HOUSE OF REPRESENTATIVES

Friday, November 16, 2012

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon Members, I have received communication from the following Members who are currently out of the country: the hon. Dr. Glenn Ramadharsingh, Member of Parliament for Caroni Central; the hon. Ramona Ramdial, Member of Parliament for Couva North and the hon. Stacy Roopnarine, Member of Parliament for Oropouche West who have asked to be excused from today's sitting of the House. The leave which the Members seek is granted.

COMMITTEE OF PRIVILEGES

(DR. KEITH ROWLEY)

Mr. Speaker: Hon. Members, on Friday, October 26, 2012, the Member for D'Abadie/O'Meara raised a motion of privilege in the House of Representatives. He claimed that the Member for Diego Martin West had committed a contempt of the House when he uttered certain statements at a public meeting on Thursday, October 18, 2012. The Member for D'Abadie/O'Meara claims that the statements uttered amounted to a contempt of the House on four grounds adumbrated by him as follows:

That the Leader of the Opposition:

1. Scandalized and brought into odium, ridicule and public distrust the Office of President, by imputing improper motives to the then Acting President;
2. Reflected adversely on the conduct of the then Acting President;
3. Impugned the integrity and conduct of the President of the Senate in the legitimate exercise of his functions as then Acting President; and
4. As a further consequence of the foregoing, the hon. Leader of the Opposition has, by his conduct, undermined the dignity of the House of Representatives.

The relevant statements made by the Member for Diego Martin West, as reported by the Member for D'Abadie/O'Meara in his Motion, are as follows and I quote:

"1. '…that the Office of the President has rubber stamped the Prime Minister's attempt to sweep this matter under the carpet.'

2. 'It calls into question immediately, is it acceptable in Trinidad and Tobago that an arrangement is such that a politician from inside the Parliament who is an active politician in the COP (Congress of the People) could end up in the Office of the President where the rule of law is being undermined by the Cabinet?'"

In making his application, the Member for D'Abadie/O'Meara argued that and I quote:

> "…while…Standing Orders apply to the conduct of Members of the House during proceedings, it is well established that outside of the House, in matters pertaining to his functions as a Member, every Member of the House should be guided mutatis mutandis by principles enunciated in the Standing Orders governing his conduct during proceedings of the House of Representatives."

Hon. Members, a breach of privilege is committed when any of the rights and immunities of Parliament is disregarded or attacked. Each House also claims the right to treat with contempt, which, while not breaches of any specific privilege, obstruct and impede the House in the performance of its functions or are offences against its authority or dignity such as disobedience to its legitimate commands or libels upon itself, its members or its officers.

It is important to note that parliamentary privileges and the power to punish for breaches and contempts that are inherent in each House of Parliament exist solely for the effective discharge of the functions of each Member and of the House collectively. They do not exist for any other purpose.

Hon. Members, Article 26 of the Trinidad and Tobago (Constitution) Order in Council, 1961 stated that and I quote:

> "Subject to the provisions of this Constitution, each chamber of the Legislature may make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and the passing, intituling and numbering of Bills and the presentation of the same to the Governor for assent."

The Standing Orders made under the former Constitution were saved by virtue of section 20 of the Constitution Act, Chap. 1:01.

The Standing Orders of the House made for the regulation and orderly conduct of the proceedings in the House have no application whatsoever in relation to speech uttered outside the House and its Committees by Members of the House or other persons. Therefore, hon. Members, the rules contained in the

Standing Orders that govern decorum in the House cannot be so construed to vest the House with the authority and the power to question the exercise of free speech outside of the House.

Hon. Members, all citizens, including Members, enjoy freedom of speech, subject, of course, to the laws of the land. Such laws include the laws against defamation which fall within the purview of the courts of the land and those laws that protect against breaches of parliamentary privilege and the commission of contempt of the House, which are within the competence of the House.

The words referred to in paragraph 2 above, which I have mentioned, which were allegedly spoken by the Member for Diego Martin West outside of the House, can be construed to be criticisms of His Excellency, Mr. Timothy Hamel-Smith, Acting President as he then was, the Constitution by which we are governed and the Cabinet of Trinidad and Tobago.

Hon. Members, the Chair of this House is of the firm view that there are expected standards of decorum and civility that all persons ought to bear in mind when referring to His Excellency the President. That is beyond challenge. However, it does not follow that every criticism of His Excellency can properly amount to a breach of parliamentary privileges or contempt of the House. Similarly, not every criticism of the Cabinet, the Prime Minister, or even the Speaker for that matter, can properly amount to a breach or contempt.

To establish a breach or contempt of Parliament has been committed by words spoken outside of the House, the words complained of must directly relate to some aspect of the operations of the House or of the performance of the duties by the relevant official in relation to proceedings of the House. Otherwise, it is but a criticism of the person as a public figure and even if unjustified or repugnant, does not invoke the authority of the House.

Therefore, hon. Members, to invoke the authority of the House, the impugned words must discernibly be seen to:

1. obstruct the functioning of the House, or the functioning of a Member, or to have the tendency to so do; or
2. be an attack on the dignity and authority of the House.

Hon. Members, the protective mechanisms which the Parliament enjoys to shield its dignity and maintain decorum ought not to be extended to matters that, strictly speaking, do not touch and concern its own privileges. Indeed, such action on the part of either the Chair of this House, or the House itself, will be difficult to vindicate, controversial and quite problematic to defend, which it will very likely be required to do.

It is for those reasons that I rule that no prima facie case of breach of privilege or contempt has been made out.

I so rule. [*Desk thumping*]

PAPERS LAID

1. Annual audited financial statements of National Flour Mills Limited for the financial year ended December 31, 2008. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]
2. Annual audited financial statements of National Flour Mills Limited for the financial year ended December 31, 2009. [*Sen. The Hon. L. Howai*]
3. Annual audited financial statements of National Flour Mills Limited for the financial year ended December 31, 2010. [*Sen. The Hon. L. Howai*]
4. Annual audited financial statements of National Flour Mills Limited for the financial year ended December 31, 2011. [*Sen. The Hon. L. Howai*]

   Papers 1 to 4 to be referred to the Public Accounts (Enterprises) Committee.
5. Value Added Tax (Amendment to Schedule 2) (No. 2) Order, 2012. [*Sen. The Hon. L. Howai*]
6. Annual report of the Public Service Commission for the year 2011. [*The Deputy Speaker (Mrs. Nela Khan)*]
7. Annual administrative report of the Trinidad and Tobago Free Zones Company Limited (TTFZ) for the year ended December 31, 2011. [*The Minister of Housing, Land and Marine Affairs (Hon. Dr. Roodal Moonilal)*]

STATEMENTS BY MINISTERS

Mr. Speaker: Hon. Members, there are two statements to be made in this honourable House today. The first one is to be made by the hon. Attorney General; the second is to be made by the hon. Prime Minister. The Prime Minister will make her statement some time later on in the proceedings and, of course, at that appropriate time, I would seek the indulgence of the House. At this point in time, I call on the hon. Attorney General. [*Desk thumping*]

1.45 p.m.

BAE Systems
(Arbitration of)

The Attorney General (Sen. The Hon. Anand Ramlogan SC): Thank you very much, Mr. Speaker. When the People's Partnership was elected to serve this

country with an overwhelming mandate, it signalled a desire for change by the people in this country. It was a democratic expression of the frustration and resounding rejection of some of the many ill-fated policies of the former regime. Far too much was spent on grand projects—megaprojects which were based on delusions of grandeur, an oversized political ego of a government that had lost touch with the people. There was, in fact, a growing concern that the country was being committed to a financial expenditure that would effectively mortgage the future of our children and encumber the Treasury for several decades to come.

When this new People's Partnership Government assumed office, we took a view that Trinidad and Tobago's reputation must come first, and that the State of Trinidad and Tobago, as a constitutional organ, must look at all the contractual arrangements that we entered into with an impartial and objective eye, with a view to protecting and defending the interest of Trinidad and Tobago, and protecting the rights of the people. It is for that reason, Mr. Speaker, that many contracts were entered into in respect of megaprojects with massive cost overruns that the Government, when in Opposition, had criticized. But, we honoured and respected our contractual obligations as a country, notwithstanding our position in relation to those matters in terms of a disagreement of policy and direction.

With respect to contracts entered into where the rights of the country would have been affected adversely, the Government of Trinidad and Tobago, led by the distinguished Member for Siparia, Prime Minister Kamla Persad-Bissessar, took the view that we will stand up and enforce our contractual rights on behalf of the people of Trinidad and Tobago, and that if there was any ground for termination of the contracts, legitimately and validly, we will in fact exercise our rights under those contracts in defence of Trinidad and Tobago and in the public interest.

Mr. Speaker, it is now trite knowledge that the People's Partnership took a decision to terminate the OPV contracts. This was one of the megaprojects that had been entered into, and it related to the purchase of three offshore patrol vessels. On April 05, 2007, the former administration signed a number of agreements with VT Shipbuilding now known as BAE Systems, which at today's exchange rate of 10.55 amounted to TT $1.696 billion or £189.168 million.

