now. I want to say it one more time, my little “cacadah” went pff! [*Laughter*] I did not have any money to put in ITL, but those persons who put their money in ITL, their fate was the same; there was no government intervention. This Government has intervened to try to bring some stability not only to the economy but to bring some solace to those persons who put their money faithfully believing that the investment was good. I am coming to that just now. So to come here this evening after nine o'clock and say to us and to the country that what is happening here will not fix the Clico problem, just does not hit it. It does not make sense.

It is the kind of negative thinking again when you say do not take the Christmas gifts from the Prime Minister because it comes from the UNC, or from the People's Partnership. That is the kind of thinking. Nothing is good, do not do it, and I say again that we will not go along with that.

### **9.15p.m.**

I ask the question: why did your government not fix the problem? You sunk \$5 billion into the problem to aggravate it. Why did you not fix it? I will tell you a little later why you did not fix it. To come here and accuse us, particularly the Minister of Finance, who is taking night to make day to solve this problem, the problem will not be fixed.

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker, welcome Sir. The last speaker also implied that this Government did not have respect for the law because we will use our 29 votes to pass the Bill. In all seriousness, how can a Member of Parliament and Leader of

the Opposition, one who believes he is the alternative Prime Minister, come here and say that this Government has no respect for the law? This is ludicrous and, for me, the less I can say about that the better.

This Government, the very rule of law we respect and we made it quite clear. Even though we have a state of emergency, the law is paramount. To come here and pontificate that we do not respect the law, for me, does not make sense.

He says, and I quote:

“I know the Lehman Brothers and the American banks more than I know about Clico.”

Whose fault is that? When the problem arose, were we in power? When you decided to give them \$5 billion, were we in power? When the Minister of Finance, hon. Karen Nunez-Tesheira, she took off her curlers and rushed to the bank on Old Year’s Day to take out money, were we in power? You come here to say that you know more about Lehman bank and American banks than Clico. Is it the Minister’s fault? Who are you trying to fool? Though you did not know, when your government took \$5 billion and sunk it into Clico, you did not say, “boo”. You did not know.

He also spoke about the Cabinet procedure in the limited time he was there in the last regime. Of course, in the last regime, the Cabinet procedure was so good, better, a procedure that I could see stood the test of time. I want to tell the last speaker, the Member for Diego Margin West, that the Cabinet procedure today is an improvement on what he has described to us. In the Cabinet of which I am a Member and proud to be so, the difference is that our Prime Minister allows free discourse. Nobody in the Cabinet would ever say that the Prime Minister has spoken. She would not allow that. She allows free discourse. So, to come here and lionize the Cabinet procedure during this time, I want to tell you that what we have here is an improvement on yours.

Last but not least, he pontificates the advice: do not trust this Government because they do not speak the truth. That took the cake, Mr. Speaker. I want to ask the Member for Diego Margin West: when the Hon. Minister of Finance in his government, in 2003, assured the nation that Caroni (1975) Limited would remain in the sugar processing business, were they speaking the truth? They told them that Caroni (1975) Limited would be in sugar production and that this would be done by cane farmers, 2003. Today, the sugar industry is dead and cane farmers are out of business and, had it not been for this Government, they would not even have gotten the land they were promised.

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It was the PNM government, in 2004, which told this country that they would erect the Mamoral Dam and reservoir and that it was a priority. They said that also in 2005. Was that not an untruth? Today, there is no Mamoral Dam. Does anybody trust the PNM?

Mr. Deputy Speaker, let me fast-track. They promised, in 1956, to build a highway from San Fernando to Point Fortin. Were you speaking the truth? [*Interruption*] I am coming to Mayaro just now. Were you speaking the truth? You said that this Government cannot be trusted because we do not speak the truth. I am showing you, of course, you have a history of untruths.

Madam Prime Minister, I am only borrowing your speech of 2008. This is your speech that you made. Broken promises; the PNM has a history of broken promises; and who is talking about untruths; and you cannot trust this Government because we do not speak the truth? Member for Diego Martin West, take out the mote from your eyes first before you look at ours.

I go further, Mr. Deputy Speaker. This was the Government that promised comprehensive local government reform in 2004, 2005, 2006, 2007, 2008, 2009 and 2010. Where is the reform? And we do not speak the truth and we cannot be trusted?

This government was the government which also promised, year after year, to build a national oncology centre. Where is it? The promises went on day after day. This is the government that failed to build those early childhood centres year after year.

In 2003, they promised to build 50; in 2004/2005, they promised to build 43; 2005, they promised to build 150; they said that by 2010, they would build 600. If they had kept their promise, when they left office they would at least have had 400. If they were speaking truthfully, by the time they left office they would at least have had 400 early childhood centres. Do you know how many there were? Seven. Who is speaking untruth? I can go on all day.

There is more. They promised to build an aquatic centre in 1966. They did not build it. In 1991, they did not build it; in 2004, they did not build it. Who is speaking untruth?

At the Tobago Hospital, which we are struggling to build now, one bed cost—I will tell you just now. Get the math for me. I would have thought that at least the Member for Diego Margin West would have had a soft spot for Tobago. Who is speaking untruth?



In Diego Martin North/East, next to him, the Northern Recreation Ground, which they promised to build, they did not build. Who is speaking untruth? The list goes on.

I can talk about the Guanapo church, which the last Prime Minister said he had no knowledge of. He said “PM” meant “Project Manager”. Was not that untruth? He said “PM” meant “Project Manager” in the context of that thing. Was that not untruth?

The Tarouba Stadium they said they would build for World Cup Cricket, then for a tsunami, it “ain’t” finished yet. Is that an untruth? The smelter which has no health effects, of course, we proved them wrong subsequently. The list goes on.

Mr. Deputy Speaker, I am just being advised that at the Scarborough Hospital, one bed cost \$7million. *[Interruption]* If you have 150 beds and they cost \$800 million, what does one bed cost? Not \$7 million? *[Crosstalk]* *[Interruption]*

**Mr. Deputy Speaker:** Hon. Member for Diego Martin West, *[Crosstalk]* let us allow the Member for Chaguanas East to contribute in silence, please.

**Hon. J. Warner:** You can run from the figure, but you cannot hide from it. One hundred and fifty beds for a hospital cost over \$800 million, so one bed cost \$6-plus million, almost \$7million. You can say that a bed at the Tobago Hospital cost \$7 million. And I will tell you something. I am not saying that the cost of the hospital is because of material siphoned off it. I am not saying that is the cost—

**Miss McDonald:** Mr. Deputy Speaker—

**Dr. Rowley:** Do not waste your time; do not waste your breath!

**Hon. J. Warner:** It is the same kind of cost. Take the cost for a seat at NAPA. *[Crosstalk]* It is the same thing. *[Crosstalk]* He is talking about untruth. *[Interruption]* You and I have a good thing going, leave it so. Leave him alone.

I will go further. It is easy to come here and accuse this Government of everything under the sun. We are untruthful; “we dishonest; we ain’t good”; the Minister of Finance does not know what he is saying; he is the worst ever. It is easy, but when the time comes for us to reply to you, then, of course, you cannot take it. “Do so ain’t like so.” That is all and do not take it so low. I am not taking it so low. I am answering what he said.

Mr. Deputy Speaker, I will go one further. Since you do not want me to talk about the Tobago Hospital, I will go to Tarouba Stadium. I am advised that the

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Tarouba Stadium cost \$1.15billion—[*Interruption*—so far, and a seat there cost \$106,000. So to tell us about untruths and so on does not make sense. [*Interruption*]

Thank you very much. I did not know that. In the other Caribbean Islands, I am told, or countries, a seat cost \$6,000. In this country, under the PNM, it cost \$106,000. Then the Member for Diego Martin West ended by saying that he services his constituents from \$14,000 up to millions.

I have gone to Diego Martin West, Church Street, L'Anse Mitan, Sea View Gardens, School Street, Hague Street, Scorpion, and they have not seen him for the year. When I went there last time I had a meeting in the community centre and I said to them: I will come back here, because he was in England, I believe, but tell me when your MP comes to visit because I do not want it to look like I am coming in his absence. I said I will not come back until you call him and I will see what I can do for you for your roads, bridges and so on.

### **9.30 p.m.**

I told them so, Mr. Deputy Speaker. They told me when I went there. And therefore to come here tonight and to posture that you are, of course, this numero uno, that you service your constituents from A - Z, it is not true. Very hypocritical of him! And I am saying, Mr. Deputy Speaker, so says all of them, very hypocritical, all of them.

But you see, the point is—and you know something, Mr. Deputy Speaker, the last time the Prime Minister was speaking she asked the question: how did we get to this point? How did we come to this? Tonight I can borrow the same phrase, how did we come to this? How did we come to this?

Mr. Deputy Speaker, Clico is an unfolding story. [*Crosstalk*] Yes, thank you I just got one more untruth; a highway from D'Abadie to Wallerfield, promised since 2002; it was finished by this Government. I will talk about the oncology centre also; by this Government. So I am saying: how did we come to this?

We know that there are many persons in Clico who are frustrated, and we know how they feel. There are people there who have worked their lives, they have invested their money, they put away money for a rainy day and for later years and so on, they are at the stage now where they believe their money has gone. Mr. Deputy Speaker, they cannot touch their money. They do not know if and when they would get it back. They are the people whose plans have been thrown in disarray, so to speak. Their money in Clico is to put their children

through school in some cases to travel the world in their old age, to take care of their mortgages, their medical bills and so on. Therefore, we know how they feel.

That is why I make the point again that the Minister of Finance has taken night to make day to try to bring some kind of resolution to this problem. It has not been easy. And you get the impression that you had one option, two options, three options, four options; you had no option. None! And the Minister of Finance took night to make day to find an option that made sense that would give the people some hope. Because the fact is, having inherited what we inherited from the PNM, we have said last Wednesday that this country's vital resources are strained and constrained. That is where we are.

Demands are being made on this Government from every sector and this, I am saying, has been exacerbated and brought about by PNM mismanagement. And how do you solve it therefore? How do you solve it? And I am saying in so many words, that is why we are here today, to bring some solution to this problem that has consumed us. All of us have been consumed with it. I want to declare very early, I have no money whatsoever in Clico, in British American or anywhere, in fact, I have no money. But I have no money with Clico and British American. That is for a fact and therefore I could say that clearly. I could talk. [*Crosstalk*] Yes, that is true.

So how did we come here today? Mr. Deputy Speaker, I said before, Clico is an unfolding story. There has been much outrage about many things concerning Clico. The conduct of Clico's board of management, the conduct of the former Minister of Finance, Karen Nunez-Tesheira, and the actions or lack thereof of the Government in bringing some kind of resolution to this situation. Many people are quarrelling and arguing why should State funds be used to bail out Clico. People are saying they are taking too long to get back their money. They are arguing about how much they are getting and what period, and the list goes on. In fact, they are suggesting as you heard from the Minister earlier on, that some people should be thrown in jail, they are saying. And you heard from the Minister of Finance that these things take time and that would happen over time.

Mr. Deputy Speaker, I want to tell my dear friend, the Member for Diego Martin West, that when the PNM government signed the MOU and put \$5 billion in a hole, the PNM government did not have a full understanding of the indebtedness of Clico. [*Crosstalk*] That is true? "And why you ain't tell the Member for San Fernando East so?" "Why yuh eh tell him so? Is true! Take \$5billion, put it in a hole and had no idea about Clico's indebtedness. I am happy to say dah is true."

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The PNM at the time never estimated that the situation would have been so complicated, inter-subsidiary mingling of funds, multiple mortgages, transactions with third parties and so on. Complicated, they were out of their depth, but yet for all they wrote a blank cheque, literally, to Clico and to depositors not knowing how deep the hole is. It is unbelievable! And I will tell you something, you know. God knows best, because, had this Government not come into office, I do not know what would have happened to this country. I do not know. [*Desk thumping*]

Mr. Deputy Speaker, every time you believe you have seen it all—ask the Minister—another new complication comes up. Ask him. Each time you believe that you solve it and here you are now, a new complication comes up. They are asking us, they are telling us on this side about untruth, and we of course have failed the people. I would like to assume that had the PNM known the true indebtedness of Clico, had the PNM known the real recoverable value of Clico's assets, I fail to believe that the PNM would have made the same deal, the same MOU that they signed. I would hate to believe so. The fact is, we could talk until thy kingdom come, we on this side have to solve it. We have to solve it, [*Crosstalk*] and we will solve it with the proposal which the Minister of Finance has put before us.

There is a view out there, Mr. Deputy Speaker, that we should sell Clico's assets and pay everybody off have a fire sale, you know, and sell everything. But all of us on this side know that in a fire sale you do not get the best value. If you do not get the best value the question still stands, how will the depositors recover their money? The only way is the public purse has to foot the bill.

Then there are those, Mr. Deputy Speaker, who are complaining that of course the public purse, public money is being used. And some of these persons who are saying so are some of the same persons who are calling for liquidation. And, you know if that happens, the Government would have to foot a higher public bill because the Government's guarantee from the MOU would not do it.

Mr. Deputy Speaker, you know what is bad? Karen Nunez-Tesheira, as a shareholder, had—the last audited accounts were from December 31 2007. [*Crosstalk*] So, she knew, because she had the last audited accounts of Clico which she had were 2007. She is a shareholder and she got it like anybody else. Why did she not tell her colleagues? I heard the Member for Diego Martin West—

**Mrs. Persad-Bissessar:** Port of Spain South.

**Hon. J. Warner:**—telling the Member for Oropouche East that, of course, the AG does not tell his colleagues everything. Did Karen Nunez-Tesheira tell you everything? [*Laughter*] Did she tell you the last accounts she got were 2007 from Clico?

**Mrs. Persad-Bissessar:** She did not tell Port of Spain South.

**Hon. J. Warner:** You were not in Cabinet then? Well, you were at the back bench then.

**Mrs. Persad-Bissessar:** He had no interest, but Port of Spain South had—

**Hon. J. Warner:** But my dear friend for Port of Spain South, you were in Cabinet and she must have told you.

**Mrs. Persad-Bissessar:** She did not.

**Hon. J. Warner:** Two thousand and seven is the last audited statement from Clico. As a shareholder, the Minister of Finance knew. She had the accounts with her. And to come here and to let us sink \$5 billion in a hole of which she was aware, four years before or three before, is a sacrilege, Mr. Deputy Speaker. Everybody wants his or her money. They cannot wait, they want their money now. The money has to be raised and I am saying, therefore, that we on this side have to temper the situation and to bring some pragmatism and some reality to this whole situation.

What therefore, is the big picture? I am suggesting to you tonight that what is important to us and what is our responsibility is to look at the big picture. In fact, as I stand here, though we have come up with this solution, I am wondering how this whole thing would unfold.

Mr. Deputy Speaker, we had called—I heard the Member for Diego Martin West say that he was not invited to a meeting to discuss with us. [*Interruption*]

**Dr. Rowley:** I did not say that. Stop misquoting me.

**Hon. J. Warner:** What did you say? [*Crosstalk*] As I was saying Mr. Deputy Speaker, the Member for Diego West said he was not invited to meet us to discuss the Clico affair. We invited the Leader of the Opposition I am advised, and the PNM to a meeting with Central Bank, the CL Financial board, the independent consultants and so on.

**Mr. Roberts:** Did they go?

**Hon. J. Warner:** They refused to come.

**Mr. Roberts:** Why, boy?

**Hon. J. Warner:** They refused to come. They categorically refused to come. Tonight I am advised by the Member for Diego Martin West, they did not come because: “We are not to be advised by public servants but by the Government.” But who advises us? We are advised by public servants.

**Mr. Roberts:** Disrespectful.

**Hon. J. Warner:** We are advised by public servants, Permanent Secretaries and so on. But the fact is, the Leader of the Opposition, the Member for Diego Martin West, the person who is aspiring to be the next Prime Minister in 2050—  
[*Crosstalk*]

**Hon. Member:** Nah!

**Hon. J. Warner:**—is of course saying: “We are not to be advised by public servants but by the Government”. Well in 2050, when you get into office, who would advise you, not public servants?

**Hon. Member:** Imbert.

**Hon. J. Warner:** Oh yes, Imbert. “Well, only if Elias dead, right?” So it does not make sense. We call on you, sit down and talk and so on, you did not come, but now you are saying nobody called you. And that is the kind of PNM hypocrisy that I cannot accept.

**Mr. Roberts:** Sanctimonious hypocrisy.

**Hon. J. Warner:** You see; cannot accept. So the point therefore, Mr. Deputy Speaker, is the big picture. I am saying what is important for us, as a Government is to look at the big picture, and that is what the Minister of Finance did, he looked at the big picture. I would not go into all the details tonight because it is known by all of you.

**Mr. Roberts:** It is not in Movie Towne.

**Hon. J. Warner:** We have to look at the interest of the largest number of persons. We have to look at the wider effect on the economy. What will happen if persons take this matter to court and sums are awarded? We will be forced to make payouts that our Treasury cannot withstand. It is as simple as that.

I know that is what you want you know. You all want, of course, that to happen and then, of course, you will laugh hee, hee, hee. That is what you want happen and then we collapse. But the fact is, if we allow people to take this to

court and we are forced to make payouts which the Treasury cannot withstand, then we collapse. What will happen if Clico is ordered to be wound up? Clico and BA, their combined assets are reportedly worth about \$16 billion, and they have liabilities of \$23 billion. “Where the \$7 billion coming from?”

**9.45p.m.**

At this moment, Mr. Deputy Speaker, if Clico is wound up, there will not be enough money to pay depositors more than a small fraction on the dollar from the proceeds, and the Minister of Finance said so again, again and again. As I always like to say, “Stick must be break in all yuh ears.” He said so again and again, “They will get their proceeds.” All hope would be lost for tens of thousands of persons who would get a few dollars and a few cents. Is that what you want? Is that what you are asking for. Because that is what would happen. In fact, let me make the point that our goal, our objective and our mission are to avoid that.

Mr. Deputy Speaker, in April 2011 the IMF reported that the collapse of Clico has represented a major financial shock to the Caribbean which was already reeling from the global crisis. The report which was filed at the IMF office in Washington on January 11 said:

“The collapse has had spillover effects in all 15 CARICOM states except for Jamaica and Haiti, with exposures as high as 17 percent of GDP in the eastern Caribbean, leading to costly government interventions.”

CL had operations in 32 countries with 52 subsidiaries and, therefore, it is critical. If this country’s economy crashes, Mr. Deputy Speaker, those persons over there who are trying to force that to happen, I ask the question, what will it profit anyone in this country to see a crashed economy; anyone, whether it is on that side or this side? What will it be worth when the TT dollar is now floating? Mr. Deputy Speaker, the dollar would not be worth even the paper it is written on.

How much do you think you would get for your dollar for US or for pounds as the case may be? You only have to look at the Guyana dollar today to see what is happening in Guyana to understand what could happen here. As such, therefore, I ask myself, if the overanxious depositors and their activists consider that if we hang our hat too high, we will not be able to even finance the gas subsidy that we all enjoy now. Not even that, they do not understand. In fact, I think they want that to happen. Thank God that we on this side are more resilient and we could stand firm for that we believe. Thank God!

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In a crashing economy with a devalued dollar, who is going to pay \$100 for a gallon of gas or \$50 for that matter? Are they asking us for more taxes? What are they asking us? The only alternative is to have more taxes. That is what they are asking us to do. And then, of course when that happens now, they laugh again “hee, hee, hee and then we gone through.” That is what they are asking for; more taxes. “hee, hee, hee”. [*Laughter*] If there are no more taxes, how then would the Government raise revenue, of course, to run the country and to pay its debts? How? “Tell meh nah? Ah doh know.” Is that what you all want, more taxes? Is that what you are asking for? The questions go on and on.

Mr. Deputy Speaker, I really wish there was some way better than what the Minister has advanced for the depositors to get back their money. I wish there was some other way, some better way. Mr. Minister, I do not know of any better way. I wish I could have found a better way for them to get back their money, in fact, all of their money, even with full interest. In fact, I also wish that the depositors could get back their money immediately. I wish that! I wish also that this could be done without using state funds. I wish that, but we are where we are, and we have to look and move forward and we can only move forward with the proposal advanced by the Minister of Finance. That is the only way we could move forward.

In the present circumstances, the Government is offering the best it can at this time, and we are offering and we are doing work with the best we have. Depositors up to \$75,000 are getting back their funds. Clico’s EFPA had 25,000 customers who had about \$12 billion in investment, and we have come up with a proposal which we believe should satisfy them based on the present circumstances. Mr. Deputy Speaker, this Government is doing its best. We are paying what we can afford as best as we can afford. If we could, we would have done better, but we cannot.

Last week Wednesday this House met here to discuss raising the debt ceiling to meet billions of dollars which the PNM left us with; billions of dollars. Last week, you heard the Prime Minister, a list of debts and even then the list was not exhaustive. Letters of comforts were not included which they left us with.

Last week Wednesday, the Minister of Finance spoke extensively on the demands facing the Government, especially as we try to turn the economy around. Were they not here? Were they not listening? Are you all aware where you all left this country; a country with concrete in Port of Spain and nothing in the Treasury?



This is the way you all left us. If we have to save this country, we must do so together. And, therefore, I am saying that blocking court matters cannot be a pleasant thing. For us, it is not a pleasant thing.

Mr. Deputy Speaker, it is not a pleasant thing for us to do. We have agonized on this for days and days on end. It is not a pleasant thing to block court matters, but now it is necessary, and people need to understand and if you all on that side do not understand, do not blame us. You did not understand when you put the \$5 billion either, but you must understand that you cannot kill the goose that is laying the golden eggs, and anything less than what we are doing here, you kill the goose, and we would not allow that. Because if Clico is wound up and the Government is forced to make huge payments, this economy can crash, and they will get back less than they expect, and people's lives, many of them, would be devastated.

Mr. Deputy Speaker, the PNM made the MOU deal on its own, and I expect that the Opposition as few as they are, five out of 12, to support this Bill. Mr. Deputy Speaker, they entered the MOU on their own. For a third time, the PNM entered the MOU on their own. They did not consult with anybody on this side; they did not consult with us at the time when we were on that side, though we try to consult with you now. We found out after the fact. Is that not true?

Mr. Deputy Speaker, when we came here in February 2009, we accepted the fact that the Government of the PNM had already committed to the MOU. What did we do? We supported them. We did not know at all. In January when, of course, Karen sat with Duprey and the Governor of the Central Bank and so on, everybody else saw it in the newspapers; the picture on the newspapers. We did not know, but we came in February and supported the MOU, and we are forced today to continue what they started.

I, therefore, want to end by saying that the PNM wrote a blank cheque. They gave a blanket guarantee without even knowing the level of Clico's debt. They knew nothing about Clico's assets; they had no clue about the depth of the hole they put the money. They promised to pay, without a clue, as to what it will cost and where the money would come from. That is PNM style. They did not have a clue, but what they knew is that if Clico had crashed the economy would crash, and they wanted to ensure that the depositors were not left empty-handed.

They knew then—those on that side do not know how—that they could not have a fire sale for Clico's assets. They knew it then, but today they pretend they do not know it. They knew then that Clico's assets had to be liquidated in an orderly fashion, and today they pretend they do not know it.

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I recall they begged people not to pull out their money. “All yuh forget.” They begged people not to go to court. They begged them. They knew what implications this would have. What makes today different? I am saying that today nothing has changed.

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

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

*Question put and agreed to.*

**Hon. J. Warner:** Thank you, Mr. Speaker. I doubt I would need more than 10 minutes in any case, but thank you very much, colleagues. So, I was saying that we cannot put the economy under further strain, because the economy is in a delicate state and, through the prudent management of the Minister of Finance, we are better off today than many advanced nations and, therefore, we cannot gamble with that. We cannot trivialize with that. We cannot do that.

Mr. Deputy Speaker, there is a school of thought out there that says that the PNM would love to see the economy take a tumble. There is a school of thought out there that says that the PNM would love to see this country become unmanageable, ungovernable under us, and the school of thought believes that everything that is said or done is said or done so as to create that situation. I really do not think and I do not believe the school of thought, though it is gaining more and more ground and is gaining more and more credibility—

**Mr. Roberts:** More traction.

**Hon. J. Warner:** More traction, thank you. I shudder to believe that it is true, because to do that would be unpatriotic and irresponsible of them. So, I really do not believe that, because the suffering and the hardship which this country will suffer is nothing that should be imposed on our people. It will destroy this country, and I say to them that this country will not forgive all of us. Mr. Deputy Speaker, what we will have here, if we do not accept the proposal tonight, what we would have here is a wasteland and to manage a wasteland would be worse than what we are managing today.

When we were in Opposition, we were very responsible and, therefore, today I call upon the current Opposition to be equally as responsible as we were when we were there. In fact, I remember speaking last Wednesday when the Leader of the Opposition, the Member for Diego Martin West, was saying that he represented all the people.

**10.00 p.m.**

And I alluded to the fact last week Wednesday that if you were to represent all the people, why are you wearing Balisier ties? What about those people who, of course, do not like the Balisier? I am happy to observe that tonight you have no Balisier tie. [*Desk thumping*] So it means that my advice to you last week did not fall on deaf ears. I commend you on that. [*Crosstalk*] I thank you for coming here and to show your colleagues that you could come here as a Leader of the Opposition and represent the entire country. So, I want to give you congrats on throwing away your Balisier tie and coming here tonight, “Balisierless”. [*Desk thumping*]

So therefore, Mr. Deputy Speaker, as I end I want to say to my colleague on the other side to think about the billions you have to find overnight if court proceedings are not stayed. I want to say to my friends on the other side that governments must not govern for today only. We are not governing for today only—we are not. We must make decisions based on political expedience and what is convenient at the point in time. We must look into the future and plan accordingly. We must govern today with tomorrow in mind, and that is what this whole debate is about. I thank you. [*Desk thumping*]

**Dr. Rowley:** I rise under section 33(4), and crave a couple of minutes to rectify the record on two points raised by my colleague, the Member for Chaguanas West—33(4).

**Mr. Deputy Speaker:** Hon. Members, in the spirit of the debate I will allow the Member for Diego Martin West two minutes for any explanation.

**Dr. Rowley:** In the spirit, Mr. Deputy Speaker? I thought it was a Standing Order provision. Mr. Deputy Speaker, notwithstanding my best efforts, I could not get the Minister of Works not to put on the record that I said that the Government of Trinidad and Tobago does not respect the law. I said no such thing. I said it appears as though if the Government is to fix any issue, the Government first has to amend the Constitution, because freedoms and rights in the Constitution appear to be an impediment to the Government before it can fix any issue. That is quite different. I never accused the Government of having no respect for the law.

Secondly, I also did not say that we were not invited to a meeting. I said the opposite. I said we were invited to a meeting, and notwithstanding my effort to get the Member for Chaguanas West to quote me correctly, he keeps insisting, puts up his straw man, ascribes to me a statement that we were not invited—we were invited and—

**Mr. Warner:** They did not attend.

**Mrs. Persad-Bissessar:** They did not attend.

**Dr. Rowley:** Mr. Deputy Speaker, I am saying he put on the record that I was invited, I did not go and then I complained that I was not invited. He said that.

**Hon. Member:** No.

**Dr. Rowley:** Mr. Deputy Speaker, I am—[*Crosstalk*]  
—I just want to make it clear that I did not say that I was not invited. I said we were invited to a meeting and I gave our reasons for not attending the meeting.

**Miss Donna Cox (Laventille East/Morvant):** Thank you very much, Mr. Deputy Speaker. I rise this evening with disappointment. This is such an important debate, and I feel really sad that it was taken to this level, that it was descended into a level of PNM and UNC and so on. Mr. Deputy Speaker, I must say this evening I am really disappointed in the Member for Chaguanas West—I really am.

Mr. Deputy Speaker, once somebody disagrees with this Government you are unpatriotic, and this really is not the case. This comment was made by the Member for Chaguanas West. The Member stood and spoke about personalities—he got into personalities and so on. This is a serious debate, because a lot of people lives impinge on the outcome of this debate this evening. And I would think that instead of dealing with what PNM did and what UNC did, we will be thinking about the future and the prosperity of the people of Trinidad and Tobago. [*Desk thumping*]

Mr. Deputy Speaker, the Member spoke about ECC buildings and what was built—I do not know where that came from—and what the PNM built, what the UNC built. I mean, there are a lot of ECC buildings being opened now and they were built under the PNM administration. They were in various stages of construction. I can speak about one in my constituency, which they may most likely claim, it has not been opened as yet, but I know that it was finished even just before the election. And there are a lot of other buildings being claimed by the Government. We are not here to deal with that because that is not important this evening.

If we want to talk about buildings, I can talk about buildings, Mr. Deputy Speaker, because the PNM built the Hyatt Regency, the waterfront, Port of Spain International Financial Centre—the International Financial Centre, Mr. Deputy Speaker. And what have they built within the year? They are building a jail in

Santa Rosa—a jail—okay. And I could go on and on with buildings, but I would not waste the House time this evening, but I will deal with the Bill at this point.

Mr. Deputy Speaker, the Constitution of Trinidad and Tobago states that everyone is entitled to the protection of the law, and the underlying policy is that the rights of an individual in relation to legal remedy and legal proceedings should be protected. Mr. Deputy Speaker, that policy covers the right not to be shutout from the seat of justice, and this is what this Government is seeking to do with this Bill.

The Member for Diego Martin West, Leader of the Opposition, quoted clauses 4 and 5, so I will not quote those clauses again, but it deals with the stripping of freedom of the rights of the creditors, shareholders, depositors and policyholders to commence or continue action, and also it deals with the enforcement of judgment.

Mr. Deputy Speaker, freedom is considered one of the most important rights of an individual, and access to the judicial court by any citizen is one that is highly fundamental and necessary, and to impinge on such rights and freedom borders on the line of dictatorship. This is what the UNC-Led coalition is supporting through the amendment to this Central Bank Bill this evening.

This Bill before us today is designed to prevent policyholders and citizens of Trinidad and Tobago from exercising what is their right in law, which is to seek remedy against any institution which, in their opinion, has wronged them. This amounts to nothing more than another strike against the very heart of our democracy by this uncaring Government. Mr. Deputy Speaker, this Bill seeks to prevent you as a bonafide citizen of this country from exercising what is your democratic right under our Constitution, which is the right to enjoyment of property. And through this Bill, this Government is taking away your democratic right to seek the intervention of the courts in a matter which affects your constitutional right. This Bill seeks therefore to stop anyone from suing or continuing proceedings and enforcing any judgment which they might have gotten before the court.

So, if someone gets a judgment from the court, then this Government is now taking this judgment away from them, and this is serious interference with the judicial process, and they are now seeking to get into the business of the court. They have failed to show that this decision is reasonably justifiable. Mr. Deputy Speaker, when one is deprived of access to the court, there must be a very good reason. The justification must be clear and the circumstances must be extreme. Is

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\$75,000 good enough in exchange for your legal rights? Is a 20-year bond payment to investors a good reason for interfering with such a basic right to the courts? Giving up rights to the court is a very serious matter and deprives citizens of their fundamental and constitutional rights.

What about full consultation with the policyholders? Are they in agreement with this draconian measure? Mr. Deputy Speaker, a lot of information is lacking where CL Financial and Clico are concerned, and I mentioned earlier on about—you know, we want to know about the true state of the assets of CL Financial and Clico. Mr. Deputy Speaker, history will record the Minister of Finance as the Minister who came to this House to ensure that the democratic rights of every creditor, shareholder, depositor, policyholder or any other person with deposits in Clico are taken away, trampled and tossed aside simply because this UNC Government lacks the intellectual bench-strength to come up with a plan that will bring proper relief to Clico's investors.

Mr. Deputy Speaker, the hon. Prime Minister in Parliament on October 01, 2010, spoke about the amendment to the Central Bank Bill which, as you know, had been before this House before and was subsequently withdrawn. Mr. Deputy Speaker, I wish to quote the Prime Minister. I quote:

“...in terms of the way forward, in light of the circumstances, we decided we will not proceed with the Bill that had been sent to Parliament—”

I further quote:

“At the Cabinet yesterday, with more information that came to us, we decided we would explore other options. So we did not want to use our majority. For the first time we would have been using such a majority simply to deprive citizens of right of access to the courts. That is why we did not proceed—”

Mr. Deputy Speaker, this is the Prime Minister speaking just under a year ago, on this very Bill that has made its re-entry into this Parliament during this state of emergency. Are we for real? Just like the state of emergency, which was merely one of the options available to the Government in the circumstances, here we are in the case of Clico, a year later, with the same option reappearing to be used against the people of Trinidad and Tobago. The rights of the investors, like the rights of the citizens during the state of emergency, are being trampled upon.

Mr. Deputy Speaker, they have been given many options, but in their shortsightedness they have chosen to exercise only one: to take away the democratic rights and freedoms of our citizens who voted so overwhelmingly to

grant them the sacred opportunity to govern this great country of ours, but of course, they have betrayed the people of Trinidad and Tobago.

Just as they had many different options to deal with the crime situation, yet they chose the one that would trample on everyone's fundamental rights as a citizen: a state of emergency that is yet to be acceptably justified by them. That is why there is much disenchantment in the country today, and this measure we are debating today will cause even greater disenchantment. Mr. Deputy Speaker, the entire country has come to realize, as the old lady who sells sweetbread in my constituency said: "Gopaul luck is not Seepaul luck", and even further, "Nicholas luck is not Warner luck". And as the Member for Mayaro, the Minister of Arts and Multiculturalism, has undoubtedly discovered, "Sat luck is not Gypsy's luck".

Mr. Deputy Speaker, this country expected that this Government will govern with fairness and equity. The citizens expected that their fundamental and constitutional rights would be respected, but instead they have been properly shafted with a totally unjustified state of emergency and now this Bill, which seeks to take away even more of their rights. They expected open, honest, transparent governance, but instead they have gotten a government who is prepared to urinate on them and tell them it is rain and, of course, they will seek to blame the PNM.

Mr. Deputy Speaker, this Bill before us today requires a three-fifths majority for passage, and given their democratically ensured mandate, they will receive it unless some of their Members decide to do what is honourable and what they promised to do when they took their oath, which is to uphold the constitution and the law, but it is a Bill which provisions strike at the heart of our democracy. And it is in that context that I wish to draw the attention of this honourable House to the speech delivered by this country's first Prime Minister on the occasion of our Independence in 1962.

**10.15 p.m.**

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker, we on this side take the opportunity to invite you and the rest of the country to join with the PNM in commemorating the 100th Anniversary of Dr. Eric Williams' birth on September 25, 2011. [*Desk thumping*] On that glorious day, one of the pinnacled moments in our country's history, Trinidad and Tobago's independence, when democracy reigned supreme, this is what Dr. Eric Williams had to say, and I quote:

"The first responsibility that devolves upon you is the protection and promotion of your democracy. Democracy means more, much more, than the

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right to vote and one vote for every man and every woman of the prescribed age. Democracy means recognition of the rights of others.

Democracy means equality of opportunity for all in education, in the public service, and in private employment...Democracy means the protection of the weak against the strong. Democracy means the obligation of the minority to recognise the right of the majority. Democracy means responsibility of the Government to its citizens, the protection of the citizens from the exercise of arbitrary power and the violation of human freedoms and individual rights. Democracy means freedom of worship for all and the subordination of the right of any race to the overriding right of the human race. Democracy means freedom of expression and assemble of organization.”

This should not only be required reading for every child in school and citizens of Trinidad and Tobago, but it should also be mandatory reading for every Member on that side.

Not contented with depriving citizens of their rights during the state of emergency, which has now been reduced to picking up people on outstanding warrants for traffic and maintenance. They are now going ahead to deprive citizens of the right to seek legal redress. I want to warn this Government that riots are the language of the unheard, and no state of emergency would keep people perpetually silent. In the Middle East there was the Arab spring. Only recently London experienced its summer of despair. If this Government continues along this path of depriving persons of their rights and freedoms, God forbid, because we would not want it to happen, then this country will experience our own winter of discontent.

Dr. Eric Williams said, and I quote:

“Democracy means responsibility of the Government to its citizens, the protection of the citizens from the exercise of arbitrary power and the violation of human freedoms and individual rights.”

This irresponsible action by the Government in seeking to remove the rights of the citizens to legal redress, is nothing short of an exercise in the arbitrary use of power, and it constitutes a most tragic violation of human freedom and individual rights.

There is one shining light at the end of the tunnel, though, and it comes from our Judiciary, in the persons of the Director of Public Prosecutions (DPP) and the Chief Magistrate, who only two days ago, in releasing those arbitrarily arrested on



Nelson Street, were brave enough to tell this Government that, “If you cannot do it right, do not expect us to make it right for you.” They were brave enough to say to this Government, “If you are not prepared to uphold the law and respect people’s constitutional rights and freedoms, we will.” I just pray that with this vindictive nature of some persons in high office, that these two exemplary judicial officers will not be victimized. I say victimized for being fair and seeking to preserve the rights of individuals which our forefathers fought so vigorously for. [*Desk thumping*] This Bill before us will further exacerbate the disenchantment of our citizens who have worked hard to build up their savings portfolio. This Bill will further trample on the rights of law-abiding citizens already burdened with an unjustifiable state of emergency.