These agreements were as follows:

1. a contract in which BAES agreed to sell and the Government agreed to purchase three offshore patrol vessels with a related service contract for maintenance and training;
2. a contract in which BAES agreed to supply two interim vessels with related maintenance and training.

The financing for this project was secured through a commercial credit facility arrangement with BNP Paribas in London and Lloyd's TSB in London. This first contract was to meet the interim cost of a downpayment of 15 per cent of the cost of the OPVs, and amounted to TT $299.36 million or £28,375,137.

The second agreement was an export credit facility, again with BNP Paribas and Lloyds TS Bank in London. This was done via a guarantee from the Export Credit Guarantee Department under which they provided a loan facility for TT $1.696 billion or £160,792,450. This met 85 per cent of the cost to make it 100 per cent from the first 15 per cent.

A breakdown of the cost of these vessels reveals the following:

- TT $1.324 billion was the price of the three offshore patrol vessels;
- $119.93 million: the price of the two interim vessels;
- $421.20 million: the maintenance services;
- $76.149 million: training services;
- $189.288: the foreign exchange difference.

And there were some ancillary fees: an exposure fee of $52 million and forward exchange commission of $1.266 million.

Of course, Mr. Speaker, there would have been other costs associated with the implementation of this project for infrastructural and logistical support, and these were met directly from the Government Treasury. Of course, much of this cost would have benefited Trinidad and Tobago and would remain with Trinidad and Tobago, suffice it to say that in putting the pieces together, those costs associated would run up to $164 million.

Mr. Speaker, of the total financing arranged for this project in the sum of TT $1.995 billion, a total of $1.482 was drawn down up to the time the project was cancelled. That cancellation took effect on October 20, 2010. To date, therefore, the sum of TT $1.041 billion remained outstanding on these loans. That is what the People's Partnership inherited and that is the financial situation that confronted us as of October 2010. When we apply the settlement proceeds to this figure, and the settlement figure is close to TT $1.4 billion—1.382 to be exact—when you apply that figure to the outstanding balance on the loan, you would come up with $341 million as a surplus figure to which the Government can have access.

Mr. Speaker, I note that since the announcement of this settlement of this arbitration, there have been a number of newspaper articles and a number of

statements made by Members opposite pertaining to this matter, and I therefore wish to take the opportunity to place on the *Hansard* the corrections and the clarifications so that the national community can be very clear about this. I read yesterday that the Member for Diego Martin North/East said when doubting the settlement that he had not yet contacted BAES.

Mr. Imbert: That is not the truth.

Hon. Member: "Just ignore him nah."

Sen. The Hon. A. Ramlogan SC: He said that he doubts whether or not this settlement is true.

Mr. Imbert: I said that? I did not say that.

Sen. The Hon. A. Ramlogan SC: I want to say for the Member for Diego Martin North/East and I will quote what he said:

> The international press is saying BAE won the arbitration and was paid by the Government. The Attorney General is saying these reports are a fabrication and there is confusion and so on.

That is what "yuh" said, yes. I want to ask the question: what is the Member for Diego Martin North/East—what is your connection with BAES such that you would say that you have not contacted them as yet?

[*Dr. Rowley stands*]

Mr. Speaker: This is not a debate, this is a statement. So if you are making a statement, you make a statement but we cannot engage in a debate at this time.

Sen. The Hon. A. Ramlogan SC: I am guided, Mr. Speaker. So to quote the Member, he said, "I have not contacted them as yet". I wish to tell my learned Member for Diego Martin North/East, there is no—[*Interruption*]

Miss Cox: This is not a debate!

Dr. Rowley: Mr. Speaker, I object and reserve my right to speak.

Mr. Imbert: Me too!

Sen. The Hon. A. Ramlogan SC: I am grateful, Mr. Speaker.

Mr. Speaker: **"**Yeah," I do not think you should get into these controversial—[*Interruption*]

Sen. The Hon. A. Ramlogan SC: I am grateful. Mr. Speaker, when in May 2010 a new administration assumed office, with respect to the offshore patrol vessels, the facts are as follows:

- OPV 1 was scheduled to be delivered in May 2009.
- OPV 2 was scheduled to be delivered in February 2010.

That means that when the People's Partnership assumed office, two offshore patrol vessels should have been on the waters already. The first one should have been delivered to Trinidad and Tobago in May 2009, and the second in February 2010.

Mr. Speaker, there was an obvious delay in the delivery of those vessels, apart from which, there was a serious problem encountered with the combat system because it did not conform to the contract specification. This delay, together with the continuing failure on the part of BAE to remedy this deficiency in a timely manner, is what prompted the Government to serve the notice of cancellation to terminate this contract on September 16, 2010. The Government was not prepared to run the risk of accepting these vessels in a defective condition and the Government took the position that we will insist on strict compliance with the contractual specifications.

In response to the Government's cancellation, BAE served a notice of arbitration and BAES claimed against the Government of Trinidad and Tobago, the sum of TT $611,032,000 or £57.9 million. Mr. Speaker, that claim with interest and costs, had we lost the arbitration, would easily have run up to $700 million. So the Government of Trinidad and Tobago was faced with a claim from BAE for almost three-quarters of a billion dollars. Trinidad and Tobago counterclaimed for $1.654 billion. That figure, of course, represented the maximum amount that we could have claimed, and, of course, if the liability stage of the hearing went in our favour, we would then have to prove our damages at the hearing of the assessment of the compensation.

The Government took a very strong position in this matter. We were prepared to stand up for the rights of the people of this country, and we were prepared to stand up against one of the largest military defence suppliers and providers in the world. For so doing, there was a lot of criticism and a lot of ridicule from many quarters. There were the usual doom and gloom predictions. But, the Government stood its ground and today, Mr. Speaker, we have seen that the Government has emerged victorious in this matter. [*Desk thumping*] Permit me to clear the air to say that the Government did not terminate the agreement without competent, legal and technical advice regarding the state of these vessels.

Mr. Speaker, having acted on that kind of advice, it was passing strange to note that in this House, the Member for Diego Martin West launched— [*Interruption*]

Dr. Rowley: Mr. Speaker, I object. I am being drawn into the debate.

Mr. Imbert: Me too!

Mr. Sharma: Nonsense!

Mr. Speaker: What is your point of order?

Dr. Rowley: Is this a debate, Mr. Speaker—[*Interruption*]

Miss Cox: "Or is a statement?"

Dr. Rowley:—or is a statement being made? Because I am being drawn into a debate.

Dr. Moonilal: He is quoting from the newspaper.

Dr. Rowley: Mr. Speaker, I am being drawn into a debate. I am simply asking you: will I be given the opportunity to respond?

Mr. Speaker: No, you will not be given the opportunity at this time. What I would ask the hon. Attorney General to do is, in delivering your statement, do it in a way that it is not being perceived as trying to draw Members into this debate, please.

Sen. The Hon. A. Ramlogan SC: I am grateful, Mr. Speaker. I could understand why there is some concern, but I must set the record, and I wish to refer to what was said by the Member for Diego Martin West on Friday, October 22, 2010, in relation to this matter. I quote:

> "…I will tell you, Mr. Deputy Speaker, we are not the only ones who cancelled contracts at BAE, 'eh'. The Sultan of Brunei attempted to do the same thing on a €700 million contract and if we think that BAE will give us a pass or give us a 'bligh' especially since the Prime Minister"—had—"made"—a—"case for the BAE lawyers, I expect that if the Government continues along this path"—and—"cancels this contract, that we will, in fact, be heading for the courts and we would not have many legs to stand on because we are talking about delays."

2.00 p.m.

Mr. Speaker, that statement then was followed up by a further statement made in the House and he said, and I quote again:

> A refund of moneys would not be possible because the money is in a trust fund and there is no money to be had.

Mr. Speaker on July 19, 2011, the Member for Diego Martin West said, and I quote—this is coming from the *Express* of July 19, quoting the hon. Leader of the Opposition:

> "Opposition Leader Dr. Rowley, has called on Government to clear the air on the arbitration proceedings between the Government and…BAE…
>
> At the press conference yesterday"—he—"said Government must explain to the nation what was happening with this broken deal.
>
> 'Tell the country what is happening with the arbitration. What are the issues being arbitrated and whether in fact it is correct to say that the Government is now facing an option of taking the vessels, the very vessels that they determined to be lemons,'"

On June 15 of this year, the Member for Diego Martin East said to the national community—[*Interruption*] North/East—that the Government had in fact lost the arbitration and was liable to pay hundreds of millions of dollars to BAE. Permit me to quote from the hon. Member, who was ironically at the material time, mind you, responding to allegations of overruns on the MV *Su*, and this is what he said:

Mr. Imbert: You sure?

Sen. The Hon. A. Ramlogan SC: It is my understanding—says the Member for Diego Martin North/East—that the Government has lost the OPV arbitration and the country may be liable to pay out moneys to BAE Systems in the sum of hundreds of millions of dollars.

Mr. Speaker, they were not alone. In fact, a heavy weight from the Opposition Bench wade in, and that is the Member for Arouca/Maloney, on June 04, 2012. That is when the consternation intensified. The Member said; I quote:

> "Can the Minister of Finance…tell us how much money we will have to pay in"—"this—"arbitration? Can the Minister of Finance tell us that? Because I am sure we would have saved a lot of money by maintaining the contract for the OPVs."

Mr. Speaker, on October 28, 2012, after all of these statements from the Opposition, there appeared an article on the front page of the *Sunday Guardian* newspaper. That article reads:

> AG requests $1.3 b for settlement
>
> Cabinet uproar over OPVs

AG requests $1.3 billion for settlement

That article written by one Denyse Renne. This is what is said:

"Attorney General Anand Ramlogan has gone to Cabinet requesting $1.3 billion for a settlement with respect to the cancellation of the three …(OPVs). Meanwhile the arbitration over the OPVs is still ongoing."

Members of Cabinet—"openly objected as they questioned"—whether—"the payment should be approved, since arbitration was still in progress." Three Members—"were reportedly vocal during the meeting, questioning the haste and timing of the request.

The meeting got so heated, sources said, that Dookeran walked out, saying he wanted no part of the decision to make the money available.

When contacted,"—astonishing—"some Cabinet ministers confirmed the decision, but refused to go on record when questions were posed to them.

One irate Cabinet source questioned whether the Government would want to pay $1.3 billion in arbitration fees rather than paying $1.5 billion for the three OPVs…"

Mr. Speaker, permit me to say for the record, that entire article is but a fabrication and a figment of someone's imagination. There has never been any Note before the Cabinet of this country to consider the payment of any moneys to BAE Systems; not one red cent. [*Desk thumping*] There could never have been any discussion about a non-existent Note, such that it could form the basis of a front-page story that would go on to say that Ministers in that Cabinet confirmed the story. It is ludicrous, it is inherently incredible and it is outrageous and it is a lie.

Mr. Speaker: Please, please, please.

Sen. The Hon. A. Ramlogan SC: And it is an untruth. This arbitration hearing took place in May 2012, in London.

Mr. Imbert: In New York.

Sen. The Hon. A. Ramlogan SC: Evidence was given on behalf of the Republic of Trinidad and Tobago by three witnesses and they are as follows: Commodore Garnet Best, Captain Mark Williams and myself as Attorney General; three witnesses for our side. There was an expert witness as well.

Subsequent to that hearing, a diplomatic initiative led to certain discussions between the parties and I am pleased to say, of course, that those discussions have

since borne fruit. As a result of those discussions, on Divali day, on the auspicious occasion of Divali, a settlement agreement was signed between the Government of Trinidad and Tobago and BAE Systems whereby they agreed to pay this Government and the people of this country $1.382 billion, close to $1.4 billion. [*Desk thumping*] After we pay off the outstanding balance on the loans, we will remain with a surplus of $341 million that can be used to complete the Couva Children's Hospital, the new police stations and the road rehabilitation programme throughout Trinidad and Tobago.

Mr. Speaker, by paying off the loan early we have saved $57.149 million in interest payment. We have also saved the country the operational cost and the recurrent annual expenditure, had the OPVs been acquired. The operational cost for the three would have been $32 million, plus a further cost of $24 million for salaries and allowances.

It was the Member for Diego Martin West who, on October 22, 2010, indicated that these vessels could last for up to 40 years. If we do the math we have saved this country $590.8 million that would have had to be spent to keep those vessels operational for the 40 years. These are the cold hard facts.

In the face of this, in yesterday's *Express* newspaper, there was an article entitled:

"Rowley questions Govt on payback of billion-dollar loan"

He said, and I quote:

> "…he was not going to take as fact anything"—from the—"Attorney General…until he…gets confirmation from an official document or some credible source."

Mr. Speaker, the Member for Diego Martin North/East said, and I quote:

> "If BAE sends out a release saying they expect to come out on top, then why is the Attorney General saying we won the arbitration?"

Mr. Imbert: "I say that?"

Sen. The Hon. A. Ramlogan SC: "Imbert said he had to do some research—"

Mr. Imbert: "I say that?"

Sen. The Hon. A. Ramlogan SC:—"because the AG statement made no… sense."

You see? Utter shock and amazement at the fact that we emerged victorious in this arbitration, because all along the prediction was we not only lost but we had to pay out hundreds of millions.

Mr. Speaker, how much was claimed and how much did we settle at? The sum of $1.654 million was claimed, we settled at $1.382 million. How much is outstanding on the loans? The sum of $1.041 billion is owed to the banks and when you apply the settlement figure, the resulting surplus is $341 million. Are there any ancillary charges arising out of the cancellation of this project? The answer is no. The arbitration settlement agreement is a full and final settlement of all outstanding issues relative to this project. Those are some of the issues raised.

After announcing this at a press conference at my office, after speaking at the post-Cabinet media briefing yesterday, an article appeared in the *Trinidad Guardian* today on page 5:

"Anand: OPV arbitration costs…$200 million"

Mr. Imbert: "Yuh did not say it?"

Sen. The Hon. A. Ramlogan SC: Mr. Speaker, I want to say for the record at no time did I ever make any such statement and I challenge anyone to go through the post-Cabinet media conference briefing yesterday and show me where that was said. That statement—I have never made any such statement. In fact, on the contrary, what I indicated was, that in relation to legal costs, the legal costs for a matter like this, had it run the full course, would have run up to about £7 million to £10 million and in this matter, because of the early settlement, we have not even crossed £2 million. I further indicated, in response to a question as to whether or not we were liable in any form or fashion, to pay the legal fees and cost of BAE's, that the answer was a categorical unequivocal no. We are not responsible or liable to pay one red cent of the legal fees incurred by BAE, as part of this settlement. [*Desk thumping*]

Mr. Speaker, I then saw another article in today's *Guardian*, under the headline:

"BAE, Government in secret deal for more boats"

Dr. Moonilal: I wonder if it is the *Su*?

Sen. The Hon. A. Ramlogan SC: Mr. Speaker, let me quote:

> "Although the Government is claiming to have won an arbitration battle with…(BAE), one of the world's largest military defence companies, indications are that a secret deal between the parties is in the works for T&T to acquire several second-hand boats."

Mr. Imbert: Is that true?

Sen. The Hon. A. Ramlogan SC: "'Information is there may be a secret deal going on between the Government and BAE for the purchase of second-hand military vessels,' a well-placed source, requesting strict anonymity, told the *T&T Guardian* yesterday—a well-placed source, requesting strict anonymity."

In the same way, the Government Ministers who confirmed that the Note came to Cabinet requested anonymity.

You see, Mr. Speaker—and then they go on to say:

> "There may be"—something—"more to the $1.382 billion settlement the Government got from BAE. There may be far more to the story than we think,…'"

Mr. Speaker, permit me to say for the record, this is but another example of reporting without facts, without any factual matrix. Permit me to say, there is no such deal with BAE, and the Government of Trinidad and Tobago is not engaged in any form of negotiation with BAE, to acquire a second-hand vessel and there is no back attack. There is tack back. There is nothing. It is a full and final settlement and that is $1.4 billion paid to Trinidad and Tobago. [*Desk thumping*]

It appears as though some people are so shocked—[*Interruption*]

Hon. Member: They cannot believe.

Sen. The Hon. A. Ramlogan SC:—that they just cannot believe it and they continue to print nonsense that would undermine the validity of the settlement. It is a complete fabrication, two stories on one day, a complete fabrication.

There is no—then I saw in one editorial today, and permit me to quote, a minor correction. They said:

> Our relief at getting this news of the settlement stems from the fact that just a few days ago the Government had acknowledged that they had set aside some $1.3 billion to cover the outcome of the arbitration findings.

That is in an editorial in one of the other newspapers today. The Government has never acknowledged that we had set aside $1.3 billion to cover any settlement with BAE because the Government of Trinidad and Tobago was pellucidly clear from day one that there was never going to be a case that we will pay BAE any money. We felt we had a very strong case and we also never had within our contemplation, the payment of any moneys to BAE. So, where is all this mischievous reporting coming from, and why? Another anonymous source requesting strict confidentiality and anonymity.

We then come—[*Interruption*]

Mr. Imbert: I am not anonymous.

Sen. The Hon. A. Ramlogan SC: You see, this in part comes as well from another story in which the Member for Diego Martin West, in a speech he delivered at the last PNM Convention, said—he went so far as to not only champion the cause of BAE saying that, look, we had lost the arbitration, but he went so far as to make an allegation of fraud against the Government to say that the settlement figure of over $1 billion was hidden and secreted within the bosom of the Ministry of National Security's budget. He said that as a statement of fact at the PNM Convention, that we hid the moneys that we have to pay to BAE; we hid it, we concealed it.

2.15 p.m.

Dr. Rowley: Mr. Speaker, I object. [*Crosstalk*] If there is going to be a debate [*Crosstalk*] in this House, if there is going to be a debate, I would like to know the avenue by which I will join this debate. [*Crosstalk*]

Mr. Speaker: Attorney General, I think you are coming to the conclusion of your statement. Right?

Sen. The Hon. A. Ramlogan SC: Yes, Mr. Speaker. Permit me to say there was never—try as you might, you will never be able to find any line item in the budget that would have catered for any—[*Interruption*]

Mrs. Persad-Bissessar SC: Expressly.