I noted a video was shown last night on television, purporting to be from Nelson Street, showing robberies and statements by the Deputy Commissioner of Police about Nelson Street. I wonder, it seems as though the Government is trying to set up society against him and attempting to try them in the court of public opinion. If no charges were laid against them, if the police had evidence against them, why were they not charged? Why did they choose to show this video after they were released? The video showed a fatal shooting, a shoot-out and somebody being robbed on Nelson Street. I wonder, because if the DPP had evidence of murder, then this would be done. They would have been arrested and charged. Is this a plan to set up the DPP or is it an undermining of his office? [*Interruption*]

**Mr. Deputy Speaker:** The question before the House is the amendment of the Central Bank Act. I am trying to understand where you are taking this debate. Let us try to stick to Standing Order 36(1), please.

**Miss D. Cox:** Mr. Deputy Speaker, I am talking about the arbitrary use of power. [*Desk thumping*] I was making a comparison based on the Central Bank (Amdt.) Bill and what took place on Nelson Street and the video that was shown. I was making a comparison.

**Mr. Deputy Speaker:** Let us move on, please.

**Miss D. Cox:** I was here today and I heard a lot of persons who were totally off course, but I will continue.

This Bill will further increase the hardship on so many of our senior citizens, now forced to take care of their grandchildren, who have been summarily dismissed by this uncaring Government because they dared to have been hired under a PNM administration. Indeed, today will be recorded as one of the darkest days in the life of this Parliament, when our Prime Minister, a mother, a

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grandmother, gave her word use that she would not use her majority to take away the rights of individuals, but has done that twice in the space of three weeks. [Desk thumping]

I want to remind this country and my fellow citizens, that the Jewish holocaust which resulted in the murder of millions [Interruption] and the displacement of more millions, was initiated by a democratically elected government, with a democratically elected leader also, in the person of Adolf Hitler. [Crosstalk] In those dark days, one lone voice rang out, warning about the conspiracy of silence from persons too apathetic to become involved and save their country. [Desk thumping] Martin Niemöller, a prominent German anti-Nazi theologian and Lutheran pastor wrote his famous poem, *First They Came*—

**Hon. Member:** Typical PNM propaganda!

**Miss D. Cox:**—in words that are so reflective of our current situation. In Germany:

“First they came for the communists, and I did not speak out—

because I was not a communist;...

Then they came for the Jews, and I did not speak out—

because I was not a Jew;

Then they came for the trade unionists, and I did not speak out

because I was not a trade unionist;

They came for the Catholics, and I did not speak out.

because I was a Protestant;

Then they came for me and”—by that time—“there was no one left to speak out for me.”

In Trinidad and Tobago, they came first for the contracted workers and the OJT, but the country did not speak up, because people still believed in their promises. [Desk thumping] Then they came for the URP and CEPEP workers, and the country did not speak up because they feared victimization. Then they came for the little black boys on Nelson Street, Beetham, Laventille and Morvant, and the country did not speak up, because it was alleged they were safer in their homes. Today, they came for the Clico depositors, and I am speaking up. [Desk thumping]

One thing I know for sure is that the PNM will continue to speak, and we will not be muzzled. We will not be silent. We cannot support this Bill. We will not

give this Government licence to further deprive the right thinking, law-abiding citizens of this country of their fundamental rights, because they have failed to show that their decision is reasonably justifiable.

I want to remind this honourable House that the existence of constitutional rights, of any individual, is dependent upon the mechanisms to uphold these rights and protect them from violation or denial. Access to the courts is a pivotal right upon which the vindication of a citizen's constitutional protection depends. [*Desk thumping*]

This UNC Government is now attempting to remove the constitutional protection which covers the citizens of Trinidad and Tobago, and we must not allow that to happen.

I thank you, Mr. Deputy Speaker.

**The Minister in the Ministry of Finance (Hon. Dr. Delmon Baker):** Mr. Deputy Speaker, let me thank you for the opportunity to contribute on this debate, the Central Bank (Amdt.) Bill. Let me in like manner, as the other hon. Members of this House, declare at 10.26, that as of two years ago, I had in Republic Bank Limited a small investment of \$180,000 which we retain to this day as collateral on a small loan in the Money Market Fund in British American.

In Clico there were two investments, one of \$10,000 and the other of \$12,000, and the surrender value of the second was \$12,000, the first of which in British American (Trinidad) Limited, we had terminated some two years ago, post the crisis. The second, most of the surrender value was withdrawn in a matter of loans, and the rest was left there. In fact, I have given up on that policy, post crisis with the previous administration in place and no plan set in train. So there you go; now the country understands what transparency means, that this Government would continue, as part of the order of things, to bring truth to bear in every debate.

The purpose of the Central Bank (Amdt.) Bill, 2011, as documented by the Explanatory Note, is to firstly provide protection to investors. It is at this point that I wish to indicate that an investor is someone who, for the most part, takes the time to understand the risks involved in making an investment. The ramifications of any failure of that fund means, of course, that there would be some loss to the investor should that fund collapse. However, in 2008 the taxpayer was made an unwitting investor in CL Financial, without their permission, without

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their consent and if the former administration had continued in office, without any plan as to how they would have recouped the funds they had invested.

I am thankful that the taxpayers, the 1.23 million citizens of Trinidad and Tobago, saw it in their best interest to remove that administration from power and to put a sensible partnership in place that would cater for the needs of the people.

**10.30 p.m.**

The Bill itself intends, on the second ground, to foster fair and efficient capital markets whilst giving confidence to those markets in Trinidad and Tobago. So the idea of protecting the entire market from the toxic assets of CL Financial was indeed, Mr. Deputy Speaker, in the best interest of the taxpayers. You see also, this Bill attempts to reduce systemic risk. If the then administration had not acted when it did, then we would have seen their inability to contain all the deleterious effects of what had happened in CL Financial is exposure in the marketplace.

We, as was explained before by many other speakers, would have seen the domino effect on the markets, not just in Trinidad and Tobago but in the rest of the Caribbean, affecting some 15 countries. Fourthly, we with this legislation now brings Trinidad and Tobago in line with other developed countries in the world that already have similar pieces of legislation on the books, just as Trinidad and Tobago. So this is not something that the Government is bringing new in any way, when you look and compare what has happened in other jurisprudences.

Mr. Deputy Speaker, there are some commendations I have to give, and I think I will give the first one to the Leader of the Opposition—I want to break protocol—who came into this House for the first time without a balisier tie, and he was dressed very nicely in his double-breasted suit and I saw splashes of red, white and black. And I thought one thing, what kind of state we would have been if the rest of the Opposition had actually on this occasion followed their leader.  
[*Interruption*]

**Hon. Member:** Diego Martin Central, Diego Martin North/East service.

**Hon. Dr. D. Baker:** You are not going to follow your leader?

**Dr. Browne:** That is not going to happen, my friends.

**Hon. Member:** “They following San Fernando East.”

**Hon. Dr. D. Baker:** Mr. Deputy Speaker, let me commend also the Minister of Finance, the Hon. Member for Tunapuna and the entire Government. First, we must note the sterling contribution of our Members on this side that highlighted the critical issues facing the country of Trinidad and Tobago today.

Secondly, for demonstrating particularly through this August period, usually reserved for a little rest from the ferociousness of Westminster debate, you see, for coming to this House, spending, what may be considered by some, inordinate lengths of time, to debate Bills that are in the interest of this nation of ours. This Government has demonstrated time and time again, by executing its succinct, its clear legislative agenda that we are about serving the people of Trinidad and Tobago. [*Desk thumping*]

Mr. Deputy Speaker, in dealing with the unprecedented spate of murders in the country, treating with the significant rollover debts and poor economic planning from the previous administration, placing a new framework in place for current and future development, we have kept true to our mandate and faced our issues head-on, in the aim of truly securing prosperity for all. And that is the promise to which we had adhered in the manifesto, now known as government policy, “Prosperity for all in 2010”. And I am sure that if the Members on the other side would take the time to acquaint themselves—because they do not even read their own—with what is in this document, they will find it much easier for them to come into this House and to present, and to debate, and to engage the public in an affair that would lead to the upliftment of all. [*Interruption*]

**Hon. Member:** Inspired reading.

**Hon. Dr. D. Baker:** But, that perhaps is a difficult prospect on that side. You say, “Dey cah teach ah old dog new tricks”, mmmh, Mr. Deputy Speaker.

I like the way the hon. Member for Chaguanas West usually puts it. You see, he says, to them, that is why you are over there and we are over here. You remember that line? It is because we will keep the mantra, serve the people, serve the people, serve the people. [*Desk thumping*] The Partnership is strong.

Mr. Deputy Speaker, you know what was interesting, is that the last speaker attempted to call this Government, and, you know, try to put the Government in the light of Hitler and was suggesting all sorts of things like riots and so on and I found that absolutely incredible in light of what happened in the last administration. If anybody, Mr. Deputy Speaker, could be called totalitarianist or authoritarianist, is the Member for San Fernando East, the last of the— [*Interruption*]

**Miss McDonald:** Mr. Deputy Speaker, please, 36(5), 36(5) imputing improper motives, please—36 (5), please. [*Desk thumping*]

**Mr. Deputy Speaker:** Let us not get too excited in the debate. Members opposite, I am trying to hear, the *Hansard* reporter is also trying to hear, so it is very difficult for me to even hear the Member for Tobago West. So, continue, Member.

**Mr. Imbert:** [*Crosstalk*] She moved a Standing Order 36 (5). Please rule on 36(5).

**Mr. Deputy Speaker:** Continue Member, I will rule on it later.

**Mr. Imbert:** Rule on it later?

**Hon. Dr. D. Baker:** Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, the Central Bank (Amdt.) Bill, 2011 is progressive and it brings Trinidad and Tobago in line with the developed world and some countries in the Caribbean, including Jamaica and Barbados. Mr. Deputy Speaker, the big challenge here today is to [*Interruption*]—your protection, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** Hon. Member for Diego Martin North/East—[*Interruption*]—Hon. Member for Diego Martin North/East! If you all could abide by Standing Order 40(a), (b) and (c), I would at least be allowed to hear what the Member for Tobago West is saying.

**Hon. Dr. D. Baker:** Thank you, Mr. Deputy Speaker, and this is a perfect example of respect for the rule of law—cannot even respect the law in this honourable House. How do you expect them to respect the law outside of the House?

**Hon. Member:** Totalitarian parties.

**Hon. Dr. D. Baker:** What is the stay of proceeding? Again I say it is a legal mechanism that is by no means new is by no means draconian and it is by all means protective of the company under the control of the Central Bank, its policy and shareholders and the taxpayer. In fact, if one is to examine very carefully what this Government is seeking to do, one would call the hon. Minister of Finance, under the hon. Prime Minister, Mrs. Kamla Persad-Bissessar, benevolent. Because what this Government is seeking to protect is the interest of the 1.3 million taxpayers who are now online because of the investment that we made in CL Financial. And I used the word “investment” loosely, because if we had not—and when I say we, the Government of Trinidad and Tobago—had not then acted to save the collapse of that company, we would have been dealing with something significantly greater at this point.

**Hon. Member:** That is right.

**Hon. Dr. D. Baker:** Mr. Deputy Speaker, the necessary power being conferred on the Central Bank, temporarily—and I underscore the words “temporarily suspends the right of the person to commence or continue legal proceedings or take action against another party—” stay does not constitute a denial of the rights of the citizens to access the judicial process. It is a temporary suspension of the rights to access the courts for a period of time— temporary measure. No one in this House needs to be reminded of the issues that made this intervention necessary.

In 2008, with the catastrophic rupture of the housing bubble, the antecedent fall of confidence in Freddie Mac and Fannie Mae, the then collapse of Lehman Brothers which caused a catastrophic fall in stock prices throughout the world, in the US and then subsequently in Europe, we in the Caribbean were not spared. That led to a significant fall in stock and share prices throughout the world. It was a fire sale that followed the news that there was a prospect for Lehman’s US\$4.3 billion mortgage securities getting liquidated and the resultant sell-off in the commercial mortgage bank securities market that precipitated the global crisis, a crisis equivalent to the fall of dominoes.

In fact, if I am to quote from the article written in the *Business Express* on April 6, 2011:

“The January 2009 collapse of insurance and real estate conglomerate CL Financial has exposed the Eastern Caribbean to potential financial loss that could be as high as 17 percent of the region’s Gross Domestic Product.”

It continues and it describes, Mr. Deputy Speaker, the collapse as a major financial shock to the Caribbean, which was already reeling from the global crisis, and look, 15 Caricom countries, if nothing had been done, would have been left exposed.

Mr. Deputy Speaker, some of those at the helm, who were on watch during that time now sit on that side, with grins on their faces like Cheshire cats, and a few of them, particularly those who are most amused at this point in time, were members of the then Cabinet. So they cannot come to this House with a disclaimer saying that they were not aware of what had happened. In fact, if anybody is to be held accountable it would be those Members who sit on that side over there. The matter is a matter of historical record, Mr. Deputy Speaker. These are the undeniable facts.

So the guilty ones sit comfortably, smiling with their cellphones in their hands while we are here now trying to fix the problem. Mr. Deputy Speaker, you see, I

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cannot blame the current Opposition, because they had no choice but to try to sustain CL Financial; no choice, because they understood the issues of contagion, but in fairness, Mr. Deputy Speaker, even though I cannot blame them for having no choice in intervening, I can blame them for having a bad leader, and we can certainly blame them for having no plan to treat with the attendant issues after putting the taxpayer on the line for a potential loss of \$10 billion—no plan! [*Crosstalk*]

**10.45 p.m.**

They abandoned the taxpayer and they come to this House as sanctimonious—what is the current phrase?

**Hon. Member:** Sanctimonious hypocrisy.

**Hon. Dr. D. Baker:** Again, no plan, no vision and no real leader. The same mechanism under this Bill automatically comes into effect once the Central Bank's notice is Gazetted pursuant to the powers under section 44D. The stay prevents any creditor, shareholder, depositor, policyholder or any person from commencing or continuing any action, execution or other proceedings or from seeking to enforce any judgment or order obtained against the financial institution.

I reiterate: the mechanism for the stay is temporary. The stay gives the distressed entity breathing space, so as the new plan is put into place, the financial institution itself is given room to return to profitable margins again. This is a Government with a plan and we shall execute this plan in the interest of the taxpayer. [*Desk thumping*]

The stay addresses the lacuna in our current legislation and brings us in line with jurisprudences that are up to date in the Western Hemisphere—a government that understands what it must do in the interest of all the people! And we have the—let me be generic—gonadal fortitude; that takes the place of testicular and ovarian—generic. [*Laughter*] [*Desk thumping*]

This stay will be lifted where circumstances no longer pose a serious threat to the stability of the financial system. The plan is, in fact, to secure the rights enshrined in sections 4 and 5 of the Constitution for the 1.3 million citizens of Trinidad and Tobago. [*Desk thumping*] So while you defend millionaires, we will defend the people of Trinidad and Tobago. [*Desk thumping*] Like you were afraid to defend the population against crime; you turned a blind ear to your own constituents when they came to you and demanded that something had to be done.



But the Prime Minister has gonadal fortitude, [*Desk thumping*] and this country owes a debt to both the Prime Minister and to the Finance Minister, the hon. Member for Tunapuna, and that debt—[*Interruption*]—Member for Point Fortin, thank God for the Member for Chaguanas West, “you get your road”.

**Mrs. Gopee-Scoon:** “What this have to do with this?”

**Hon. Dr. D. Baker:** Mr. Deputy Speaker, failure of passage of this Bill would put us right back where we started in 2008. In fact, if we allow the situation to get out of control, there would be a series of court actions within Trinidad and Tobago and outside of Trinidad and Tobago that would call on CL Financial to the tune of their indebtedness to their shareholders and the policyholders, and that would exceed the company’s current asset base, and when that occurs, the same small constituents—and I heard the Member for Diego Martin West claiming that he had people who had \$40,000 and above, and millions of dollars invested in CL Financial. I have constituents who have not a cent in CL Financial and they are on the line twice, because the initial \$5 billion came out of their pockets. Added to that, if the company collapses again, the additional funds would also come out of their pockets.

What is a responsible government to do but to properly safeguard the interest of the taxpayers? [*Desk thumping*] That is our duty and that is what we will do. No one, including the taxpayer, including the unions, including the teachers, the doctors, the lawyers and the pensioners, will get one cent of their investment in the short term if we allow this Bill to fail. It means that this matter would be tied up in court for years. This is a legislative prescription that understands what the symptoms are, Member for Diego Martin Central. I know you are a medical doctor; an economic prescription that will put this country on the right footing, because, you know, if we are drawn further and further to face more of the liabilities, it is less money for development. We will put at risk our own children’s future. A responsible administration would not allow that.

So, just as the Leader of the Opposition dares to walk in this House without a balisier tie, with a tie bearing the colours of red, white and black, I ask you to follow your leader and demonstrate your patriotism. [*Desk thumping*]

**Dr. Browne:** Repeat it again.

**Hon. Dr. D. Baker:** You want to hear it again?

**Dr. Browne:** Yes.

**Hon. Dr. D. Baker:** The taxpayer elected you into your office; the taxpayer is asking you to save him from a huge bill. This Parliament cannot allow this to happen. This Government is committed to its oath, the mantra: serve the people; serve the people; serve the people, and you will hear it again and again and again until the PNM understands what service to the people means.

Let me, for clarity, reiterate the following. At September 09, 2011, the following payments were made to Clico and British American (Trinidad) Limited investors under the settlement offer announced since September 2010; the payment of up to \$75,000 to the 8,184 Clico investors and the 1,631 British American (Trinidad) investors with principal balances—I got the elocution right? “Bal-ances” is the new elocution for the word, “balance”. I have to follow my leader, you know.

So we paid those who had balances of \$75,000 or less. They received 100 per cent of the sums they invested in the company. Total payment equaled \$301 million, representing some 89 per cent of the total of \$340 million. Done! This Government took care of the poor man; and the poor man first! This is the Government of all the people of Trinidad and Tobago! [*Desk thumping*] And the surety is there for those who have invested \$75,000 and above, that they will get at least, at minimum, their \$75,000 investment.

Out of this plan, within one year of us passing the legislation, and giving the Ministry and the Government time to put the framework in place, the possibility exists for them to recoup upwards of 92 per cent of their investment. Can there be a sweeter deal? And if they continue with the plan for the long term with dividends coming from NEL, there is the possibility of them getting more than 100 per cent of their initial investment. [*Desk thumping*] Nothing else demonstrates the mantra of “serve the people; serve the people; serve the people”, for the third time in this House.

If we, like the Opposition, decide because we want to get back into office—and that is their goal. Nothing else! During the debate on the death penalty legislation, during the debate on the state of emergency, and now during the debate of this piece of legislation, their primary concern was not the people of Trinidad and Tobago but getting back into office. The time for that kind of politics is gone! This is the era of coalition; people coming together for the interest of the community.

So we will not wait on the passé principles of the Member for Diego Martin North/East or stick ourselves in the idealism that sees nothing done, but more talk

of the Member for Diego Martin Central; we will move with a new vision that drives this country forward, that puts us on a secure economic platform and sees prosperity for all, as is the mandate of the party that the people of Trinidad and Tobago put in office.

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

**Miss Marlene McDonald** (*Port of Spain South*): Mr. Deputy Speaker, thank you for giving me the opportunity to join this debate at 10.56 p.m. Before I begin, let me state my interest in Clico. For the past 15 years I have, indeed, been holding a policy with this particular institution. I am one of those executive flexible annuity plan holders and, indeed, in June, just a couple months ago, in response to a question, I believe, or a statement made by the Member for Pointe-a-Pierre, I made a statement here and I said, I am a member of that particular plan and I withdrew no funds from the particular plan.

But what is more important is that I am not going to use the Parliament floor to advance my own personal interest. I am not that type of person, Sir. I am a woman who stands on principle and ceremony. I have a constituency, the constituency of Port of Spain South, and I am here to represent the views of my constituents, and it is in this vein that I stand here tonight to examine what is the full impact of the amendments to the Central Bank Act.

Having said that, I have listened to the Minister of Finance; I took some notes, and I think that nowhere in any of the contributions on the other side have I heard the impact this legislation would have across the board to the ordinary citizen of Trinidad and Tobago. I think that the debate so far has focused mainly on the Clico policyholders, as well as the British American policyholders, that class of people who are holding the executive flexible annuity plan, but I see a bigger picture.

I see the implementation or the passing of this Bill as touching the heart and soul of the ordinary depositor or ordinary shareholder or ordinary creditor in this country. I see this. Because this Bill is not only geared towards dealing— and I think this is the point we have missed—with the immediate problem of British American and Clico; it goes beyond that. Whenever there is a stay of proceedings in that 44D, I see this as touching all depositors in this country, once you deposit your funds in a commercial bank, which is how they describe the institution under the Financial Institutions Act of 2008. They deal with the commercial banks—once you are an insurance company registered under the Insurance Act or whether it is a cooperative society registered under the Cooperative Societies Act.

**11.00 p.m.**

I want to state, Mr. Deputy Speaker, that there are many cooperatives. That is just the broad rubric given to the name of cooperatives in this country. You may have the financial co-operatives which will be your credit unions; there will be agricultural cooperatives, there will be the consumer cooperatives; you have the junior co-operatives; and you have the fishing cooperatives. There are various categories under that rubric. So, in touching this legislation, you touch every one of those institutions and I think that we have missed this point. We are focused on Clico and we are focused on British American, let us look at the broader picture. I want to look at the bigger perspective here.

Mr. Deputy Speaker, I see this debate as very serious. On Thursday morning when we left here, the Leader of Government Business said, "We are going to be debating this particular amendment." I asked, "When are we going to receive this Bill?" He said, "Later this morning." I came to Parliament, collected my hard copy and I began reading and assessing because I am interested in the removal of rights. Whenever your basic fundamental rights are trampled on, when they are removed, that is much concern to me and it is much concern to the citizenry of this country.

We have just recently witnessed the state of emergency and the removal of our rights to mobilize, our freedom of association and assembly, our freedom of movement for reasons best known to the Government and, now, through this Bill, our constitutional rights of having equality before the law, and the protection of the law will be removed. I want to hasten to add that this Bill is draconian in nature, and as I said, Mr. Deputy Speaker, it is clear to me that whenever you are bringing such draconian legislation, I believe that we need to have consultation because you have constituents outside there, the policyholders, the shareholders, the depositors and the creditors. We need to consult with this group of people.

Mr. Deputy Speaker, I want to take a different twist in this debate here this evening, and it behoves me to draw to this House's attention United Nations Universal Declaration on Human Rights. Article 7 says and I quote:

"All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination."

So according to the United Nations, the law and the judges must treat everybody by the same laws regardless of their background. In other words, everyone ranks paripassu in the eyes of the law.

Mr. Deputy Speaker, permit me to look at various countries that might have adopted this Article 7 as part of their Constitutions, as part of their rule of law.

I looked at India. Under the fundamental rights of the Indian Constitution, page 2, Article 14, under the heading “Equality before the law”, it says:

“The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”

Equality before the law implies that no one is above the law of the land. That is India.

The United States—section I of the 14th amendment to the United States Constitution says no State shall:

“...deprive any person of life, liberty or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.”

The United Kingdom is different because they do not have a written Constitution. So, much of the British Constitution would be embodied in written documents, in their statutes, in court judgments and treaties. So you look to these various pieces of documents although not implicitly stated, but explicitly implied that there is protection by the law and equality before the law.

In Germany, Article 3 of the Constitution of the Federal Republic of Germany establishes the fundamental principle of equality before the law. Article 3 says:

“(1) All humans are equal before the law.”

In Canada—section 15 of the Canadian Charter of Rights and Freedoms contains the guarantee of equality of rights. It says:

“(1) Every individual is equal before...the law and has the right to the equal protection and equal benefit of the law...”

We come closer to home, here in the Caribbean, Jamaica. Section 13 of their Constitution guarantees each person protection and equality before the law.

Section 11C in Barbados does the same thing. Here in Trinidad, it is almost as if we have codified Article 7 of that UN Declaration. Our own Constitution at sections 4(a) and (b) are instructive and, Mr. Deputy Speaker, section 4(b) says:

“The right of the individual to equality before the law and the protection of the law;”

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So, from the foregoing, one can—if anyone is listening to me outside there, my constituents, we have recognized that Trinidad and Tobago is indeed a society that has a proper respect for rights and freedoms of the individual as enshrined in our Constitution.

Mr. Deputy Speaker, the framers of our Constitution saw and recognized that a Constitution is that body of principles established under which a country is governed. A Constitution is sacred and sacrosanct and must be guarded zealously.

[MR. SPEAKER *in the Chair*]

Our framers will not opt, or allow us to be breaching our constitutional rights like this, so we have to be careful when we do something like that, and that is why this is so important to me.

Mr. Speaker, the Government has two amendments and we see in 44C the definition section where they have added five new terms, but what is important here is what happened in 44E. In 44E we have added “and stay of proceedings” and this is, I guess, aimed at the Central Bank and the institutions. The institutions I said would be the commercial banks, the insurance companies and, of course, cooperative societies.

In section 44E(1) of the Bill, it talks about—I looked at it as having two limbs, where they first deal with the depositors and investors, and this is saying that no creditor, no shareholder, no policyholder, no depositor, or any person shall have any remedy against an institution in respect of any claim. The second dilemma of this part (a), that is 5(a), is that no creditor, no shareholder, no depositor, no policyholder, or any other person shall commence or continue any action against the institution, or if there is an Order, a judgment obtained in Trinidad and Tobago, or any other jurisdiction. Because of this piece of law that they want to pass here at section 5(a), it would not be allowed. Your rights here have been removed.

Mr. Speaker, I will deal with 5(a) and 5(b) together. Section 5(b) deals with the Central Bank and, again, the class of people, the shareholders, depositors, policyholders or any person cannot start any proceedings, or commence any action, or enforce any judgment or order against the Central Bank, its directors, its officers, its employees, any person acting on behalf of the bank, or appointed by the bank with or arising on any matter arising out of the acts or omissions of the bank in respect of the institution until the bank publishes a notification under section 44G(1) that they are now in control of the particular bank or institution.

Mr. Speaker, what are these two sections purporting to do? These two sections I see as purporting to remove the rights of individuals, and the question I ask is: what is this in violation of? I see this as being in violation of section 4(a) of our Constitution, that is, depriving a person of the right to the due process of law. I see it also being in violation of section 4(b) of the Constitution, the right of the individual to equality before the law and the protection of the law.

The Government may argue that by bringing this Bill they are demonstrating that there is due process of law, but think again. This Bill discriminates against a class of persons who have bona fide contractual rights with the institutions. That is it because what we are seeing is a systematic dismantling of contractual rights and obligations in this country.

Mr. Speaker, this group of persons being discriminated against are ordinary citizens of Trinidad and Tobago who have worked hard and who have saved their money for future use. I listened to the Member for Diego Martin West when he quoted the Minister of Finance about the role and importance of savings in this country, and I will agree with the Minister of Finance that once you have a high level of savings in your country it translates to investments, all things being equal.

It is important to have savings in this country. Three entities in the economy will save: the Government, companies and the households. I am interested in the man on the streets, so I am looking at households and why do they save. They save for their current expenses and future expenses, a house, a car, a holiday, their children's education and, most important, they save for their retirement.

What is the role of saving in economic growth? Any good student of economics will quickly tell you that insufficient investment in an economy also means suboptimal economic growth, suboptimal job creation and inferior overall living standards relative to a country that will have a high level of savings. So if we save too little—and the Minister of Finance will know that—as a country, the answer is simple. For the households, they will struggle to make ends meet, and for the broader economy it will mean that there will be insufficient funds available to finance investment in physical and social infrastructure.

**11.15 p.m.**

Mr. Speaker, it is savings which, when translated into investment, becomes the engine that drives economic growth in your country. So, we are asking our people to save, we are asking all our citizens—once you are working—to save for that rainy day. And how do we reward our savers? How do we do that?

Mr. Speaker, when someone puts their money in a bank, in a credit union or an insurance company, they do so because of something called confidence. That person, that depositor, that shareholder, that policyholder is doing so because they are confident that when they invest their money in a sound institution, they have entrusted their money to safekeeping with the management of that institution. And, if for negligent reasons that institution fails because of the acts and the abuse and the omission of the management, then that depositor can legally sue the institution. That is the person's inherent right under the laws of Trinidad and Tobago. But, with clause 4(b)(5) of this Bill, that person will now have no remedy or claim if that institution—and even if the institution has another branch in another country, you will be estopped, you cannot under this clause even ask for anything. You have no redress—none whatsoever.

And further, if a successor company takes over that failed company, you do not even have any redress against that successor company, and this is what the Government is telling us. Is that how you are going to reward? Remember, I am looking at the bigger picture; I am not just looking at the Clico policyholders or the British American policyholders, I have gone beyond that. I am saying what you are doing here will try to remedy that situation with Clico and British American, but when you have bypassed that, this law remains on the books; it remains there, and it will affect each and every one of us in some way or the other. It will and this is my concern. It is not going to—okay, we deal with Clico, we deal with British American and then we lift this, it stays there, and hence the reason for my concern.

This law is virtually going to render any judgment. If a person has an order or a judgment against that failed institution—in the case of Clico, in the case of British American—it is unenforceable. So, a court order will be frustrated by this law, and I want to quote a case in point. I came with it. It is a High Court judgment. It is between St. Christopher & Nevis Social Security Board, the claimant. There are six claimants in here and Clico Trinidad Limited, so there is a judgment registered against Clico here, Minister of Finance. And I went through it and the defendant which is Clico in this matter was ordered to pay both principal and interest. This is in the High Court. This is an order to pay the five claimants here back their principal from Clico; they all held the executive flexible annuity plan, and this is an order by the High Court of Trinidad and Tobago for Clico to repay them their principal and interest. Do you know what is going to happen now with the passage of this Bill? It is frustrating. They will not be able to enforce this order granted by the High Court because of this.



Now, that is what you call retroactive legislation. And retroactive legislation must be frowned upon; it has to be frowned upon, and you just cannot take away the rights of people like that. When you were campaigning up and down last year, up and down this country, did you tell the people that when you cannot deal with a situation, “I am going to take away your rights”? When you were campaigning up and down, did you say to the people of this country—the over 400,000 people you all like to boast who voted for you, over 400,000 persons—did you tell them, “Well, I cannot deal with crime and so, when we get in there, we going to use a state of emergency to try to deal with crime.” No, you said you have a crime plan. We are still waiting to see, and I have been asking from time to time in this Parliament to show us—sorry, Mr. Speaker, I turned my back on you, my apologies—the crime plan; let us see what is the crime plan. But you went out there and you used a last ditched effort and now, look what has happened. “Look what is going on.” *[Interruption]* Yes, Sir, and I would not even bother with that.

So, Mr. Speaker, there is no redress to a court to have your rights determined, it is now frustrating and it is for an indefinite period, and I want to answer the Member for Tobago West. The Member for Tobago West said it is just a temporary suspension of your rights. Now, you are drafting legislation and you would not even give an indication as to when the Central Bank will be able to lift the order or the control, so you are just outside there languishing and hoping, because you would not be able to bring any action against the institution until the Central Bank is satisfied that whatever was the crisis there, it has been removed, and there is no longer a systemic risk, and so we could, by which time, there is nothing; you find an institution that has nothing. So what is this? Are you just going to be outside there just waiting indefinitely, Sir? That is part of your contribution and it is the only point I think that you have made here tonight.

So, Mr. Speaker, I ask a question of the Government: what does this mean when you have taken away the rights of individuals? And on top of that, we will deal with the bank after. What does this mean for our financial system? Are you instilling confidence in our system? Because I will tell you something, since last year—you are here 16 months, and look at the reports all around, look at the business community; look at them. What is happening here? People are not confident, they are not confident; they do not feel—some people told me, “Miss Marlene, I feel as if I am just waiting to exhale”, because they do not know whether they are going right, left, front or back.

And therefore, it is up to you; the onus is on you to instill that confidence. Now look at what you have done to this financial system. This is what you are

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proposing to do, to remove my rights as a basic little depositor. Think about people in my constituency. *[Interruption]* I am speaking—I do not interfere with anybody when they are speaking. Member for Oropouche East, you are my colleague in the Parliament; I do not interfere with anybody; allow me to speak, please. Mr. Speaker, your protection.

**Mr. Speaker:** You have my protection.

**Miss M. McDonald:** Thank you. Anybody in my constituency, those little vendors in my constituency, they like to go to FCB to put a little \$200 or \$300 in. They are building up a little nest egg.

**Mr. Warner:** Chirrup-chirrup

**Miss M. McDonald:** Yeah chirrup-chirrup; yes, Member for Chaguanas West, you know the thing. And you know what, for some reason the management of the bank, of FCB—I am just calling that hypothetically—the management of FCB, through some act on their part or some omission, the bank fails. You are saying that my little constituent who is depositing their little money in the bank has absolutely no redress. You cannot bring any claim or action against FCB; you cannot bring anything against no directors, nobody.

Even if you felt, “Okay, I cannot sue the bank, let me sue the person who has oversight over the bank”, because under the Financial Institutions Act, we know who has oversight; we know it is the Central Bank. You went as far now as to say to us, you cannot sue, and even if you start it, you start any proceedings, you cannot continue; you cannot enforce any order or any judgment against the Central Bank; you cannot do it against the bank, you cannot do it against its employees—all its functionaries.

So, where does that leave you? In la-la land. La-la land, that is where you are. You are not instilling the confidence in this system. Is this a good move for our country? Is this a good move and we are trying to encourage investments in this country? What would you tell the small man on the street? What would you tell them? Mr. Speaker, I asked a further question of the Government and something “chooking meh behind meh head, yuh know, why I asking this question.” Who are you trying to protect? Who are you trying to protect? *[Interruption]* No, the Minister will answer when he is winding up; not you. You are not the Minister of Finance.

Mr. Speaker, you know what I have noticed? I have noticed that there is a deafening silence from the commercial banking sector. Why are they so quiet?

Where is the bankers association? “How they so quiet?” What about “dem” insurance people; how they so quiet? [*Interruption*] Why do I have to ask that question? I am not going to answer that. You all have to answer that, not me. I am not the Minister of Finance and I am in Opposition. Why are they so quiet? “You know why?” Do you want me to tell you why?

This Government has given carte blanche “freeco” to the commercial banking sector, to the insurance sector, and soon, to be—because I know you have to bring legislation, right now it is not under the credit unions—I should say the corporate societies, they are not now under the oversight of the Central Bank until you bring your legislation to remove them from your Ministry over to the Central Bank—I think it might be the financial corporative—the credit unions only. So I can only deal with the Central Bank from the point of view of the insurance companies and the commercial banks. So, in other words then, do you know who will be the losers in all of this? The small, ordinary person saving towards his retirement, saving to acquire a home; saving to acquire a car, to go on holidays, and, more importantly, saving towards his children’s education.

Mr. Speaker, I want to say something about the Central Bank, though. Now, the Central Bank, as far as I know, would have oversight over the insurance companies and over the commercial banks. So, I would have thought that if an institution is at risk that the Central Bank who also would have the depositors’ interest at heart, would try to institute corrective measures to be put in place to deal with these institutions, but my research showed, from what has happened with Clico—I do not know if this was done; it is for the Minister to tell us—now the Government is further protecting the Central Bank. Why, Mr. Speaker?

Mr. Speaker, these are questions that I am asking and as my colleague from Laventille East/Morvant said, at the end of the debate we would like the Minister to explain why. I know that from May 25, 2004, responsibility for the supervision of insurance companies, insurance intermediaries, private registered pension plans—they were all transferred from the Supervisor of Insurance in the Ministry of Finance to the Central Bank so there will be more oversight. So what has happened? What really has happened? They had the tools. So what has happened? Why did you not utilize the tools? They had oversight; they had supervisory powers over the insurance companies from 2004.

**11.30 p.m.**

Mr. Speaker, clause 5(c) and (d)—5(c) deals with persons holding agreements, leases and licences. Again, we are saying that a person who holds a

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security agreement, lease or licence with an institution, it states clearly in their agreement that on the winding up of the institution or on default by the institution of an obligation under the security arrangement, the institution will cease to have any hold on the assets under the security agreement.

Clause 5(d) deals with the acquisition of property or assets of the institution. They are saying here that no provision in any contract or agreement which gives any party a right to acquire any property or assets of the institution on the grounds that any change of control will have no effect until a publication of a notification under section 44G(1). What these two sections, in my opinion—what the Government is doing here is dismantling contractual arrangements which have been signed under valid agreements.