Sen. The Hon. A. Ramlogan SC:—expressly, hidden, implicitly, explicitly, overtly and otherwise covertly, you will not find any line item in the budget whereby the Government had made financial provision for the payment of a single red cent to BAE as a result of this claim.

Hon. Member: That is right.

Sen. The Hon. A. Ramlogan SC: Not one! [*Desk thumping*]

Mr. Speaker, yesterday many members pounced on an article published in the *Evening Times* of the United Kingdom, an article which said that the Government of Trinidad and Tobago—written by one, Mr. Gordon Thomson, the article basically said that the Government had lost the arbitration and the Members of the Government were known to have paid £130 million to BAE.

Mr. Speaker, that is an article again which probably was based on the false article published on the front page of the *Guardian* about a non-existent Cabinet Note. But permit me to say happily that whilst Members opposite pounced on that with such glee and delight as if that is the truth, today the newspaper published a retraction, and permit me to quote it.

Hon. Members: Ohhhhhh! [*Desk thumping*]

Sen. The Hon. A. Ramlogan SC: In a rare display of ethical journalism which obtained in the United Kingdom, and permit me to quote:

> "The Evening Times yesterday reported that shipbuilder BAE Systems had won a £130 million compensation battle with the Trinidad and Tobago Government after the Caribbean Republic had cancelled an order for three offshore patrol vessels.
>
> We published the article after a spokeswoman for the defence contractor claimed it was to receive the cash payment.
>
> However, BAE has in fact agreed to compensate the republic, which had cancelled the £150m order, after it claimed the delivery dates for all three ships were delayed and the combat system on two of them had failed during sea trials.
>
> BAE Systems today declined to comment further on the result of the negotiations other than to confirm a 'settlement' had been reached with the Trinidad and Tobago Government.
>
> We are happy to clarify this here."

Mr. Speaker, those are the facts. [*Desk thumping and crosstalk*] I wish to commend the *Evening Times* and thank them for that clarification for which we are grateful.

I wish to end by paying tribute to the dedication, professionalism and hard work of those public officers who served on this OPV project and stood up in defence of Trinidad and Tobago, with the Government of Trinidad and Tobago, so that we could have had the result we had in this matter.

There has been much query about what has happened since. Yesterday at the post Cabinet media conference, the hon. Minister of National Security hinted that Trinidad and Tobago—we are in discussions with a friendly nation with respect to the acquisition of some vessels. Today I am pleased to announce that a team from the Ministry of National Security is actively collaborating with the Government of Colombia to undertake a site visit [*Laughter*] to review naval assets consistent with an established RFP. It is expected that the outcome of this visit will better position the Ministry of National Security to forge ahead in the acquisition of additional assets in support of the maritime wall initiative. [*Crosstalk*]

Mr. Speaker, apart from that, we are also in discussions with the United States Government to acquire scanners for our ports, and those scanners at our—[*Desk thumping*] ports have been outstanding for the past few decades although other countries have them to prevent drugs from coming in at the ports.

We have had the announcement of the CCTV initiative and the National Security Operation Centre in concept and layout would be equipped to coordinate and monitor operations involving security and defence initiatives.

The NSOC will contribute meaningfully to the opportunity for ensuring that there is a security blanket and no security void exists. This coordination integrated with support from the Trinidad and Tobago Defence Force, and the police service and other law enforcement agencies, brings a zero tolerance approach to ensuring that our borders are secured and closing the existing gaps.

The escalated vigilance would contribute to the holistic security approach and defence for the Government of Trinidad and Tobago. Under this new plan, vessels will now be manned and patrol our borders from the two to 12 mile radius around the island, working in tandem with the interceptors and the less costly but just as effective, 70 metre vessels that we intend to purchase to secure our coast.

Our border protection naval operation plan will involve 12 coast guard installations strategically placed around the island with fast patrol interceptors assigned specifically to each installation, and this will ensure that the country will now be properly secured which could not have been done otherwise. Further details of this will be given in due course by the hon. Minister of National Security.

Mr. Speaker, we have managed to extricate the country from what could have been a billion-dollar financial headache had we lost this arbitration. [*Crosstalk*] This arbitration represents the Government's commitment to the rule of law, it represents the Government's fearless approach to dealing with international companies, and it is a demonstration of the Government's commitment to the people of this country, in defence of this country, to stand up for this country, whenever and whomsoever we are dealing with. [*Desk thumping*]

I thank you very much.

Removal of VAT
(Zero-Rated Items)

The Prime Minister (Hon. Kamla Persad-Bissessar SC): [*Desk thumping*] Thank you very much, Mr. Speaker. I wish to announce in this House today, as many of our citizens would have realized by now, that my Government has delivered on yet another promise. On September 29 I had announced that with

effect from November 15 value added tax would be removed from commonly used food items in Trinidad and Tobago. This was in response to easing the burden on our population who was struggling with spiralling food prices arising from the rapid rate of price increases that was concomitant due to global trends.

The philosophical underpinning of our manifesto expressed in our first pillar for sustainable development, is the desire to provide people-centred development. Throughout the last two and a half years in office, we have revealed demonstrable evidence of our commitment to people which is always at the heart of what we do. So, if you permit me, I will take a few moments to put the issue of VAT removal into some historical perspective.

Bread, rice, flour and milk were zero rated by Legal Notice No. 37 of 1989 by the then NAR Government. Cheese was zero rated by Legal Notice No. 17 of 1996 by the then UNC Government. Pasta was zero rated by Act No. 8 of 1996 and Legal Notice No. 17 of 1996, also by the UNC.

Dr. Moonilal: "PNM do nothing, as always."

Hon. K. Persad-Bissessar SC: In addition to cheese and pasta, the UNC then in Government zero rated approximately 20 items by Act No. 8 of 1996. These included: corned beef; curry; fresh butter; peanut butter; table salt; salted butter; tin sardines; smoked herring; yeast; baking powder; salt fish, and some others. Now today, Mr. Speaker, my Government, by Legal Notice No. 365 of 2012, has removed VAT on thousands of food items. [*Desk thumping*]

Our decision to remove VAT on an expanded list of items was a strategic decision in keeping with the focus of our Government. It represented a step in the reduction of food price inflation and an improvement in the standard of living of many in our society, and it adequately identifies with the 2012/2013 budget theme enunciated by the hon. Minister of Finance, that of Stimulating Growth and Generating Prosperity for the people of Trinidad and Tobago.

Mr. Speaker, it was a well-thought-out and strikingly executed programme for the people of our twin-island republic. There were extensive consultations amongst the multidisciplinary team including representatives of the Supermarkets Association of Trinidad and Tobago; the Food Distributors Association; Trinidad and Tobago's Manufacturers Association; Trinidad and Tobago Chamber of Industry and Commerce; the Consumer Affairs Division, Ministry of Legal Affairs; Customs and Excise Division; the Board of Inland Revenue; the Chief Parliamentary Counsel of the Ministry of Finance and the Economy. We want to thank all these various groupings for engaging and helping us in making sure that we kept the promise that the VAT would be removed on November 15. We want to thank them very much.

This team, in fulfilling its mandate, developed a method to identify the list of food items for removal of VAT. This method was very comprehensive; it included most basic food items, major inputs into food production, selected beverages and other items considered to be healthy foods and snacks, all of which, as I said, as at November 14, 2012 attracted VAT at a standard rate.

This process was ably led by Sen. The Hon. Vasant Bharath, and we want to thank him as well, our Minister of Trade, Industry and Investment—[*Desk thumping*] and Minister in the Ministry of Finance and the Economy. This was in keeping with our credo to promote a climate of national dialogue within a framework of civility and consensus building.

Bearing in mind that there would be some queries during this transitioning phase a hotline has been set up; that number is 625-4VAT, that is 625-4828. This has been established to provide informed responses to the queries which may arise.

Mr. Speaker, the expanded list of zero-rated items consists of approximately 250 tariff lines; these correspond to thousands of supermarkets units, SKUs as they are called. The broad groupings of items which are VAT free—I am advised, numbering well over 7,000—include the following groups of food items: all cereals; all sausages; all juices; all artificial sweeteners; baby food; bacon; banana chips; barbecue sauce; all biscuits and cookies; black-eyed peas; cake mixes; chick peas; chicken nuggets; cocoa mix; coconut milk; creams and creamers; dates; French fries; fruit cocktails; fruit punch; garlic sauce; jams and jellies; lentils; mayonnaise; oats; peanuts; pepper sauce; picnic ham; pigeon peas; pineapple slices; pink salmon; plantain chips; prunes; red beans; salad dressing; shortening; soups; soy milk; teas; turkey; wafers; waffles; yogurt and, of course, many more, but these are the broad groups, I am advised, on which we have now zero rated.

For myself, I visited yesterday at a supermarket, on the 15th to see for myself what the supermarkets had done and I was exceedingly impressed. And again I want to thank the team that had been established to oversee that this became a reality. What they have done in the major supermarkets is to put up signs with the before and after prices, so the consumer can see readily what would be paid prior to the zero rating and what they will now be paying. I was very impressed and I want to thank all the supermarkets who have been cooperating in this regard. [*Desk thumping*]

The challenge for us now is to ensure that there is monitoring to ensure that there are not those who may go outside of the law in terms of the zero rating. Therefore, I have instructed the Minister of Legal Affairs in particular through his Consumer Affairs Division and the Prices Council to keep vigilance at all times for monitoring and implementation within all of Trinidad and Tobago.

I am advised by the hon. Minister, Member for Tobago West, that there are some concerns in Tobago and I have instructed our Minister of Trade and Industry, Sen. The Hon. Vasant Bharath, to visit with Minister Dr. Baker and Minister Toppin in Tobago for us to see and again to monitor what is happening in Tobago, to ensure that all Trinidad and all of Tobago benefit from zero-rated food items. [*Desk thumping*]

Mr. Speaker, the second pillar for sustainable development from our manifesto which is now Government policy, focuses on poverty eradication and social justice. As a result, our governance structure seeks to provide the basics by focusing on the needs of people first and this is what the removal of VAT accomplishes.

We should note that whilst questions will be raised as to open market forces, in particular the laws of supply and demand, putting food prices at varying stages, at varying amounts at different points in time, the VAT was an artificial increase on food items.

2.30 p.m.

It represented a form of revenue to the Government and, indeed, it is an artificial price increase being levied by the Government. I am very happy that the Government was able to remove what was indeed an onerous measure, artificially pushing up the food prices and, in that way, we bring down the food prices to a certain extent; but that cannot be all. There must be a holistic approach to reducing food prices and so this was a short-term measure, a stopgap measure for immediate implementation to allow for ease of living while we actively pursue measures to ensure food security in our land.

May I remind you, hon. Speaker, that some of these initiatives that we have implemented to advance local agriculture on a long-term basis have already been discussed in this honourable Chamber? These initiatives have included and continue to include significant accomplishments in the following areas:

- a revised agricultural incentives programme for the first time in 17 years; [*Desk thumping*]

- an aggressive agricultural access road programme to increase access to lands and markets;
- a structured water management and flood control programme, inclusive of on-farm irrigation ponds, installation of irrigation systems; desilting of river channels, sluice gates and insulation of pumps on river banks;
- the commissioning of large farm sites, particularly for vegetable and rice production.

Hon. Speaker, if you have had the chance to look at the newspaper today, you would have seen that Government has projected over 5,000 acres of land for rice production in Trinidad and Tobago. Rice, as you know, being one of the staples in our diet—I think almost every person consumes rice in Trinidad and Tobago—is also one of the items that attracts very high prices because we have to depend on markets from abroad. So if we can increase our own local rice production, then we can help to reduce the price of rice in Trinidad and Tobago.

For my own self, I remember, as a child, growing up amidst rice fields. Indeed, I did plant rice myself with my family as many of us would have done—yes, I did—but over time, all those rice fields went away for different reasons. Maybe we got more involved in the energy sector; in oil jobs and so on and gave up the lands. So we have to return to planting for production and, thereafter, for processing.

Food prices, you know, fluctuate. When there is a glut on the market, the price drops. When there is a shortage, the price goes up—take tomatoes, cucumbers, or whatever they may be—so the demand/supply curve wherever they meet, that is where the price would fall. It is, therefore, for us to be able not just to plant and to produce, but also to can, to manufacture and to process. That would be another avenue that we would be exploring in order to help bring down food prices.

The Minister of Finance and the Economy, I know, is looking within his budget to see how we can give more incentives for the manufacturing and processing of food. So, in addition to incentives for planting more and producing more, we must also be able to pack and can for times when we have gluts on the market; that we can have them in the times of shortages.

Mr. Speaker, we have also, within our initiatives, issued leases for 2-acre agriculture plots for the ex-Caroni workers. We have released more than 4,000 acres of agricultural lands for production. This programme will be administered

by order in a structured, fair and equitable manner; all aimed at encouraging intensive, increased agricultural production.

Fish landing sites throughout the country have been upgraded, where we provided the basic amenities including cold storage rooms, lockers, electricity, net repair sheds, water and washroom facilities. We have also initiated a young professional in agriculture development and mentoring programme to bring on board 50 agricultural graduates, on an annual basis, and this commenced in October. The underlying rationale for this programme is to encourage and develop youth appreciation for agriculture in all its facets as a viable career goal.

I am also advised that Cabinet has approved sites for food packing and warehousing facilities; so we have focused on all these initiatives and others. We have set targets for production of various basic commodities. These include staples such as cassava, sweet potato and rice, which I have mentioned; food from animals: sheep and goat, rabbit, buffalypso; milk and aquaculture, such as tilapia; vegetables and legumes: tomatoes, lettuce, sweet peppers, pak choy, pigeon peas, seim and such others; fruits: the major fruits such as avocado, banana, citrus, coconut, pineapple, dwarf pomme cythere, mango, papaw, watermelon; minor fruits, guava, carambola, West Indian cherry, pommerac and many other fruits that we produce here.

Indeed, fairly recently, I recall that Cabinet approved for us to try to source, out of the United States, mango plants which bear mangoes all year round, so that we can improve on that mango production fruit as well. All these have a dual aim, to help us reduce our food import bill whilst, at the same time, ensure that our people can live decent, comfortable and healthy lives.

As I close, Mr. Speaker, there is another measure which we are considering. I have said that we took off the VAT, the artificial increase on most food items. We have looked at ways in which we can increase production and provide incentives for manufacturing in the food sector.

There is another strategy which we are considering, but which would be in the longer term because of the process that we will have to go through. There are, on food items, customs duties that are paid, which, in addition to the prices of whatever food is imported, that we have to take from abroad for the things we do not yet produce or do not produce in sufficient quantities, that price comes in, but then it is added to by customs duties and something called the CET, the common external tariff, which has to do with our relationships in the Caricom.

I have signalled our intention to review details on certain products as they relate to the CET. Whatever that final decision is, it will need to be reviewed and

sanctioned by Caricom's COTED, that is, the Council for Trade and Economic Development.

However, Mr. Speaker, it is something that we are seriously pursuing with a view to again bringing down the cost of food, especially on the basic items such as sugar, flour, rice and, of course, we will look at the others in due course, as the team continues to review this method.

Mr. Speaker, I commit, however, to the consultative process, with people at the heart of all our decisions because another pillar in our development plan is that of people participation in governance as we are a user-friendly, responsible and responsive Government, reflecting the will and consciousness of the people.

As I close, I repeat that we are very happy to have taken off the VAT on the majority of food items, except the luxury items and alcoholic beverages. We are very happy for the initiatives within the agricultural sector in order to grow the food industry to help us to better ensure food security for our citizens. We are also pursuing incentives for the manufacturing sector and the food processing sector. The fourth initiative we will pursue is that of seeing where and how we can remove the customs duties, the CET that is paid on imported food where those foods form basic items in the diets of the people of Trinidad and Tobago. Again, Mr. Speaker, I thank all those who were involved in this initiative, especially the Minister of Trade and Industry, Sen. The Hon. Vasant Bharath; the hon. Minister of Finance and the Economy, who also assisted us tremendously in this exercise, and the team set up to oversee the implementation of the decision the Government had taken.

I thank you very much, Mr. Speaker.

SECURITIES BILL, 2012

Order for second reading read.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Mr. Speaker, I beg to move:

> That a Bill to provide protection to investors from unfair, improper or fraudulent practices; foster fair and efficient securities markets and confidence in the securities industry in Trinidad and Tobago; to reduce systemic risk, to repeal and replace the Securities Industry Act, Chap. 83:02 and for other related matters, be now read a second time.

The Securities Bill, 2012 is a substantial and very important piece of legislation which seeks to bring the legislative framework governing the local securities industry in line with international best practices in securities regulations.

It allows for this country's securities regulator, the Trinidad and Tobago Securities and Exchange Commission, the SEC, to become a full signatory to the International Organization of Securities Commissions' (IOSCOs) multilateral memorandum of understanding on or before January 01, 2013.

As I said, this is an important piece of legislation and this is an historic moment in the continuing development of our financial sector. [*Desk thumping*] As you know, our financial sector had its birth, its genesis, back during the period of indentureship, around 1837, when the Colonial Bank was established. This then became Barclays DCO, around or about the early 1850s and Barclays continued to remain a feature of our local banking industry until its name was changed to Republic Bank some two decades ago.

Barclays was part of the old colonial financial framework—Barclays DCO as it was known; dominion, colonial and overseas—and really it encompassed much of the British Empire; was part of much of the British Empire during that time.

Of even greater import for me, personally, was the establishment of the Trinidad Co-operative Bank on May 20, 1914, which was established so that, and as the founder said at the time, men of colour could do banking business and, more specifically, to inculcate a virtue of thrift and to provide a means by which poor people could save and eventually invest in their own home. So, the genesis of saving and investing really started among the local population, among the people of Trinidad and Tobago, in my own mind, through the Trinidad Co-operative Bank.