It brings me to how important an agreement or account is in the commercial world. An agreement is legal. It is binding. A contract is a legally binding agreement between two or more persons. Basically, for a valid contract, you need four ingredients. I know my friend, the Member for St. Augustine, will tell you. It is offer, acceptance, consideration and the intentions to create legal relations. We know that once those ingredients are there, everything is duly executed, it is valid.

What happens if you breach it? If someone breaches that agreement or contract, there are a number of remedies available to that person. You could get damages, monetary compensation or you can get several orders: a court record requiring the party who has breached the contract to carry out his or her obligations. You can get another court order forbidding the party from breaching the contract, or you can get a court order declaring the contract is at an end and requesting the party to put that person back in the position they were before the contract was breached.

Mr. Speaker, do you know what the Government is doing here? The Government is depriving all these people who are holding a security agreement, leases and licences—they are denying them their fundamental rights of remedies available to them. That is exactly what they are doing.

I looked at section 13(1) of the Constitution and the question which now arises to me is whether this proposed Bill is reasonably justifiable in a society that has proper respect for the rights and freedoms of the individual. And the answer is simply: no. It is simply: no. I see the denial of human rights and fundamental freedom of an individual as being paramount. But it also creates, when you remove those rights, a condition of social and political unrest, sowing the seeds of

violence and conflict. I am pretty sure this is not the intention of this Government, but I believe that we need, perhaps, to have a little more conscience when we are dealing with this.

As a matter of fact, my colleague, the Member for Diego Martin North/East, said we need a human touch here. We need the human touch. As I have said, I have gone beyond Clico and British America. I have gone beyond that.

Mr. Speaker, I found a case which I think might be of some interest. Some people might be already aware of it; *Francis Paponette and Others (3) v the Attorney General of Trinidad and Tobago*. Perhaps the Member for Chaguanas West might know. This has to do with the Route 2 and Route 3 maxi-taxis. This case is important, I will tell you why, because of the principles here. They got judgment at the Privy Council level and the principles here, to me, are of paramount importance. Let me summarize, briefly, exactly what this is saying. Lord Hofmann says in the case of *R (Bancoult) v the Secretary of State for Foreign and Commonwealth Affairs*:

“...a claim to a legitimate expectation can be based only upon a promise which is clear, unambiguous and devoid of relevant qualification’.”

The question, more importantly is: was the Government entitled to frustrate the legitimate expectation that had been created by its representatives?

The issue that arises here is whether, in the case of Clico and British American, these policyholders had a legitimate expectation that they will continue to get their funds based on a promise by the former government. Based on a promise—[*Interruption*—hold on, hold on. I am applying the principles to the case under review.

Based on that, they relied on that promise and they expected that they will continue to get their interest. As a matter of fact, some people had shown confidence in the system that they rolled over their funds and some people continued depositing funds. With the change of government now, you have frustrated this process. You have frustrated their legitimate expectations. That is what this case is dealing with.

The claimant appellants got judgment at the Privy Council—because, what was said. I just want to quote a little part of the law:

“...the court will have the task of weighing the requirements of fairness against any overriding interest relied upon for the change of policy.

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There has been a change of policy, since your Government came in, as to what has transpired before and the expectations of those policyholders. I am saying that, probably, understanding this case—which is a Privy Council decision and the Privy Council is the highest court for us here in this jurisdiction. So, therefore, this decision is binding on us and, perhaps, we should look at this and critically assess this.

Mr. Speaker, I would ask the Minister here tonight, when you remove someone's rights—the country is already heating up. They are heating up over the removal of their rights under the state of emergency and now you are removing the fundamental rights of an ordinary citizen to sue in the event that his or her money is abused in any financial institution. I am asking that you review it and, perhaps, have a little conscience for the small man.

Mr. Speaker, I thank you.

**The Minister of Sport (Hon. Anil Roberts):** Thank you, Mr. Speaker. I went through a detailed analysis and was coming to give you a forensic discussion on the economic impacts of systemic risks and all of that, but hearing this debate, Minister Cadiz “hold dat!” Let us bring it down to brass tacks for the people to understand what is going on.

Let me first of all start with the Member for Port of Spain South, because you are so brilliant and so intelligent and yet you always just miss the point. Yes, I agree with you, Member for Port of Spain South, that individual rights taken away is terrible and nobody will ever want to do that. If you are an individual depositor and you have been wronged and your contract—you believe that a party has not lived up to the contractual obligations you have that remedy in court. The problem is, we are not talking about that. We are here to deal with systemic risks. By definition, systemic risk eliminate an individual from being the most important thing, once you talking systemic risk.

The whole idea of why we are here is because the PNM government thought, and rightfully so, if CL Financial was allowed to collapse there would be systemic risk, which means that the entire economy would have been impacted. Hundreds of thousands of citizens would have been unemployed and lost deposits; major corporations and banks would have failed; the labour unions would have lost their money and subscriptions that they had invested; the economy could have crashed, which would have led to us moving from developing status to “francomet” Third World status. That is why we are here.

Let us go back to the beginning a little. Let us talk to the people. Break it down, because you tried to make this thing so complex and the people out there

may not understand—very simple. First and foremost, anybody who puts their money in any institution is taking a risk at any time. There are some low risks, which are like fixed deposits in a strong bank, where you get low interest and your money is safe like Selassie I briefcase.

There are other risks where you take a risk and you want a higher return, you challenge yourself and you go for that. Some people say greed is good. Some people, it benefits them and they change their risk profile and they go and they invest in things that may bring higher returns. But, with higher returns there is also the possibility that they might lose everything.

First and foremost, if you put your money somewhere and the management mismanages and all the assets fall and the gearing ratio was too high and you cannot get back your money, really and truly it is hard luck. You could go to the court, but if you go to the court, based on the insolvency of the company you are going to get a piece of paper that says: “Yes, you were right. You won, but you are not going to get anything.” There is that situation.

Now, this situation is quite different because, in this situation, it was deemed by the past government that you just could not allow this big conglomerate to fail because too many people will suffer. So, what did they do? This is where the plot thickens. While many of you would like to say: “People’s Partnership, you won a resounding majority on May 25. Move forward. Do not talk about the past”, we must talk about the past and here is why.

The Member for Port of Spain South, learned attorney, just went through basic contract law for us. She said the four conditions are offer, acceptance, consideration and intention to form legal relations. Great. Let us go back to the former Minister and former Member for D’Abadie/O’Meara who was sitting here and let us go through your definition of “contract”. You are saying that the principles of contract, very clear, crystal clear—now, the Member for D’Abadie/O’Meara, the Minister of Finance, was a shareholder of CL Financial. It is not a publicly traded company, so only shareholders, the owners get the annual audited accounts. She was in possession of the latest accounts at that time, December 31, 2007.

Those accounts are a breeze. If you perused those accounts you would have seen that there was a major problem in the conglomerate. You would have seen that the company was geared to 92 per cent, meaning that most of their assets were beholden to creditors. Most of their assets had been used to leverage financing to invest further and they put one on to the other. In other words, they

were at very high risk. Some may say that risk was two or three years away from paying off, but unfortunately the global financial meltdown came at the wrong time and everything collapsed.

**11.45 p.m.**

So this Minister of Finance, who knew the position, did not disclose it and purported to negotiate and form a contract on behalf of the people of Trinidad and Tobago. Member for Port of Spain South, I want you to listen because you are giving us contract law. There are many choices which this Government could have taken, because it could be argued in a court of law that the former Minister of Finance, who did not disclose that she was, in fact, an owner and shareholder and, therefore, could not negotiate on behalf of the people of Trinidad and Tobago, because she was, in fact, negotiating as a shareholder and an owner—you cannot negotiate on both sides of the same coin in the same negotiation. So this Government could have gone to court and said listen, that MOU is not a contract and, therefore, the Government of Trinidad and Tobago, the taxpayers and the people are not bound by it; that was a choice.

Now, did we take that choice? No, because we care about the small man, we care about the people, we care about people's savings, and the Minister of Finance then decided that he has to look, to analyze, set up a team and see what is the best way to move forward; even though in many legal opinions we were operating under an illegal, and, therefore, non-existent contract. You see how important it is to talk about the past? Very important.

So the initial contract, which has us here, could have been deemed by a reasonable person, and many a judge I would believe, and many a great lawyer could have made that argument that it is null and void and, therefore, this new Government could not and would not and should not be bound by that contract; but no, we did not choose to take that route; because we understand the systemic risk and the suffering which could occur.

So what did the Minister of Finance decide to do? He decided to deal with the most vulnerable first and foremost, those who needed that money for medical reasons, for school reasons, for different reasons. They were given special purpose occasions to get their money quickly.

We then dealt with all the small depositors, whom the Member for Port of Spain South is so eloquently talking about. All 8,259, or however many, they got their \$75,000 already as the Member for Tobago West just told you; totalling \$340 million. They got it already. So the small man is seen about.



So what do we understand now? Where are we? So there is the possibility of systemic risk. In any society, even in this Parliament, there are some persons who understand teamwork and there are some persons who do not understand teamwork. As you all have seen over on that side sometimes, well, you all vote separately, and the Member for San Fernando West and the Member for Point Fortin on one side; and over here on another side. I am just showing you, some persons do not understand teamwork.

**Miss McDonald:** Come out of our business.

**Hon. A. Roberts:** San Fernando East, sorry. What did I say, West? I humbly apologize, San Fernando West. But the point I am making is, here it is, there is a systemic risk; the Minister of Finance is dealing with the overall big picture. Not every human being understands teamwork. Some of us are more selfish than others.

So what will happen if an individual—and we are dealing with, as the Member for Diego Martin West said, 23,400-odd persons. If a portion of those persons wants their money and are not willing to understand the team concept and work together by choice to move forward, so that everybody will benefit in the long run, and they run to the courts and get judgment, what is going to happen, Member for Port of Spain South? What is going to happen? They get judgment, and unlike what the Member for Diego Martin North/East says, a judge deals with what is before him or her.

If the Member for Diego Martin North/East brings a claim, yes, he has X amount of money, hopefully enough to get to Elias, but he has that money there, and he wants it now, because he has bills to pay. He goes in the court and he makes his case before a judge, the judge is going to rule now on the evidence before him or her. The judge does not, will not and cannot decide upon evidence that is not before him or her, and the public interest, or systemic risk, is not an argument, or is not factored into a judge determining on that individual contract which you are talking about. Because the Member for Diego Martin North/East would have an individual contract with the company, whether it is CL Financial or British American, and the judge will be adjudicating on that. The judge will not be able, no matter how much he or she would love to understand the issue, bring public interest into your specific case between the management of a company and your contract with them for your deposit.

I do not understand—and I think he did a masters in law, I do not know—I really will have to talk to him after—the Member for Diego Martin North/East;

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because I grew up with lawyers and, me being a bush lawyer myself, I am no lawyer, but at least I understand that; so that point was moot.

So let us understand the issue here. So while, yes, we dislike removing individual rights of persons to make a claim to get back what is theirs, there are two basic points that I am making. Number one, first and foremost, if it was not for a possible illegal—or let us look for another word—an unfortunate incident which could have mooted the initial contract, the MOU is the overriding contract. There is a debate—lawyers are ready to argue that that may not be legal and I believe that it is not, okay. Because from your principles of offer/acceptance, meeting of minds, and so on. So, the initial MOU may be null and void. So, therefore, it is really and truly up to the Government and the people are not involved and not beholden, however, this Government has decided to live up to that.

So what do we do? If we allow individuals who do not understand systemic risk, and are not team players, and want to go and get their money— they go and they win their case; the judge gives an order and you have to sell assets, you have to liquidate the company, and we know that right now anybody who reads basic accounts or economics understands it is insolvent.

So, therefore, you have creditors—I told you it is 92 per cent geared—so if you wind up that company, first and foremost in the priority of those to get their money first is the creditors, the bondholders, the persons who you borrow money from; then you come down the line, to depositors and so on, and come down the line. So by the time you are coming down the line if you do not have assets close to the amount which you owe, somebody is going to get zero, and a high percentage of persons is going to get zero, nothing!

So the individuals who win their case will get all their money, but then a high percentage, thousands and thousands of persons, will get little or nothing; and that is not the best solution. So, therefore, yes—

**Mrs. Gopee-Scoon:** [*Inaudible*] [*Interruption*]

**Hon. A. Roberts:** I cannot hear. I cannot hear you. You are not advocating anything.

**Mr. Speaker:** Could you address the Chair, and ignore the Member for Point Fortin? Just address me.

**Hon. A. Roberts:** Well, Mr. Speaker, I will definitely take your advice and I can tell you that I will love to. I will do that gladly, ignore the Member for Point Fortin.

So the problem is—and this is what we are talking about. Right now, even on that side, as the PNM is saying if you wind up the company, persons will not get their money. Some may be lucky, the majority will not; some will get absolutely zero. The Minister of Finance has come up with a brilliant plan in the economic circumstances, that if as the time goes by and the differentiations within the different companies and the assets which are solvent, and coming up, and prices are rising; that the company again will blossom and once it blossoms then they would be in a position for everybody to benefit.

In this case while you made a brilliant argument for individuals, I am very sorry, Member for Port of Spain South, the masses, the people take precedence in this situation in making hard choices over individuals. Because when you talk about rights, you have to realize that, yes, people's rights individually have been taken away now, however, let us talk about the opportunity cost of having a Minister of Finance who—"hah"?

**Miss McDonald:** So you are admitting that you are taking away people's rights?

**Hon. A. Roberts:** But that is not up for debate, of course, individual rights, right here—but this is what it says. I mean, that is plain English. If somebody has a right to go and seek redress in the court, right here; this is making sure that you cannot do that right now, because if you were allowed to do that, thousands—the greater good will be impacted, thousands of persons would lose out, that is what—"so you now figuring out that?" You now realize that?

**Miss McDonald:** So you are admitting you are taking away people's rights? Go ahead.

**Hon. A. Roberts:** Admission? Okay, I did not know that we had to admit what was written in the Bill. But anyway, let me move ahead.

So what about the opportunity cost of having a former Minister of Finance who—and understand this, because persons are misunderstanding this, it is not whether she "took out" her money or did not "take out" her money, Mr. Speaker. I am not interested in that. That is her business. What I am interested in is, as she took the oath to serve the people, she represented the 1.4 million persons out there who are impacted by the economy of Trinidad and Tobago. So she was negotiating on behalf of those persons, but she was negotiating with herself, because she was an owner of the very said company; now, in law, she could not legally do that.

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So she now has committed the people and taxpayers who pay tax and have a right for services, have a right to get proper health care, have a right to get more buses and smoother roads, have a right to get more schools, better schools, books, medicine, they have a right to get those services. And what this PNM Minister of Finance did was take away the rights of those persons to the tune of \$18 billion. So if you are talking rights, we have to talk rights across the board; so this is very simple. We are here today to undo the mess that the PNM got the country and the economy into, let us just talk facts, the absolute mess.

The Minister of Finance and his team have worked assiduously and created a plan which will bring the majority of persons to a comfortable state and ensure that the economy is not damaged from any fallout. [*Interruption*] We will see, yes we will see. You might not be there, but we will see. And this is what has to happen.

So yes, it is not nice to say that individuals cannot go to court and fight their contract, but the contract is not the individual contract now. The contract which takes precedence is the overarching umbrella contract, the MOU which this Government is living up to, even though it was possible for us to fight that and say, "Listen, we do not have to be bound by that, that was negotiated in bad faith, you know bad faith, no contract. I see you smile.

So, Mr. Speaker, that is all I got up to say, to break it down. But understand that this plan as enunciated by the Minister of Finance, the Member for Tunapuna and Member for Tobago West, has already seen persons, citizens, getting back their savings; and given the time with this legislation, the company and the institution, the option which he has taken; the company will rebound, the assets will boost in value, the real estate will come up.

Real estate is something that you will always understand eventually it must rise. That is the one thing which will rise; except when you have contractors and engineers who built town houses and they always fall, stadia which always fall; like some contractors or engineers have a problem with erection, because everything which they are in charge of is always falling down. But normally real estate will rebound, so the assets will rebound, the good companies will come up, the share prices will get back up.

With economics, one thing you know, is it is always cyclical so we expect it to rebound. This is to buy some time so that we can do the most good, save our economy and ensure that there is no hardship especially to those most vulnerable at the lower economic levels.

So with those few words, Mr. Speaker, I thank you. [*Desk thumping*]

**Mr. Colm Imbert** (*Diego Martin North/East*): Mr. Speaker, you know the quality of debates in Parliament has really deteriorated, and it is also quite shocking that you have Members of the Cabinet who do not even understand the basic principles of governance, basic principles of the separation of powers, basic principles of law. It is shocking, it is embarrassing!

### **12 midnight**

There are children who are watching this Parliament and when a Cabinet Minister stands and makes this absurd statement, I quote:

A judge will not be able to bring the public interest into a case involving an individual contract because the public interest would not be before the judge...

That is an oxymoronic statement, a non-sequitur if there ever was one. The public interest is always before a judge and I am sure the Member for St. Joseph is very well aware of that.

To show the level of banality; to show the level of misinformation, lack of education, lack of knowledge that is being presented in this Parliament as debate, let me go to an actual case dealing with the instant matter. This is specific; this is not a vague generality; this is real.

I go to the case referred to by the Member for Port of Spain South, Claim No. CV 2010-02917, *St. Christopher and Nevis Social Security Board v Clico...* and several other claimants. In this decision, in the judge's recital of what had occurred, the judge referred to a consent order and indicated what had been ordered by consent and went on to say the following:

"The letter dated 21<sup>st</sup> February...from the Central Bank to Clico...referred to in the above consent order is hereinafter set out in full:"

This is a letter dated February 21, 2011 from Miss Carolyn John, Acting Managing Director of Colonial Life, written by the Inspector of Financial Institutions. It goes on to say the following. The heading is:

"Application to suspend the payment of surrender values pursuant to Section 135 of the Insurance Act..."

Reference is made to your letter...in which we attached instructions from the Honourable Minister of Finance (dated September 6, 2010) that there be a moratorium on all EFPA payments as of September 9, 2010.

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Having considered these instructions, CLICO'S financial state of affairs and the interests of all its policyholders, the Central Bank is of the opinion that any payment by CLICO of policy cash surrender values would be prejudicial to both the financial stability of the company and to the interests of its policyholders."

This was the public interest placed before this judge, which was a claim with respect to breach of an individual contract. I am putting this into the record to show the shallowness of the contributions we get from the other side. We had an impassioned speech.

**Mr. Speaker:** Hon. Member, I have noticed a trend in your contributions where you tend to lecture to and, at the same time, try to tell Members of this honourable House how they should make their contributions.

If, for instance, Members are off course, as Speaker, I will rule, but I do not think it is in your place to take up your valuable time, rather than focusing on the Bill. You are addressing Members in a manner I find very disturbing and bordering on disorder, so I ask you to confine your contribution to your concerns and points of view. Do not try to lecture or hector Members at the same time.

**Mr. C. Imbert:** Thank you, Mr. Speaker. The point is, as far as I am concerned, a government Minister should not come into the Parliament and put policy issues into the parliamentary records, which are false and inaccurate in every material respect. [*Desk thumping*]

We have had a situation where a group of policyholders has sued Colonial Life for breach of contract with respect to a breach of the terms and conditions of their individual policies and the public interest was placed before the judge. That was part of the court documents and the judge determined that there had been a breach of contract, notwithstanding the representations made, and the judge ordered that the policyholders be paid their just entitlements.

**Mr. Roberts:** Would you give way?

**Mr. C. Imbert:** No, I will not. Mr. Speaker, since by your ruling, I am not allowed to educate hon. Members opposite, allow me to educate those who are listening. The issue that is fundamental to the matter under discussion is the whole question of what is called proportionality in jurisprudence.

I refer to an extract from a speech given by the former head of the Caribbean Court of Justice (CCJ), the Honourable Michael de la Bastide, a recent speech he made about the question of proportionality in jurisprudence.

I quote:

Another important and relatively recent development in the protection of constitutional rights in this region has been the introduction of the concept of proportionality into our jurisprudence. This concept is used to assist in determining whether a law that derogates from a constitutionally protected right or freedom is permissible and constitutional or impermissible and unconstitutional.

It is generally recognized that fundamental human rights and freedoms are not absolute, but qualified. It is usual for constitutions to make provisions for derogation from the fundamental rights and freedoms which they enshrine.  
[*Interruption*]

Mr. Speaker, I am being disturbed by the Member for D'Abadie/O'Meara and the Member for Oropouche East. I seek your protection.

**Mr. Speaker:** You have my protection.

**Mr. C. Imbert:** I hope so. The former head of the Caribbean Court of Justice went on as follows:

In the case of the OECS states, provisions which impinge on the rights and freedoms of individuals are subjected by the terms of their constitutions to two tests. Firstly, the provisions must be reasonably required for certain broad purposes linked to the public interest, such as defence, public safety, public health or for the protection of the rights of others. The onus of proof here is on the party supporting the impinging law.

The second requirement imposed by these Constitutions is that the impinging law must not be shown to be not reasonably justifiable in a democratic society.

This brings us to our Constitution, the Constitution of the Republic of Trinidad and Tobago and section 13. We need to read it into the record because it appears that Members opposite have lost all sight—that is my belief—of what we are debating in this Parliament tonight. We are debating a Bill and in its preamble, in the amendment that has been circulated, it states that: “This Act shall have effect, even though inconsistent with sections 4 and 5 of the Constitution.” What we are debating here tonight is a Bill that is taking away certain rights which are protected by sections 4 and 5 of the Constitution.

Section 13 of our Constitution states:

“(1) An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 and, if any such

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Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.”

What the Government is trying to tell us, and in my view they are not articulating it themselves very well, is that the taking away of the rights of enjoyment of property, equality of treatment under the law; the right to protection under the law and the right to due process; that the taking away of these rights which are in section 4 of the Constitution is justifiable in our society, which has a proper respect for the rights and freedoms of the individual. They cannot, in my opinion, articulate the point properly and that is why I am unhappy with some of the statements made tonight.

Let me go back to what the Honourable Michael De La Bastide was saying. He referred to the proportionality test being first applied by the Privy Council in an appeal from the Caribbean in *De Freitas v the Permanent Secretary of the Ministry of Agriculture*, an appeal from Antigua and Barbuda. The issue in that case was whether a blanket prohibition on all civil servants from expressing opinions on controversial political issues was a limitation on the rights of the applicants’ freedom of expression.

To summarize, the court held that the blanket prohibition on public servants from expressing political views in Antigua failed the proportionality test and this is the test that was applied:

- (1) Whether the legislative objective is sufficiently important to justify limiting a fundamental right.

I am asking the Minister to answer that: whether your legislative objective in this Act to amend the Central Bank Act is sufficiently important to justify limiting the fundamental right.

- (2) Whether the measures designed to meet the legislative objective are rationally connected to that.

I particularly want the Minister to ask that question. Are your measures rational or are they irrational?

- (3) The means used to impair the right or freedom are no more than is necessary to accomplish the objective.

Answer that too. The Bill you have brought in this Parliament, is it necessary to achieve your objectives? This particular prohibition in Antigua failed this



proportionality test on the third plank. It was deemed by the Privy Council that the blanket prohibition failed the proportionality test because it answered the third question in the negative, so they struck it out.

There is quite a lot of learning in the Caribbean where governments have passed laws using their majorities, derogating, abrogating rights and where the matter has been taken to the courts and tested to establish whether it meets the requirement of proportionality, the balance that the Members opposite have been talking about; the balancing of the public interest with the rights of the individual.

I can assure you, as night follows day, that one of these policyholders, probably more than one, will go to the court, after you use your parliamentary majority and railroad through this oppressive piece of legislation, to apply the proportionality test to see whether what you are doing is sufficiently important; whether it is rational and whether the means you have used are necessary.

We shall see. All you are doing is buying time. You think that by bringing this Act here to take away a person's right to seek legal recourse; to enforce a judgment they may already have, you win. We shall see and that is the point I was making. Hon. Members opposite do not seem to understand these basic principles. It is the duty of the court to determine whether, in enacting legislation that takes away fundamental rights, the Parliament has achieved the necessary balance between the public interest and the preservation of individual rights. Some of the Members opposite really need to do a little more research.

**12.15 a.m.**

The matter is well captured in a local judgment. I am sure the Member for St. Joseph is familiar with this, the case of *Suratt v the Attorney General of Trinidad and Tobago*. And in one of the comments in that decision, *Suratt v the Attorney General Baroness Hale* had this to say, that:

“It cannot be...that every Act of Parliament which impinges in any way upon the rights protected in sections 4 and 5 of the Constitution is for that reason alone unconstitutional. Legislation frequently affects rights of freedom of thought and expression and the enjoyment of property. These are both qualified rights which may be limited, either by general legislation or in the particular case, provided that the limitation pursues a legitimate aim and is proportionate to it.

And now to deal with the points made by hon. Member for Chaguanas and D'Abadie/O'Meara; it is for the Parliament in the first instance to strike the

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balance between individual right and the general interest. That is what you are doing. You have come to this Parliament and you have told us that this law which will stay proceedings, it will also stay enforcement of judgments. It is not just staying legal actions, it is staying enforcement of judgments already received, Mr. Speaker.

It is for the Parliament in the first instance to strike the balance between individuals' rights and the general interest. The courts may have to decide whether Parliament has achieved the right balance. That is the point your colleagues behind you missed, that you could use your majority here because there is a theme coming through from the Government, coming through from the Member for Tobago West, coming through from Members behind the Member for Tunapuna, that it is only you and you alone who can determine the balance between the public interest and the individual rights. You are wrong. It is for the court to determine that. To determine that! The court may, on occasion, have to decide—not interpret—whether the Parliament has achieved the right balance. This is a Privy Council ruling, and we are still subject to the Privy Council.

You know, all of you have to be very careful about what you are doing. You are just buying time. You see what the Government—[*Interruption*—yeah, you could say what you want. You need to listen and learn—is doing in this particular case is introducing yet another ouster clause into our legislative framework. An ouster clause is a section of legislation that allows Parliament to deny members of the public the right to have decisions reviewed by the courts in the public interest. So essentially, you are creating what is known as an ouster clause, because when you read what you are trying to do, you are preventing persons from having access to the courts. So you are ousting or you are attempting to oust the jurisdiction of the court, Mr. Speaker.

The term “ousting” is generally used to mean the wrongful dispossession of someone’s right to property. In judicial review an ouster clause has a separate meaning limiting access to judicial review of the decisions of public bodies. But what is interesting is that courts take a very narrow view of ouster clauses, a very narrow view. It is interesting. One of the leading decisions on the ouster clauses—and again I am certain the Member for St. Joseph is familiar with this—is the case of *Anisminic v the Foreign Compensation Mission*. One of the interesting things—and when you look at the learning and when you look at the reviews of this case, the ruling in *Anisminic* cut a large swathe through the validity of ouster clauses. In general the courts takes a narrow view of ouster clauses on the grounds that Parliament should be presumed to have not intended to deny the public its right to judicial review.

You know, when one looks at the commentary on this particular case, Mr. Speaker, it is very, very interesting; where the commentary tells us that the court took the law created by Parliament in that particular case and turned it on its head, and essentially said that Parliament—I will read the learning—in *Anisminic*, the court neatly turned the tables on Parliament by making the assumption that no reasonable Parliament could have intended that a body of its own creation—in this case the Central Bank—to act outside the jurisdiction that Parliament had itself set for it. [*Interruption*]

You go ahead; you are walking straight into a minefield. Because one of the mistakes made by the Government in its approach to this matter—and I just want to correct something said earlier by the Member for Pointe-a-Pierre. The Member for Pointe-a-Pierre told us that he represents the small man who cannot afford to go to court with respect to this Clico matter. You see, for the benefit of the Member for Pointe-a-Pierre and for the members of the public listening, on July 20, 2011 the High Court of Trinidad and Tobago made a decision as follows:

“the High Court has appointed Mr. Percy Farrell, Retired Manager of Aranguez Estates, to represent the entire class of Clico”—“EFPA Policyholders who have not accepted the”—initial plan proposed by Finance Minister Winston Dookeran in his National Budget Presentation in September last year. Farrell’s appointment was made by High Court Justice—“Devendra Rampersad on July 29, Port of Spain which arose “out of the High Court action commenced on 5<sup>th</sup> April...by policyholders”—Farrell, Inalsingh, Rohlehr, Dayal, Alexander, et cetera.

There is a little aside that Mr. Permell had sought to join the action but after receiving written submissions, Justice Rampersad dismissed the application by Permell and ruled that Farrell, who had filed the action should be appointed to represent all policyholders who have not accepted the initial plan proposed by Finance Minister, Winston Dookeran.

What this means is that the same little man who cannot afford to go to court does not have to go to court, because this now is a class action lawsuit. So that the outcome of the lawsuit by Mr. Farrell will determine how all policyholders, small, big, medium, fat, tall thin, whatever size they are, will be treated with respect to their refusal to accept the offer from the Minister of Finance. I just want to put that on the record. So a little man inside of here who has no money to go to court, someone else who has the funds, who is already in the court, has taken up the baton on their behalf and they do not have to pay one cent for it. So I just want to put that on the record, Mr. Speaker.

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What the Government, in my opinion, has failed to understand is that the Dookeran plan or the Government's plan is discriminatory. And that is where you are going to bounce your head in the court, because let us look at how you have treated different categories of policyholders. The persons who invested by way of the credit unions and the trade unions, you have provided liquidity support of \$800 million for them. The persons with 75 per cent or less, you are giving them 100 per cent of their principal. [*Crosstalk*—75,000 or less, sorry, the persons with 75,000 or less you are giving 100 per cent of their principal even though you are taking away their interest, but you are giving them 100 per cent of their principal. The traditional policyholders, according to your plan, sometime in the future, are going to get 100 per cent of their benefits because you are separating the traditional policies from the EFPAs. But what are you doing to the EFPA policyholders? First you take away their interest payments then you give them a haircut for the first 10 years of 20 per cent and then an unknown haircut that is probably a shave for the second 10 years. [*Crosstalk*]

**Dr. Browne:** May be a screwball.

**Mr. C. Imbert:** A screwball as they say in Trinidad and Tobago.

So the person who has 75,000 and or less, he gets 100 per cent. The traditional policyholder will get everything that they are entitled to, but the EFPA policyholder, according to this plan, will get 80 per cent or less of their principal, Mr. Speaker.

In any world that is discrimination. The Government is going to be hard-pressed to explain to a court why it has used its parliamentary majority to pass a law preventing an EFPA policyholder from going to court asking the court to review the decision—[*Interruption*]Mr. Speaker, please, the muttering and mumbling.

**Mr. Speaker:** You have my protection, continue.

**Mr. C. Imbert:** I am not sure about that, you know. The Government, Mr. Speaker, is going to be hard-pressed to explain to a court why it is in the public interest to discriminate against holders of flexible premium annuities. And you are not going to get through with that. [*Crosstalk*]

**Hon. Member:** What is the alternative?

**Mr. C. Imbert:** The alternative is to treat everybody the same. Why have you discriminated against one class of people?

**Hon. Member:** Sell out everything.

**Mr. C. Imbert:** Why have you discriminated against them? You are going to have to explain that to the court.

**Hon. Member:** Sell out everything.

**Mr. C. Imbert:** You go ahead. I am dealing with fundamental issues here. When you are doing something in the public interest, you do not have different types of public. You do not have public A, public B, public C and public D, you know. You have to treat all of the policyholders equally, Mr. Speaker. There are two problems here. The first problem is that the Government has to demonstrate why it is in the public interest to deny the rights of individual citizens that are given to them under the Constitution. You have to do that first and then the next thing you have to do which you “cyah” do, is explain why you are discriminating against holders of flexible premium annuities.

These are the issues that we need to be looking at in this Parliament, not all this tomfoolery and irrelevancies that are coming from the other side.

**Mr. Speaker:** Let me decide the irrelevance.

**Mr. C. Imbert:** Certainly, Mr. Speaker. I will do so. I will most certainly do so. [*Crosstalk*]

**Dr. Browne:** [*Inaudible*]

**Mr. C. Imbert:** I guess not. So, Mr. Speaker, the other sleight of hand that we have got from hon. Members opposite is that what the Government is doing is done in other countries. We are bringing Trinidad and Tobago in line with other countries. We heard an impassioned speech from the hon. Member for Tobago West. Somebody wrote that for him. He was reading it. But the fact of the matter is, we are not doing that. We are not doing that at all. In the United Kingdom, Mr. Speaker—[*Interruption*]

**Mr. Sharma:** “You bright.”

**Mr. C. Imbert:**—very; like a bulb—when they have this kind of problem, the company is placed under judicial management under an administrator appointed by the court; not himself to himself. I do not think you understand what you are doing. The Central Bank has not gone to the court and asked the court to appoint a receiver or manager of Colonial Life, you know, so that you have an independent person who is administering the affairs of Colonial Life. That is not what is happening here. [*Crosstalk*] No—and our law actually contemplates that is what should be done.

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**12.30a.m.**

If you go and take a look at the Insurance Act—[*Interruption*—the Central Bank is not the liquidator in this particular case. When you go and take a look at our laws, especially section 44 of the Insurance Act—I have it here—what the law contemplates is that the Central Bank would go to the court, and ask the court to appoint a receiver or manager to take over the failed institution. That is contained in section 44(D)(3):

“Pursuant but without prejudice to its powers under subsection (1), the Bank may appoint any person or persons to act as Receiver or Manager and such appointment shall take effect as though made by the depositors and other creditors of the Company pursuant to a charge...”

Mr. Speaker, has the Central Bank appointed a receiver or a manager for Colonial Life? No! It is himself to himself, and that is why I asked the question, what happens—and this is just hypothetical. I am casting no aspersions on anybody at the Central Bank. This is a hypothetical case. [*Interruption*] No, we are passing a law here for all generations.

The Member for Port of Spain South made the point, this does not even just deal with Colonial Life. This deals with every bank and every insurance company that is going to be taken over by the Central Bank under section 44(D) of the Central Bank Act. This is not simply a Clico debate. This certainly deals with Clico Investment Bank and it deals with Colonial Life but in the future, any institution where the Central Bank decides to exercise its powers under 44(D) will be subject to this ouster clause where aggrieved persons would not be able to seek redress in court.

I want to ask some hypothetical questions, in a future situation. What happens if the regulator makes a complete mess of its oversight responsibility? What happens if the regulator is negligent? What happens if the regulator acts in collusion with directors of a financial institution or a third party to deprive policyholders of their funds? What happens in a case like that? The regulator has caused the problem by either being negligent or acting in collusion with other people, and the institution fails, and you are now bringing a law telling an aggrieved policyholder or depositor who is the victim of negligence or collusion that they cannot go to court and ask the court to look into this matter. This is what you are doing. You need to be very careful.

The other point I wish to make is, what happens if a restructuring plan is discriminatory? I do not see any recognition on the part of hon. Members opposite

that it is quite possible that your restructuring plan is discriminatory, because it is and no one needs to get into any deep analysis to see that, I read it out. The smaller people get 100 per cent of their principal; the credit unions are getting liquidity support; the traditional policyholders' benefits are preserved, but you are giving EFPA policyholders a haircut. That is discrimination.

What happens if under an intervention by the Central Bank a discriminatory restructuring plan is put into effect? You are now denying the victims of discrimination their right for judicial review of your decision, because judicial review gives ordinary people the right to ask the court to review the decisions of public authorities. Minister of Finance, you are a public authority. The entities that are within your Government are public authorities; the Central Bank is a public authority.

What happens if you make a mistake? What happens if you get it wrong? What happens if you are unfair? What happens if what you do is discriminatory? The aggrieved person has no right of recourse—no right to go to the court to get the court to make an order that you treat everybody equally—everybody gets a haircut or everybody gets 100 per cent of their principal. You are stopping people from doing that by way of this Bill. These are all of the questions that I am certain the court is going to have to take a look at, Mr. Speaker. I am certain that the court is going to be asked to take a look at this situation.

I want to put into the record, since some Members opposite do not seem to be aware of what is going on. I would summarize a claim made by a number of claimants against Colonial Life, and it is very well summarized in this claim. It gives you a very good picture of their complaint. I will go straight to paragraph 4 in this claim, which was filed in the Supreme Court on May 16, 2011 and the statement of case. Paragraph 4:

At all material times, Clico conducted its business subject to the regulation of the second defendant, the Central Bank of Trinidad and Tobago.

At all material times, Clico was required to establish and maintain a statutory fund in respect of its long-term insurance business undertaken by placing in trust assets equal to its liabilities.

Further, by section 39 of the Insurance Act, the trust was required to be established by trust deed.