In those days, you needed a shilling to open an account in any of the other banks. At that time, you had really two banks—Barclays and Royal Bank. You needed a shilling to open an account in a bank. When the Co-operative Bank was formed, you actually could open an account with a penny, so it was a difference between 24 cents—in those days the shilling was 24 cents—and a penny.

You will recall, Mr. Speaker, some of the titans of that time; people like Mr. Arnold Waterman, who was the first president of the Trinidad Co-operative Bank. We had Mr. Austin Mc Shine. We had Mr. Cyril Duprey, who had founded Clico, the Colonial Life Insurance Company, and many others of their ilk, who sought to establish themselves firmly in the financial landscape of Trinidad and Tobago.

I want especially just to divert a bit also to remember Miss Rose Mc Shine-Monsanto, who was appointed to the board in 1943 and who was the first woman

to have held such a position in the colony. I must say that she, in fact, did the bank very proud, having worked in the bank and eventually becoming elevated to the position of a director.

So our banking industry and financial services industry go back close to 100 years and, in 2014, our banking industry will be celebrating 100 years of local banking in Trinidad and Tobago, starting from those humble beginnings at the corner of Charlotte Street and Duke Street.

2.45 p.m.

But of course, Mr. Speaker, our financial services industry has seen many ups and downs, as has our economy, over the years. As you know, Mr. Speaker, we have been fortunate, always, as an economy, to have something that we could turn to and probably "I better knock wood", but the thing is we have always, you know—from the time of sugar we went to cocoa—as you know we were one of the pre-eminent suppliers of cocoa in the world.

We then went to oil in the early 20th Century. In 1908 we first commercially produced oil, then we went to gas and we became one of the first gas economies in the world starting in 1950 with the old Fedchem—in the 1950s, sorry, probably about 1953. Minister Mc Leod, the hon. Member for Pointe-a-Pierre, would be able to give me a better fix on that date—but we have been able to continue to grow over time and our financial sector has followed the ups and downs. We have had ups and downs. In the 1970s the economy grew with the advent of the first oil boom, and, of course, we turned down after there was that massive drop in oil prices and again we went back up.

In the 1980s we faced several financial crises which, as a country, we had to deal with and many of which had to deal with the fact that we did not have the right kinds of regulatory frameworks in place to allow us to cushion the effect of the downturns that normally follow the period of economic expansion that you get in normal economic cycles. So we turned down in the 1980s but started to grow again in the 1990s, and one of the things that occurred in the global environment was the fact that around the turn of the millennium, of course, we had the meltdown of Enron and WorldCom, and both of these companies exemplified the worst in corporate behaviour with significant insider trading and significant abuse of risk management processes which resulted in the collapse of these institutions and the loss of billions of dollars by investors.

Following that period, of course, we had a number of other crises coming to the fore. During the early part of this decade we had the issues relating to the

meltdown of the financial system in the United States, and, of course, the difficulties with the experiment with the single currency which was undertaken in the eurozone. So we have had a number of crises in the world financial system and, certainly, in our own local financial system, and more and more, as these things have occurred, regulators have sought to put in place initiatives that could protect industry from the effects of poor risk taking and poor corporate governance.

As it stands now, the IMF has indicated in their revised world economic outlook that global growth in 2013 is likely to be not much better than occurred in 2012, and that there remain considerable downside risks. These downward projections may be attributed to the uncertainty surrounding a clear policy direction of the G-20 economies, the continuing euro area crisis, ongoing fiscal adjustments by governments as they seek to reduce their debt levels and spillover effects from the weakened demand, globally.

It is a well-known documented fact that the global economic recession was caused by the financial crisis which occurred in 2008 and 2009, which led to severe losses of wealth and confidence and unexpected market failures. So, the important thing for us, Mr. Speaker, is that we need to ensure the creation of strong and robust capital markets, without which the real economy cannot achieve consistent growth and consistent expansion, sufficient to allow the increases in income that one would expect as a result of a robust and thriving economy.

These lessons that we have learnt over the past few years have charted a course for securities regulators, not only here in Trinidad but across the globe, as we seek to review and amend our securities regulatory frameworks to allow for stronger and more efficient and effective regulation of our capital markets. The global financial crisis in 2009 has been cited as having been caused by several factors such as extensive risk taking accompanied by weaknesses in risk management practices, poor investor due diligence, inadequate disclosure standards, and weak regulatory frameworks.

This has therefore given rise to the creation of IOSCO which has placed greater emphasis on strengthening financial regulation that can reduce systemic risks and prevent future financial crises. The Group of 20 largest economies has mandated IOSCO and the Financial Stability Board to develop effective and efficient guidelines, and I would like to quote from their guidelines:

(a) to assist their members in the promotion and improvement of market efficiency, transparency and integrity;

(b) the improvement of investor protection practices;

(c) the strengthening of regulatory frameworks of credit rating agencies and the promotion of the dependence on ratings;

(d) the regulation of commodity markets, over-the-counter derivative markets and shadow banking; and

(e) the supervision of hedge funds.

Mr. Speaker, the development of a sound financial and securities regulatory framework is not new to this country, as the process began as far back as 1964; as far as the regulatory framework is concerned. During this period, between 1964 and 1968, several pieces of legislation were passed, such as the Central Bank Act, which created the Central Bank of Trinidad and Tobago; the Commercial Banking Act; the Insurance Act; and the Financial Institutions Non-Banking Act. Subsequently in 1981, we passed the Securities Industry Act, which created the Trinidad and Tobago Stock Exchange, and the Unit Trust Corporation was also formed under the Unit Trust Corporation Act of 1981.

In an attempt to harmonize a regulatory framework in the securities industry, the Securities Industry Act was repealed in 1995 and replaced with the Securities Industry Act of 1995. This Act came into being when the structure and size of the capital market were much smaller than it is today. At that time the local capital market was valued at $6.35 billion or just about 16 per cent of GDP. At that time we only had about 77 market actors. Since that time, of course, the value of the capital market has increased to $259 billion, which is approximately 175 per cent of the GDP of Trinidad and Tobago and, of course, we have 206 market participants which include brokers, reporting issuers, underwriters, dealers, traders, securities companies, self-regulatory organizations and investment advisors.

Perhaps, Mr. Speaker, I could just provide some data on our market. Over the 14-year fiscal period, 1998—2012, the total equity market rose from $846 million to $97.8 billion or 66 per cent of GDP—this is just the equity market alone. Debt securities, outstanding, rose to $70.8 billion from an estimated $2 billion and mutual funds grew from $4 billion to $42.8 billion or 29 per cent of GDP. Securitized instruments also rose from an estimated $636 million to $47.6 billion or 35 per cent of GDP.

In addition to this we have also seen the growth of electronic trading and a greater level of sophistication among market players. We have also seen the launch of the US dollar securities market, introducing for the first time a multi-currency system of trading into Trinidad and Tobago.

Mr. Speaker, it is therefore important, in light of all these changes that are occurring, that we take immediate action to strengthen the legislative framework in which we are operating, especially given the fact that with open markets, with free movement of foreign exchange, the movement of funds into our market and out of our market could be significant. Permit me, Mr. Speaker, before actually going into some aspects of the Bill to perhaps trace very briefly the history of this Bill for the benefit of this honourable House, as well as for the record.

Mr. Speaker, well before the onslaught of the financial crisis in 2009, it was recognized that the changing landscape of the local capital market would necessitate the need for stronger, more effective regulation to provide enhanced investor protection. In 2001, the SEC issued expressions of interest for the review and revision of the Securities Industry Act of 1995, as well as the associated legislation. In September 2002, the consultants *Stikeman Elliott* LLP of Canada were awarded the mandate to review and revise the Securities Industry Act of 1995. *Stikeman Elliott* was mandated to provide the SEC with detailed recommendations for the revisions of the Securities Industry Act and to prepare draft legislation which would have formed the basis of legislation to be drafted in Trinidad and Tobago. *Stikeman Elliott* completed its mandate in 2004 and delivered their report to the SEC in November 2004. It is from that time that the SEC began to review the existing securities regulatory framework.

Mr. Speaker, after a series of consultations with the various stakeholders, the draft securities Bill was laid before Parliament for its approval in 2009. The draft securities Bill was passed in the House of Representatives and was subsequently debated in the Senate in 2009, however, the Bill lapsed at the conclusion of the term of office of the previous administration.

Concurrently with the Bill being laid in Parliament in 2009, the SEC submitted its application to become a signatory to IOSCO's MMOU in 2009. Upon the completion of the 2009 application, the SEC was placed on the Appendix B list and IOSCO pointed to the need for addressing certain key deficiency areas in the 2009 draft Bill that would have to be addressed in order to become an Appendix A member. And I would just like to note the areas of deficiency which were identified by IOSCO. These were: the time period for record keeping, the confidentiality provisions, the arrangements for information sharing and the process for accessing bank records.

The establishment of a technical committee was agreed to by Cabinet in 2011 to review the draft securities Bill to determine whether the provisions of that Bill, inclusive of any subsequent amendments, should remain or be modified and to incorporate same into a new Bill to meet the requirements of the IOSCO MMOU.

3.00p.m.