On or about the 30th of January, 2009, the Minister of Finance, acting on behalf of the Republic of Trinidad and Tobago, entered into a

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memorandum of understanding with CL Financial. The key elements of the said memorandum of understanding were explained in a Central Bank media release dated 30th January and headed “The Government of Trinidad and Tobago and the Central Bank moved to protect investors” in the following terms:

In a move to protect the interest of depositors and policyholders, the Minister of Finance and the Governor of the Central Bank today announced that the Government has reached an agreement with the CL Financial Limited Group for the provision of a package of financial support for the group’s financial services companies. The objectives of the agreement are as follows:

- to stem the increasingly serious liquidity pressures;
- to maintain public confidence in the institutions;
- to ensure continuing stability and integrity of the financial system.

The key elements are as follows.

The Central Bank will assume control of CIB.

Third party liabilities would be transferred to First Citizens.

CL Financial will sell, liquidate or collateralize its assets and allocate the proceeds to meeting in full all the requirements of the statutory fund for both Clico and BAICO.

And most importantly:

The Government will provide funding support to fully back Clico and BAICO to meet any statutory fund deficits that might emerge after the company has made all possible arrangements to place satisfactory levels of cash and other assets into the statutory fund.

So this is what these claimants are putting before the court, that on January 30 the Central Bank issued this statement, and the important aspect of this statement is that the Government would provide funding support to fully back Clico and BAICO to meet any statutory fund deficits.

What is interesting, Mr. Speaker—[*Interruption*]—Okay, that is not the point. I am coming to a point made by the hon. Member for Port of Spain South in due course about legitimate expectation, and the quality of a promise, because these are the issues that the court is going to look at. What was the legitimate expectation of policyholders?



So after this press release that was sent out, the Central Bank gave notice of its intervention in the affairs of Clico, and from February 13, 2009, Central Bank lawfully assumed control over and undertook the management of the affairs of Clico. Prior to Central Bank's intervention, the Central Bank issued a media release on or about February 06, and this is a very interesting release.

“As regulator of the financial Sector, we”—the Central Bank—“wish to assure the public...

the Government of Trinidad and Tobago has committed to meet obligations of Trinidad and Tobago third-party policyholders of Colonial Life Insurance Company having assumed control of Clico under section 44(D) of the Central Bank Act, the Central Bank is providing support to restore stability and sound and efficient management of Clico.”

In summary, we are committed to a transformed and vibrant Clico in which existing and future policyholders' funds are saved.

So on January 30 a release went out saying that the Government would provide funding support to meet the deficit in the statutory fund. On February 06, the Central Bank told policyholders that existing and future policyholders' funds are saved. On February 13, another media address:

In accordance with the MOU, the Cabinet has approved a first tranche of a funding package to begin to ease the liquidity pressures on Clico and British American in line with the spirit of the MOU, the focus on the first round will be on meeting policyholders' liabilities and payments to pensioners.

This is the important part of this release.

These steps would convince policyholders that Clico has the full backing and commitment of the Government and the Central Bank.

Listen to this!

Policyholders should also feel confident that their funds are protected, and this should encourage the maximum rollover of policy funds.

So the Central Bank—the same Central Bank that you want to stop people from taking legal action against—on February 13 you sent out a release saying. “We want to encourage the maximum rollover of policyholders' funds because you should feel confident that your policies are protected.” This is in this claim that has been sent in by a number of litigants including Mr. Percy Farrell, who as I pointed out—Justice Ramlogan, I believe is his name has—*[Interruption]*—

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“Look all yuh make up all yuh mind nah man.” Devindra Rampersad! Justice Devindra Rampersad has appointed Percy Farrell to represent all EFPA policyholders who do not accept the offer. The point is that three media releases went out from the Central Bank, not one but, three. As far as I am concerned, the one on February 13 was the one that was the most important. Some would say the most critical; or some might even say the most damaging, because it encouraged people to keep their money in Clico, rollover your policies because the full value of your policies will be protected.

The claim goes on to refer to a number of statements made by various people including Mr. Yetming, who I understand is the chairman of Clico, and he said—Mr. Yetming is alleged to have said that the Government’s intention was to segregate the good assets from the toxic assets, the traditional insurance business, the EFPAs and the mutual fund business. He said when the payout was completed the Government could decide to sell the Clico portfolio or run it as a going concern.

This is what the claimants are seeking. In the premises, the claimants seek a determination pursuant to part 71.1 of the Civil Proceedings Rules of the question in relation to the execution of the trust, the provisions of the Insurance Act where the defendants, Colonial Life, of their own motion, or acting under the direction of the Minister of Finance are empowered by law to give effect to a decision whereby the holders of EFPA policies issued by Clico are separated and excluded from being beneficiaries under the trust created of Clico’s assets. That is the declaration they want. They want a determination as to whether Colonial Life, acting on the instruction of the Minister of Finance, can separate the EFPAs from the traditional policies and treat these two groups differently.

**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. [*Mr. N. Hypolite*]

*Question put and agreed to.*

**12.45 a.m.**

Mr. Speaker, I thank hon. Members, especially the Member for Caroni East. [*Crosstalk*] He knows and I know. Yes, we know. So that is why I especially want to thank the Member for Caroni East. I am not sure if he was one of those grumbling groans that came from over there, but I thank hon. Members for extending my time.

The point is, Mr. Speaker, this lawsuit which is now converted into a class action lawsuit by the ruling of Justice Devindra Rampersad, the EFPA policyholders want to know whether the instruction of the Minister of Finance, which effectively separated them from traditional policyholders, was lawful. This is one of the lawsuits that the Minister of Finance is trying to stop. You are trying to stop this. You are trying to stop people from asking the court to establish whether there are victims of discrimination. I cannot see in any society—any society that has respect for the rights and freedoms of individuals—any society, you could stop a court from determining whether people are victims of discrimination. I would really like to see you get away with that. I really would like to see you get away with that. But one—

**Mr. Volney:** “Everybody getting \$75,000.”

**Mr. C. Imbert:** “That okay.” Some people are getting 100 per cent. It is a matter for the court to decide. I heard the learned ex-judge said everybody getting \$75,000.” Well it is a matter for the court to decide whether 100 per cent and 80 per cent is the same thing, because that is implicit in what the hon. Member for St. Joseph is telling me. [*Crosstalk*] “You trying to bring me into bacchanal—shot on sight—nah, nah, nah, I not in that.” The whole point is, Mr. Speaker, I am sorry I cannot accept that submission from the learned judge. In my book, 100 per cent and 80 per cent are not the same, and if I am getting 80 per cent and you are getting 100 per cent, then I will be a victim of discrimination. Under our Constitution, I have a right to go to court and ask the court to establish whether I am, in fact, a victim of discrimination.

The Member for Port of Spain South went through the whole question of legitimate expectation. There is no need to go into that in any great detail except that there is some merit in repeating the relevant sections of that case—that *Paponette* case. It is a very interesting case, Mr. Speaker. That is a case where a group of maxi-taxi owners went to court claiming that the UNC Government had, in 1997, enacted certain regulations which constituted a breach of a promise made to them by the previous PNM administration. And it went all over the place. In the High Court, the maxi-taxi owners were successful, the judge ruled that a promise had been made and that the incoming government had broken that promise and that the maxi-taxi owners had a legitimate expectation that the promise would be fulfilled. It went to the Court of Appeal. Our Court of Appeal overturned the decision of the High Court. The maxi-taxis owners appealed the decision of the Court of Appeal.

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At the time, I will say, I did not think that their case had a good chance of success. I was very surprised when the Privy Council ruled by majority that a promise is a promise, and if one government makes a promise—

**Hon. Member:** And was it even written?

**Mr. C. Imbert:** Yes, an oral promise—one government makes a promise, an incoming government cannot easily break that promise, Mr. Speaker. And that has a lot of relevance for the matter that we are looking at. Because there is no disputing the fact that because of those three press releases which are very well covered in this claim made against Colonial Life, where you had one on January 13, February 06 and February 13, where, by the time you get to the February 13, the Central Bank is effectively exhorting, calling upon holders of the EFPAs to rollover their polices and giving them an assurance that their funds will be protected—by February 13, that is where the Central Bank had reached.

**Dr. Rambachan:** Are you saying that one government could bind another government in money matters also in terms of what you say?

**Mr. C. Imbert:** I am not saying that at all. No! No! No! No! I said that an incoming government cannot easily break a promise made by a previous government. And you see, in the *Paponette* case, the point that the Privy Council has made—

**Dr. Rambachan:** Do you know if the promise is against the national interest?

**Mr. C. Imbert:** Hold on. The point that the Privy Council has made in the *Paponette* case, hon. Minister of Foreign Affairs, through you, Mr. Speaker, is that if you are going to break—[*Interruption*]—Mr. Speaker, I may have to get protection from my leader—[*Laughter*]—he is encouraging me to engage in bacchanal. But to answer the question posed to me by the Member for Tabaquite, what the Privy Council ruled in the *Paponette* case is that if a government makes a promise, legitimate government, acting legitimately, and an incoming government wants to break that promise, then you face the consequences. That is what they said. You could break any promise you want you know, but you have to face the consequences of the breach of your promise. You cannot just do what you want.

**Dr. Rambachan:** Are you assuming the judgment is that now?

**Mr. C. Imbert:** That is what the judgment says. You know, he is forcing me to go and look for my copy of the *Paponette* judgment—forcing me to do that. I will find it; I have it on my desk somewhere. You are forcing me to go for my

documents. I will most certainly read what the judge says. This is the judgment, *Francis Paponette and Others and The Attorney General of Trinidad and Tobago, [2010] UKPC 32*. Judgment delivered by Sir John Dyson on December 13, 2010. It is not too long ago, you know. That is just about nine months ago, Mr. Speaker. Paragraph 28:

“In a case where the legitimate expectation is based on a promise...a useful summary of the relevant principles was given by Lord Hoffmann in the *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs...*”

The Member for Port of Spain South referred to that, and I have the *Bancoult* case here for the benefit with the hon. Judge—it is 86 pages long, but I will send it for you, so you could read the *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs*—you will read it at your leisure. But in this judgment, in the *Paponette* judgment, the judges extracted the relevant section as follows:

“It is clear...a claim to a legitimate expectation can be based only upon a promise which is ‘clear, unambiguous and devoid of relevant qualification...’”

Now let us look at the promise made. January 30, Central Bank and government issued a release saying, “Your funds will be protected.” February 06, they give you an update; February 13, they tell you roll over your policies because the government has committed to making up the deficit in the statutory fund to ensure that the full value of your policies are protected. That as far as I am concerned meets the test of a clear, unambiguous promise devoid of relevant qualifications.

The more difficult question, paragraph 34, is whether a government is entitled to frustrate the legitimate expectation that had been created by its expectations. In recent years there has been considerable case law in England and Wales, in relation to the circumstances in which a public authority is entitled to frustrate a substantive legitimate expectation and they go on to talk about that.

“Where a court considers that a lawful promise or practice has induced a legitimate expectation of a benefit which is substantive, not simply procedural, authority now establishes that here too the court will in a proper case decide whether to frustrate the expectation is so unfair that to take a new and different course will amount to an abuse of power.”

What is this judgment telling us? That any government could breach a promise of a previous government, but the court will decide what the consequences will be of that breach of promise, whether what you have done is an abuse of power,

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whether your breach, your willful and deliberate breach, which is what this is all about, your willful and deliberate breach, is an abuse of power.

Mr. Speaker, I am sure the Government will be able to produce some information with respect to what the Member for Oropouche East has loosely shouted, “saving the economy,” and the court will look at what you say and weigh it and see whether you have presented credible information and whether you have satisfied the court that the economy was in crisis and that you had to do this, and whether this was in the public interest and so on. The court will decide that.

To me and for me, Mr. Speaker, the more important question and the question the Government has not answered, which court is going to rule in favor of a government that has discriminated against its citizens in the introduction of an ouster clause which ousts the jurisdiction of the court to review that very discriminatory decision. I am not aware that any proper court in any Commonwealth jurisdiction is going to allow any government to discriminate against its citizens in the manner in which this Central Bank (Amdt.) Bill discriminates between holders of traditional policies, holders of policies below \$75,000, credit unions and trade unions and holders of EFPAs in excess of \$75,000. I think this is going to be a very, very interesting court battle. I am certain the Government is going to lose, and I am of the view that all you are doing is buying time.

I urge the Government—I am sorry, Mr. Speaker, you could rule me out of order—stop your wicked ways. I urge the Government. Stop discriminating against people. Stop separating people in this country into classes—one rule for A and another rule for B. Stop it because the people are not going to take this discrimination forever.

Mr. Speaker, I was sent a quotation tonight and I would like to put this quotation into the record. It is a quotation from John Locke, it dates back to 1690, so it is a couple hundred years old, and it goes as follows:

“...whenever Legislators endeavour to take away, and destroy the Property of the People, or to reduce them to Slavery under Arbitrary Power, they put themselves into a state of War with the People, who are thereupon absolved from any farther Obedience...”

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

**The Minister of Finance (Hon. Winston Dookeran):** Mr. Speaker, tonight as I listened to the hon. Members opposite, I felt some disturbance in my mind and some revelations that I had not before now sought to see.

**1.00 a.m.**

I have seen the hon. Leader of the Opposition, the Member for Diego Martin West, many years in this House, and during that earlier incarnation he was someone who expressed himself with clarity of speech, someone who had logic in his argument and someone who normally was relevant to the subject matter at hand. Regrettably, in this new incarnation in which he has found himself, having spent and apprenticed as the main Opposition in the last government within the government, he was able to demonstrate neither clarity in his thinking nor logic in his argument nor, indeed, relevance to the subject matter. I would like to raise a few issues in which those assertions seemed to have reflected themselves in his contribution.

The Member for Diego Martin North/East touched on a very disturbing note. While he recognized that it was the responsibility of Parliament to determine the right equilibrium between the public interest and individual rights, he said in the final analysis it was up to the judge to adjudicate and the judicial system. I have no problem with that assertion of his, and, indeed, that is so. But throughout his argument, he was talking about issues like discrimination, issues like legitimate expectations, issues with respect to the challenges to the law. I got the distinct feeling that he was, in fact, setting the groundwork, not to debate today's Motion but to go to the courthouse at some time. I thought it was somewhat disturbing to sense that was the motivation for his contribution.

Let me go back to the statements made by the hon. Leader of the Opposition who, perhaps in an unusual way, distorted one of the things I said about greed. One of the things I always knew about the Member for Diego Martin West is that he sticks to the facts, but tonight he allowed himself to distort the facts in order to promote a public image. It has to do with my comments on greed, and I want to quote what I said in the *Hansard* which was brought to me a few moments ago:

“You would note”—I said—“that during that intensive debate”—in the United States—“President Obama went to New York and blamed lobbyists, greedy businessmen and complacent Washington politicians for creating what he referred to as an ethic of greed that led to today's foreclosure crisis. That debate led to a very active debate as to the regulatory system and the extent to which unregulated greed does interfere with the workings of the financial system that has had worldwide repercussions.”

That was the extent of my statement on this issue.

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But the Member for Diego Martin West, joined by the Member for Diego Martin North/East, saw it fit to extrapolate from that statement and implied in their public position that I was indeed referring to the depositors and the policyholders in Trinidad and Tobago.

I want to clarify that situation, for the sake of the viewing public, so that the distortion which they attempted to do here tonight will be seen for what it is, distorting a simple statement commenting on what was taking place in this scenario and trying to put it in a context that would lead one to misinterpret what I said. I said no such things about the creditors or indeed about the depositors and policyholders. [*Crosstalk*] But since they raised the subject, I am sure they would not deny the fact that there were wrongdoers.

I did mention that there were wrongdoers in this particular matter. In fact, the Member for Diego Martin West knows the wrongdoers very well, because he was part and parcel of that government in which it took place. [*Desk thumping*] I did make reference to the fact that the forensic investigation report has been forwarded by the Central Bank to the Director of Public Prosecutions, and this is public information, as it relates to the breach of fiduciary duties and fraud committed by the wrongdoers.

The forensic report prepared by Mr. Bob Lindquist engaged by the Central Bank to investigate Clico, CIB and BAT, was forwarded by the Central Bank attorneys to the DPP for his consideration. This is in the public domain. They claimed that it essentially alleges mismanagement of Clico and a misapplication and misappropriation of its income and assets to the detriment of its policyholders and the mutual fund investors, breach of statutory and common law duties and related necessary liabilities on the part of the defendants. It also highlights certain transactions that are suspicious, involving the use of Clico's assets and income, to its detriment.

I reiterate that there was no implication on my part to treat the policyholders as having any tendency towards greed; but I did say that there were wrongdoers. This Government will be very happy, in the name of the country, to ensure that justice is, in fact, discharged on this matter by our courts, whatever that may be.

Mr. Speaker, the second distortion that was made was echoed by the Member for Port of Spain South, reinforced by the Member for Diego Martin North/East, when the Member for Diego Martin West once again raised the question as to the commitment on the part of this Government to honour the promises of the last government. If we are to honour the promises of the last Government, we will not be in government for very long. [*Laughter*] [*Desk thumping*]



You see, in January 2009 the then government made statements about unconditional guarantees, as your hon. Leader of the Opposition has stated tonight. The Minister of Finance at the time in her budget statement said the following, and I quote:

“The Government has approved funding to CLICO of up to \$5 billion. As of now about \$1.5 billion has been drawn down.”

At that time Clico required at least \$12 billion to be made whole. A guarantee therefore was not in place. Having seen that in my previous submission, they changed their tune from guarantee to promise, and I believe the Member for Diego Martin North/East said in his contribution, “A promise is a promise.” My friends, he thinks that in government we can accept all those promises that would have put this country into a state which could have brought us to the brink of financial collapse.

Let me reiterate, for yet another time, that in our attempt to deal with these issues, we were conscious of the need to provide support for all the relevant policyholders. We were conscious to do that in the context of the other claims in public management.

Mr. Speaker, the third observation that was made, in distortion to what we have said on this side, is the argument raised largely by the Member for Port of Spain South and, indeed, the Member for Laventille East/Morvant, that by introducing this amendment to the Central Bank Act, we were, in fact, introducing a measure that would deny private rights. Let me just put back on the record what I said earlier. The truth of the matter is that an automatic stay of proceedings also formed part of this country’s legislative landscape, as part of the Insurance Act, Chap. 84:01, up until February 2009.

In other words, the provision in the Central Bank Act that we are trying to put into place today already formed part of the legislative landscape up to February 2009. That is, prior to the Insurance (Amdt.) Bill of 2009, the Central Bank was possessed of the authority to intervene into a company through an application to the High Court for the appointment of a judicial manager, which triggered a stay on all claims and enforcement actions. However, this judicial management procedure was removed by that government.