Mr. Speaker, IOSCO is the international body that provides guidance to securities regulators around the world and establishes what are considered to be international best practices in securities regulation. The guidance in principles set by IOSCO aims to ensure that members adopt and maintain high regulatory standards and effective international cooperation, which will help protect investors, ensure that markets are fair, efficient, transparent and reduce systemic risk.

Its current membership comprises regulatory bodies from over 100 jurisdictions that have day-to-day responsibilities for securities regulation and the administration of securities laws globally. The IOSCO membership represents a broad spectrum of markets at various levels of complexity and development, operating in different cultural and legal environments.

The IOSCO MMOU was established in 2002, and has long been used by the securities regulators who are signatories, to help ensure effective regulation and to preserve and strengthen their markets. The MMOUs outline the types of information that a signatory is expected to provide on behalf of and share with another signatory. These types of information include, but are not limited to, information that is sufficient to enable a signatory to reconstruct transactions, such as banking information, brokerage information, beneficial ownership information, books and records. For example, the type of banking information that can be requested includes monthly account statements, signature cards, signing authority information, correspondence on file and deposit slips.

As a signatory to the MMOU, the SEC would be able to access these types of information from other signatories, which is crucial to the ability to properly investigate and take enforcement action against unscrupulous persons whose intention is to harm investors and the market.

In addition, the MMOU represents a common understanding amongst its signatories about how they will consult, cooperate and exchange information for securities regulatory enforcement purposes. There are currently 89 signatories to the MMOU representing over 90 per cent of the world's capital markets. Signatories regularly use the MMOU in order to facilitate international securities investigations.

In 2011, more than 2,000 requests for assistance were made under the international MMOUs. Through the MMOU process, securities regulators derive substantial benefits, including obtaining investigative information from overseas

regulators thereby ensuring more effective enforcement investigations, enhancing reputation and credibility and, accordingly, increasing investor confidence and attracting increased capital flows.

Mr. Speaker, IOSCO has mandated that all members become full signatories to the MMOU by January 01, 2013. This directive means it is imperative that the legislation we have before us addresses the deficiencies that were highlighted, and to this end, the SEC recommended to the Minister of Finance and the Economy that the presentation of the Securities Bill, 2010, to Parliament be delayed to ensure that the deficiencies identified by IOSCO were rectified.

The draft Bill provided by the consultants was subject to various levels of scrutiny. It was reviewed internally by the SEC staff. Following this internal review, it was scrutinized by the Cabinet-appointed technical committee comprising representatives of the SEC, the Central Bank and the Ministry of Finance and the Economy; a revised draft was then put out for comments, and a series of five public consultations were held in Trinidad and Tobago.

After reviewing these comments, the Securities Bill, 2012 was reviewed and discussed in nine sessions at the Office of the Chief Parliamentary Counsel, after which it was then placed before the Legislative Review Committee for two full sessions of arduous review. This Bill has therefore undergone a lengthy and rigorous process of consultation and review.

The passage of the legislation in both Houses of Parliament and its proclamation would enable the SEC to resubmit an application to become a full signatory of the IOSCO MMOU. The application and acceptance process must be completed on or before January 01, 2013. In order for an application to be submitted and assessed, the appropriate legislation must be in force at the time of application.

From January 01, 2013, IOSCO would abolish its "B" list and would have only one list, formerly the "A" list of compliant countries. Countries not on the single list as of January 01, 2013, would be listed as non-compliant with all the negative implications of such status, including ineffective cross-border enforcement, reputational and credibility issues, and compliant countries would be cautioned accordingly as to these risks.

Mr. Speaker, it is important to note that the SEC sits on the board of IOSCO as a third Chair of the Inter-American Regional Committee. This is an important step towards our country's goal of being recognized as an international financial centre. While IOSCO has not provided a clear list of sanctions for non-compliance, it has indicated that after January 01, 2013, all signatories would be

advised against doing business with non-compliant countries. The possible ramifications of such an advice would be significant on the local market which, as I previously stated, is valued at 170 per cent of our GDP.

What this means is that local companies may face an increased cost of capital as their access to international markets is restricted. This increased cost of capital would eventually trickle down to the man in the street in the form of higher prices for goods and services and fewer employment opportunities in the sector, as well as in industries that may rely on the securities industry to finance their activities. In addition, financial institutions could face restrictions to access foreign investment opportunities, which could result in a lower rate of return and reduced investment opportunities for local investors.

Mr. Speaker, I turn now to the significant sections of the Securities Bill, 2010 that were amended to provide for the deficiencies identified by IOSCO.

The first sections that were amended, sections 87 to 90, deal with record-keeping. The Bill gives the SEC the power to inspect the records of self-regulatory organizations and registrants. This section addresses one of the deficiency areas identified by IOSCO and requires market actors to keep books, records and documents for a minimum of six years, which is also in keeping with section 31 of the Financial Obligations Regulations, 2010.

The second area is confidentiality—clause 14 of the Bill. In order to address one of the IOSCO identified deficiency areas, clause 14 has been expanded to cover all persons, inclusive of past employees, and any other person who obtains confidential information as a result of their relationship with the SEC.

The third area we focused on was clause 151, which is the power to obtain information and documents. This provision was included to address the final IOSCO deficiency area, that the SEC must be allowed unfettered access to records and other documents necessary to reconstruct transactions, such as banking information, brokerage information, beneficial ownership information and other information, including testimony and books and records. This information is crucial to the ability of regulators to properly investigate and take enforcement action to prevent harm to investors and the market.

We have also looked at a number of other areas, including regulatory cooperation. In an attempt to minimize the duplication of effort, the Securities Bill, 2012 provides for consultation and cooperation with local regulatory agencies such as the Central Bank of Trinidad and Tobago and the Financial Intelligence Unit. The Securities Bill, 2012 provides the SEC with the authority to enter into a memorandum of understanding with the Central Bank and other

regulators, including the stock exchange. It also permits the SEC to cooperate with government agencies, or agencies of a foreign government, in investigations into contraventions into securities related activities inside and outside of Trinidad and Tobago. This provision would remedy another deficiency identified by IOSCO, as it facilitates the sharing of information with fellow regulators.

Clauses 158 to 168—apart from the revised categories of registrants, we have established a securities market tribunal under Part IV of the Bill. The tribunal would act as an ad hoc body and would be the adjudicative arm, while policymaking, oversight and investigation would be left to the SEC. This would avoid a strain on the resources of the SEC that could detract from the performance of its other functions. In addition, a separate adjudicative body would avoid concerns regarding breaches of natural justice and issues of structural bias.

Clause 158 establishes a tribunal which would consist of a chairman, who would be an attorney-at-law of at least 10 years standing, and two suitably qualified lay assessors. The jurisdiction of the tribunal under clause 159 would be to hear appeals from decisions of the SEC, for a delegate of the SEC to hear market misconduct proceedings in the first instance, and such other matters as the SEC may refer to or as which may be prescribed.

We have also expanded the section on whistle-blowing in keeping with international best practice. Clause 153 has been introduced in the Securities Bill, 2012 to provide for the protection of whistle-blowers. A whistle-blower is essentially an individual who informs the SEC about alleged misconduct and possible breaches of the securities legislation. Whistle-blowing will assist the SEC in its mandate of protecting the integrity of the capital markets.

Mr. Speaker, I now turn to a review of some of the other amendments to the Securities Bill, 2012.

Compliance reviews and compliance directions—clause 89 of the Bill extends the SEC's oversight powers to the conduct of compliance reviews of the books, records and documents of market actors. Under clause 90, following a compliance review, a market actor, if found to be in contravention of the Act, or any anti-money laundering, terrorist financing legislation or any other law administered by the SEC, the general manager of the SEC may direct the market actor to take measures to rectify the situation. The failure to take such measures is an offence.

Under clause 146, the SEC may also issue compliance directions for breach of a guideline. The SEC itself has also been strengthened under a number of clauses of the Bill. Clause 10 of the Bill makes provisions for the appointment of up to

three temporary commissioners to the board, in addition to the existing complement of seven, in cases where the SEC may require the additional expertise on the board of commissioners.

The SEC under the Securities Industry Act, 1995 is authorized to appoint a secretary, other than employees and experts, to assist it in its work on terms and conditions approved by the Minister. Clauses 23 and 24 of the Securities Bill, 2012 remove the required approval by the Minister and provide the SEC with the authority to appoint a secretary, other than employees and experts.

Further, under the Securities Act, Industries 1995 the SEC may charge fees with the approval of the Minister, however, it does not provide the SEC with the authority to waive, vary, or suspend fees should such actions become necessary. This restricts the SEC's ability to fairly and efficiently govern the securities industry. Clause 28 of the Securities Bill, 2012 attempts to remove this restriction, as it provides the SEC the authority to charge, waive, vary or suspend fees with the prior approval of the Minister.

3.15 p.m.

Clause 31(8) and (9) of the Bill requires the SEC to convene an audit committee with a minimum of three commissioners. The purpose of this committee, in keeping with international best practice, is to review the quarterly financial statements of the SEC before they are approved by the board of commissioners. The inclusion of an audit committee strengthens the corporate governance framework of the SEC.