**Mr. Imbert:** Why did you not put it back? [*Crosstalk*]

**Hon. W. Dookeran:** We assert that the previous government did not pay sufficient consideration to the dangers involved in removing the stay of

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proceedings, as a necessary tool in the restructuring exercise and erred in its failure to ensure that the Central Bank was fully equipped to discharge its obligation under this Act. You see, Mr. Speaker, for the Insurance Act, new revisions will come to this honourable House shortly, and you will see that these provisions have already been included in them.

It is important at this point in time to empower the Central Bank to have the legislative authority to discharge its responsibilities in this matter. That has been one of the loopholes we detected in this whole system, hence this provision here today. So to suggest that this is something new, to suggest that this is something that we have taken out of thin air and to bring for the first time is to deny the evidence.

When we invited the Members opposite to join in the presentations in both the Lower and Upper Houses to get all these technical details, they declined to accept that offer. I felt they preferred to debate in ignorance than to debate on the basis of facts. [*Desk thumping*]

**1.15 a.m.**

That is why we have had so many inconsistencies and so many contradictions and so much misinformation and so much misinterpretation of the matters before us today, because they deny the opportunity of allowing themselves to get all the facts before they came into this honourable House. [*Crosstalk*]

Mr. Speaker, a lot has been said as to the denial of access to the courts and indeed the stay of proceedings does imply that there will be the lack of access to the courts. But there are circumstances within which this must take place. And little has been said by the hon. Members about these circumstances that will trigger this action. Very loose talk has been made by the hon. Members with respect to the systemic risk. Let me point out, Mr. Speaker, what do we really mean by systemic risk? What is at stake in the national agenda? What is the systemic risk?

The systemic risk is not a word, there is meaning to it, and it is the result of many possibilities that could emerge for which we must ensure that we mitigate against that risk. So when we talk about systemic risk, Mr. Speaker, we are talking about the financial exposure of the banks and other financial institutions to the risk that is before us. We are talking about the prospect of contagion taking place, as banks are interconnected in their transactions. We are talking about the risk that may emerge because of the method of funding, the absorption of the liquidity in a short space of time, and the impact it may have on inflation, foreign exchange and liquidity in the system.

In the final analysis these are all legitimate concerns that must be addressed and if the situation poses a threat to systemic risk, this systemic risk can be reflected in these areas. Systemic risk is also the result of the uncertainty of the future, and we know that has been one of the issues that has dominated our thinking; about the volatility of markets and attempts to forestall the downgrade of our credit rating.

Those are the issues that we are talking about and those are all issues that are relevant to the national interest of Trinidad and Tobago and therefore, by loosely referring to the words “systemic risk” without quite understanding the depths of these words is also a reflection of the Opposition’s attempts to distort the facts. It is the most generous way in which I can look at it.

Mr. Speaker, the reasons that must prevail in order for this stay of proceedings to be invoked, is not only the issue of systemic risk, it is also the issue of restructuring the distress institution. And here too, there are certain things that must be in existence for the restructuring of a distress institution. Clearing up the balance sheet is one, and that itself is a big job; change in the structure of the financial setting in the companies. The Member for Diego Martin North/East talked a lot about the legality of separating the toxic assets from the ordinary assets, of separating the EFPAs from—so what he would like us to do, Mr. Speaker, is to not separate the toxic assets and keep the situation bleeding to the point that will come to her death. That is what he is talking about. It also requires in restructuring that we must place a distress entity into a viable position and we must establish the basis for sustainable growth.

So when we say, Mr. Speaker, that the condition of systemic risk and restructuring are essential conditions that will influence the evoking of section 44D by the Central Bank, we are putting into context this particular stay of proceedings. Not only was it not new, and they removed it without just cause, we are reinstating an instrument to allow proper regulatory rigor to be discharged in this matter. We emphasize that the implementation of the automatic stay of proceedings in the current Bill is only triggered where the emergency powers of the Central Bank under section 44D of the Central Bank Act have been invoked. As I indicated the proposed stay does not seek to deny citizens their right of access to the judicial process at all, but merely suspends the operation of those rights for a limited period in order to provide a sufficient opportunity for the Central Bank and the government to attempt to save and resuscitate a failing institution that poses a risk, and thereby, in so doing protects the depositors and the financial system.

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In this respect, Mr. Speaker, the hon. Leader of the Opposition spoke at great length on the length of the stay and he said this stay will remain for life or it could remain for life, Mr. Speaker. May I just point out to him that in recognition of his fears unfounded as they are, and with an attempt to provide an olive branch to the Leader of the Opposition and his team on this very important national debate, we shall propose at committee stage an amendment to the Bill that is being debated and among the amendments, Mr. Speaker, is a clarification that would determine the length of that stay, where we will now introduce an amendment that would allow the stay to be released even before section 44G, before the Central Bank relinquishes control.

So it is a new flexibility and the Member for Diego Martin North/East is on his own track and nothing will change his track. He has never been on any other track except his own track, and that is why he will always remain in a state of opposition even when he is in government. [*Desk thumping*] But we have made these changes and subsequent changes to support that in order to accommodate the deep fears expressed by the Member for Diego Martin West, which will allow some flexibility and a compromise on this very important issue, also to reflect the commitment on the part of this Government to honour individual rights and only to disturb that in the context of special circumstances to protect the national interest. That is the role of the Parliament, to try to bring about that compromise wherever that compromise is at variance with each other. I hope therefore, Mr. Speaker, in making those amendments which we will move in the committee stage, the Leader of the Opposition will be able to rise to the occasion before us.

You see, Mr. Speaker, this issue of legitimate expectations can best be answered by saying that the legitimate expectations of the people of Trinidad and Tobago are not to follow the path that the PNM took us to, but to create a new path for a different kind of response. Those are the legitimate expectations of the people of this country. They would like us to go back to the path from which we have come, the path that has led this country to a point of decay. We intend not to do that and to create a new path, to give new hope to this country, with the right policy measures, with the right approach, with a different approach.

So often they have argued that what we are doing has been done by the PNM. Now that we have argued that what we are doing is not what they have done, they are saying that we should go back to what they are doing. It is part of the lack of clarity of thought. It is part of the lack of relevance of subject matter and it is a reflection of the lack of logic in thinking at this stage.

I know that sometimes we all get disturbed when we changed positions, but that disturbance must not last forever. You have to regain your coherence, you have to regain your clarity and you have to regain your relevance [*Laughter*] [*Desk thumping*]*—*in order to play a useful role in Trinidad and Tobago.

It is in that context I cannot believe that elected Members in this Chamber will see in front of them the national interest eroding, will see in front of them the dangers ahead in the financial situation of this country, will see all that has happened—because they were part and parcel of the creation of that problem although they tried to blame me for it. Mr. Speaker, I cannot see how elected Members of Parliament could see that and could see the people's interest in their eyes and decide that they shall ignore all of that and simply argue that they would not support a measure of this nature. It is almost unthinkable.

That is why I said it was disturbing, because on the last occasion we said that in Trinidad and Tobago we may argue, we may discuss, we may disagree but in the final analysis we must get it right. There is only one way to get this right now and that is the way we have enunciated today in the first debate which I will not go back into at this stage. But it is a path that when you consider, Mr. Speaker, what is taking place there can be absolutely no doubt that the proposals that are to be laid in this Parliament for its approval is the only path that we can now follow to salvage what has been done in the past to this society, its financial system and to Clico.

So, Mr. Speaker, I urge the hon. Member—are you willing to concede that you will support the Bill at this stage? [*Laughter*] No, I will let you have—but I just wanted to conclude this argument, Mr. Speaker, by saying that this is a great opportunity to stand up. This is a great opportunity for the Opposition to rise to the occasion, to put aside the narrow political differences, to try to ensure that the small politics do not dominate your thinking and this an opportunity for us to stand together to solve a big problem, a huge problem that could have derailed this country, had it not been that we came into office and put into place a programme of activities in a well-structured way to save this country from that potential collapse. [*Interruption*] Yes, Member for Diego Martin West.

### 1.30 a.m.

**Dr. Rowley:** Thank you very much. I thank the Member for giving way. I just wanted, before the Member winds up, to remind him that I did, notwithstanding all the matters you addressed, there was one matter—

**Mr. Roberts:** “We cyar hear you.”

**Mr. Speaker:** Please, if you remain silent you will hear.

**Dr. Rowley:** Thank you very much, Mr. Speaker. I was saying, hon. Member, that I notice that you addressed a lot of matters of your own volition but there was one specific matter I did raise with you and asked for an answer to the question, and I am hoping that in your winding up you will address it, and that is: what is the situation with respect to the statutory fund? Is the fund restored?

**Hon. W. Dookeran:** You see, I will answer specifically, but I will also indicate how myopic his thinking is in dealing with this issue. The Statutory Fund, indeed, is in the process of change at this point in time. In the new legislation that will come before us, there will be new criteria to determine that. You are talking about something in the past. What we have done is to remove the toxic assets and at the same time to introduce new shareholdings in the methanol company into the fund. The exact results of that will be a movement in the right direction.

In any event, this is an old concept in financial management, and it also reflects the commitment, the imprisonment and the adherence to issues that are not relevant. What we are talking about here today is the systemic risk, the restructuring requirement and the stay of proceedings that has to be, for a short while, limited, and I have made some suggestions as to how we can amend and compromise on that issue.

I believe I have covered most of the issues that have been raised, and merely to reiterate to this honourable Chamber that we have reached a point in which we must make this a point of departure. We have been tackling and confronting many of the financial issues over the last year and a half. I have enumerated many of them when we discussed the issue of raising the debt ceilings. I would not go back into those issues. We then dealt with the issue of Clico.

When we came into office, I know that many were looking at how Trinidad and Tobago would tackle that issue. It was a challenging task, but it was a task that we undertook head-on. We did not, in any way, run from our responsibility; we did not allow the situation to go unattended and to result in paralysis for nearly 18 months. Immediately upon taking office, we went into confronting this issue. We knew that this issue will determine how the future prospects of Trinidad and Tobago's financial trajectory would be, and that is why we took so much effort.

In a short space of time not only have we worked out what I believe would be the most effective support for the policyholders, but we have begun to implement that, as I indicated earlier on. It is a point of departure. Now, and after today, we

shall move on to the next fiscal year and we shall then move on to moving this country forward. Having dealt with all this inheritance that we have, in fact, inherited, we now ask the Members opposite to join with us on this point of departure and join with us in this very important legislation so that we can move forward with the sense of expectations of the society.

The legitimate expectation of the society is for the country to move forward. That is what we intend to do, and under the People's Partnership Government it is our intention to move forward from here on to tackle the new problems that will emerge; to confront them, as we have confronted those in the past, so that we can, at all times, be assured that the expectations of the people are being realized.

The largest mistake that we shall make is to expect your expectations to be our goals. We ask you to join with us in the goals of the society of Trinidad and Tobago.

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

*Question put.*

*The House divided. Ayes 29 Noes 9*

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar, Hon. K.

Warner, Hon. J.

Dookeran, Hon. W.

McLeod, Hon. E.

Sharma, Hon. C.

Alleyne-Toppin, Hon. V.

Gopeesingh, Hon. Dr. T.

Peters, Hon. W.

Rambachan, Hon. Dr. S.

Seepersad-Bachan, Hon. C.

Volney, Hon. H.

Seemungal, J.

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Roberts, Hon. A.

Cadiz, Hon. S.

Baksh, Hon. N.

Griffith, Hon. Dr. R.

Ramadharsingh, Hon. Dr. G.

Ramadhar, Hon. P.

Khan, Hon. Dr. F.

De Coteau, Hon. C.

Indarsingh, Hon. R.

Baker, Hon. Dr. D.

Samuel, Hon. R.

Douglas, Hon. Dr. L.

Roopnarine, Hon. S.

Ramdial, Hon. Miss R.

Partap, Hon. C.

Khan, Miss N.

NOES

McDonald, Miss M.

Rowley, Dr. K.

Cox, Miss D.

Hypolite, N.

Imbert, C.

Browne, Dr. A.

Thomas, Mrs. J.

Hospedales, Miss A.

Gopee-Scoon, Mrs. P.

*Question agreed to.*



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*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House*

*House in committee.*

*Clauses 1 to 3 ordered to stand part of the Bill.*

*Clause 4.*

*Question proposed:* That clause 4 stand part of the Bill.

**Mrs. Persad-Bissessar:** Mr. Chairman, there is an amendment to clause 4. It is listed to be numbered as clause 5, which will come after. But the existing clause 4 is to be amended as circulated. I so move.

*Question put and agreed to.*

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

*New Clause 3.*

**Mrs. Persad-Bissessar:** Mr. Chairman, I propose a new clause 3 be inserted after clause 2 to be numbered as clause 3, and subsequently for the existing clause 3, and 4 to be amended to read clause 4 and 5, respectively.

New clause  
inserted

A. Insert the following clause after clause 2:

Act inconsistent with Constitution	“3. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.”
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B. Renumber clauses 3 and 4, as clauses 4 and 5 respectively.

*New clause 3 read the first time.*

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

*Question put and agreed to.*

*Question proposed:* That the new clause be added to the Bill.

*Question put and agreed to.*

*New clause 3 added to the Bill.*

**Mrs. Persad-Bissessar:** Your guidance, Mr. Chairman. I understand that the circulation may not be—there were some typo errors, so we may want to read that clause 4, which has now been renumbered as clause 5. Can we revisit clause 5?

*Question put and agreed to.*

*Clause 4, renumbered clause 5, recommitted.*

*Question again proposed:* That clause 4, renumbered clause 5, stand part of the Bill.

**Mrs. Persad-Bissessar:** Mr. Chairman, I beg to move that the existing clause 4 be amended as follows:

- A. In paragraph (b), in the proposed new subsection (5)(a), delete all the words occurring after the words “in relation to the institution” and insert a semi-colon;
- B. Insert a new paragraph:
 

“(b) where the Bank has not yet published a notification under section 44G(1) in relation to an institution, the Bank may where it deems appropriate publish a notification to lift the stay under paragraph (a), (d) or (e), except that no person shall take any steps to institute winding up, receivership, administration or any other related proceedings in relation to that institution.”
- C. Renumber paragraphs (b), (c) and (d) as “(c)”, “(d)” and “(e)”, respectively.
- D. Delete the words “under paragraph (a) or section 44G(1)” in paragraphs (d) and (e) as renumbered, and substitute the words “under paragraph (b) or section 44G(1).”

**1.45 a.m.**

*Question put and agreed to.*

*Clause 4, renumbered clause 5, as amended, ordered to stand part of the Bill.*

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

*House resumed.*

*Bill reported, with amendment.*

*Question put:* That the Bill be now read the third time.

*The House divided:* Ayes 29 Noes 9

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar, Hon. K.

Warner, Hon. J.

Dookeran, Hon. W.

McLeod, Hon. E.

Sharma, Hon. C.

Alleyne-Toppin, Hon. V.

Gopeesingh, Hon. Dr. T.

Peters, Hon. W.

Rambachan, Hon. Dr. S.

Seepersad-Bachan, Hon. C.

Volney, Hon. H.

Seemungal, J.

Roberts, Hon. A.

Cadiz, Hon. S.

Baksh, Hon. N.

Griffith, Hon. Dr. R.

Ramadharsingh, Hon. Dr. G.

Ramadhar, Hon. P.

Khan, Hon. Dr. F.

De Coteau, Hon. C.

Indarsingh, Hon. R.

Baker, Hon. Dr. D.

Samuel, Hon. R.

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Douglas, Hon. Dr. L.

Roopnarine, Hon. S.

Ramdial, Miss R.

Partap, Hon. C.

Khan, Miss N.

NOES

McDonald, Miss M.

Rowley, Dr. K.

Cox, Miss D.

Hypolite, N.

Imbert, C.

Browne, Dr. A.

Thomas, Mrs. J.

Hospedales, Miss A.

Gopee-Scoon, Mrs. P.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

#### ADJOURNMENT

**The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):** Mr. Speaker, I beg to move that this House do now adjourn to a date to be fixed.

#### Parliament (Relocation to Tower D)

**Mr. Speaker:** Hon. Members, before putting that question, may I seek your indulgence for a few moments.

Hon. Members, I wish to inform you that I have been advised by UDeCott that the modification works at Tower D for parliamentary occupation is almost complete and that the site will be ready for the commencement of our temporary relocation on Friday, September 16, 2011. As you are aware, this temporary move is to facilitate the much needed restoration of the Red House.

Over the last decade or so, the Red House has undergone varying efforts of repair and renovation works. The last such effort commenced in September 2001 but was not completed. The current project to temporarily relocate the operations of the Parliament represents a major and desperately needed first step toward the restoration of the historic Red House.

Hon. Members, the move to Tower D requires the involvement of all members of staff, and so the offices of the Parliament will be temporarily closed for an approximate period of two weeks from September 19 to September 30, 2011. This will also facilitate the speedy relocation of all support services to Tower D.

Although the Office of the Parliament will be closed for business, telephone contact numbers and email addresses will remain operational. Hon. Members will be kept updated as the relocation exercise to Tower D continues.

It is, therefore, very likely that when the Senate meets on Friday that may be the last sitting to take place in this august Chamber until 2014, when we return. However, there is the possibility of the House returning—Leader of the House—to deal with any possible Senate amendments to the two Bills just completed, if this becomes necessary. Once we vacate these premises, restoration work on the Red House will commence.

Hon. Members, once UDeCott has formally handed over the building to Parliament, arrangements will be made to conduct orientation sessions with all Members so that you can quickly become acquainted with the layout of the Chamber, Committee and Members' spaces, as well as the location of the various support services. Additionally, the Corporate Communications Division is in the process of designing brochures which will soon be made available to Members to assist in this transition.

Hon. Members, since the first sitting of the Legislative Council was held here on this site in 1848, the Red House has come to represent the seat of democracy and the home of the Legislature of Trinidad and Tobago. The history of this edifice has been sometimes turbulent, and yet it has endured and remains an iconic feature on the parliamentary and democratic landscape of our country.

While the new spaces at Tower D have been reshaped as much as possible to ensure the comfort and convenience of Members and staff and will allow us to continue to function as legislators and to serve the citizens of our beloved

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country with dedication, I am confident that we all will look forward to the day when the Red House is restored to its former glory and when the Parliament of Trinidad and Tobago returns to its home.

Hon. Members, I wanted to just bring that to your attention so that in the event, when the Senate meets on Friday, there are no amendments, the staff would need two weeks to make the transition in terms of movement to Tower D.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 1.56 a.m.*