We have also included, Mr. Speaker, provisions which require additional disclosures to the public. The 1995 Act requires the SEC to publish a list of all active and valid registrants in the *Gazette* by March 31 each year. The Securities Industry Act, 1995 however, does not allow for the public disclosure of filed documents. As full and proper disclosure is one of the main tenets of an effective securities framework, clause 33(1) of this Bill allows the SEC to make all documents or instruments required to be filed by its registrants, available to the public for their inspection during normal business hours of the SEC, or to post same on the SEC's website. It is anticipated that this provision will increase the level of information available to the securities markets, and thereby encourage greater efficiency, transparency and fairness.

We have also, Mr. Speaker, reviewed the settlement assurance fund. The issue of securities clearing and settlement is not currently addressed by the Securities Industry Act of 1995. Settlement assurance is a means through which a central depository can continue to operate and function even in the event of a

failure to pay by one of its participants. The inability of a market participant to meet its obligations to the central depository can have destabilizing effects on the market, as could be seen by the global financial crisis. It is in this context that clause 48 of the Bill requires a clearing agency to maintain a settlement assurance fund to address the failure by any of its participants to deliver securities or moneys.

In addition, Mr. Speaker, clause 51 of this Bill provides for three categories of registrants which include a broker dealer, an investment advisor or an underwriter. The new classification of market actors and participants simplifies the existing list of classification in the Securities Industry Act of 1995 which has six categories of registrants. A trader under clause 53 of this Bill is treated as a registered representative of the broker dealer. Clause 51 contains new obligations for certain senior officers of registrants to be registered with the SEC.

One of the key lessons learnt from the financial crisis is that persons need to be held accountable for the decisions made at various levels within the organization. As such, for greater accountability on the part of senior management, the term "senior officer" has been expanded to specifically include the chief operating officer, chief accountant, chief auditor, chief investment officer, chief compliance officer and chief risk officer.

The registration of individual market participants in the securities industry is a basic component of the regulatory structure in all securities markets across the globe. The registration process enables regulators to supervise individuals actively engaging with the investing public. Clause 54 of the Bill necessitates the approval of the SEC before a person or an entity can become substantial shareholders or broker dealers and underwriters. These persons or entities are also required to meet certain fit and proper criteria.

With respect to the disclosure obligations, Mr. Speaker, we have sought to address these in Part V and clause 139. The securities Bill now laid before this House substantially improves, refines and strengthens the reporting arrangements which are required of issuers of securities. These obligations seek to ensure that investors are able to access accurate and timely information relating to annual reports, disclosure of material changes of the issuer, interim financial statements on a quarterly basis, mandatory proxy solicitation for all reporting issuers, and disclosures of beneficial ownership by certain connected persons.

The Bill also requires that all accounts be prepared in accordance with international financial reporting standards which, Mr. Speaker, ensures uniformity of compliance and of reporting, and therefore, ease of analysis, and ease of

comparison among various securities that may be offered for sale to the public. It also improves the confidence in the reliability of the information which is provided in the statements.

Mr. Speaker, I turn to some of the collective investment schemes which have become normal in the marketplace today. The Bill has given the SEC clear and direct regulatory oversight of collective investment schemes. I know that this has been an area of specific concern in the marketplace as there has been a proliferation of these schemes, not just in Trinidad and Tobago, but throughout the region. This Bill requires that all reporting issuers offering collective investment schemes under this Bill comply with all the disclosure obligations contained in Part V of the Bill.

The concept of distribution has also replaced the offer to the public concept in the securities Act of 1995. This will apply to all issues of securities thereby making them subject to regulatory oversight. Clause 73 of the Bill requires all persons, before making distribution of a security, to file a prospectus with the SEC and receive a receipt for same. Specific exemptions from the prospectus requirements are provided to reporting issuers under clause 79 of the Bill. The concept of a hold period is introduced under clause 79. This hold period is a time period during which any subsequent trade in a security, issued under a prospectus exemption, could not be made again without the filing of a prospectus. The reason for this, Mr. Speaker, is to ensure that exemption from being required to file a prospectus does not in effect create sham transaction which is aimed at getting the securities into the hands of the public without a prospectus.

Further, foreign issuers and issuers of securities are now recognized in the Bill once they comply with the exemption and other requirements set out in clause 80. The term "accredited investor" contained under clause 72 of this Bill replaces "sophisticated purchaser" in the Securities Industry Act, 1995.

One of the big issues with respect to the management of the market in today's economy, Mr. Speaker, is the whole question of market manipulation. The provisions of the Securities Industry Act, 1995 that forbid market manipulation are woefully inadequate as far as the protection of the individual investor is concerned and the prevention of misconduct in the market.

In addition, the provisions—and I suppose it is because of this, that you have some inadequacy—do not provide for the effective prosecution of offenders. For example, in the context of market-rigging, the Securities Industry Act simply disallows the formation of apparent trading activity, but falls down where it

comes to addressing artificial prices. In order to seek and protect the public interest, clause 91 of the Bill includes two other offences for creating or maintaining artificial prices on a securities exchange.

Further, in the Securities Industry Act, 1995 the prohibition of inducements to trade in securities by sharing information merely disallows any form of misrepresentation that can make the price of a security increase or decrease. Clause 93 of the new Bill that we present to this House today is more expansive and inclusive and strictly prohibits any misrepresentation that could prompt the trade of a security. Of even greater consequence, clause 95 of the Bill brings about a new offence which prohibits the manipulation of prices on a securities exchange, and clause 96 of the Bill strictly forbids excessive trading by a market player with an account under his control. This provision is designed to address what is known as churning in client accounts, and basically it is really an unethical practice of promoting, buying and selling of securities by the traders in order to make additional commissions on the transactions.

In addition, Mr. Speaker, it is important for us to ensure that where recommendations are made to any buyers or sellers of securities, that this is done in a framework that protects both sides of the transaction. While the Securities Industry Act prohibits any registered market actor from endorsing a trade in a security to a customer, unless reasonable grounds are established for some level of assurance that the recommendation is suitable for the customer, clause 98 of this Bill prohibits market actors from endorsing any trade in a security to any customer unless it is established that the security is suitable for the customer.

So, Mr. Speaker, this will ensure that we protect the customers, particularly unsophisticated buyers and sellers in the market, from unscrupulous traders who may seek to take advantage of their lack of sophistication in the market, and their lack of understanding of particular instruments which may be traded on the market. That is why, for example, Mr. Speaker, when we recently introduced the Clico Investment Fund, we have been very careful to advise the holders of the STIPs or the short-term—sorry, not the STIPs but the bonds, the zero coupon bonds, to ensure that they get the right kind of advice from their brokers and from their bankers concerning the types of investments they make, and whether they should actually exchange their bonds for units in the Clico Investment Fund.

An important area, Mr. Speaker, is the insider trading clauses. The definition of a connected person in the Securities Industry Act, 1995 is limiting, and is open to a slanted or subjective assessment. There is a lack of clarity which may at times challenge individuals and regulators to determine exactly who is prohibited from trading, and what market activity is prohibited.

Under this Bill we have simplified and clarified the regulations regarding insider trading, bringing them more in line with global standards. The classification of a connected person in clause 4(3) of the Bill is specific and objective. Areas of doubt as to whether or not and under what circumstances connected persons are prohibited from trading have been clarified. Currently section 124 of the Securities Industry Act, 1995 provides that insider trading is not prohibited, unless the trading was with a view to the making of a profit or the avoidance of a loss. This permits trading with a benefit of unpublished, price sensitive information, and also creates significant difficulties since it is difficult to prove intent. This has been one of the big issues which has affected us, the SEC, in a number of particular instances when we have sought to bring action in insider trading cases. So, clauses 100 and 101 make clear provisions on the use and disclosure of material, non-public information.

3.30 p.m.

These clauses prevent connected persons from directly or indirectly buying or selling or otherwise trading in securities on the securities exchange, or otherwise on the basis of material non-public information. It also introduced tipping off prohibitions in an attempt to prohibit certain uses of material non-public information; so connected persons are prohibited from disclosing material non-public information to third parties. In the interest of fairness and the protection of the market integrity, section 124 of the Securities Industry Act, 1995, which provides for exemptions to the prohibition of buying or selling of securities by certain persons, has been removed. [*Interruption*]

We have also introduced clauses to deal with material non-public information. This definition of "material non-public information" is clearer to understand when read in conjunction with the revised definitions of "material change" and "material fact". Enforcement under the current legislation against corporate bodies or individuals has proven to be a challenge as the burden of proof lies with the SEC to establish that these entities knew or had possession of the unpublished price sensitive information through individuals.

Clause 106 of the Bill attempts to ease this challenge faced by the SEC as it provides that companies or individuals who engage in a trade—when they have possession of material non-public information, it is automatically assumed that the trade occurred as a result of the material non-public information unless shown to the contrary.

So, Mr. Speaker, we have strengthened significantly the insider trading requirements and we have also gone on to introduce a number of reporting

requirements which persons who are connected with issuers are required to comply with. We have also introduced a number of civil liability penalties which will ensure and protect the private rights of action of individuals. Persons who may have suffered a loss as a result of insider trading, other market manipulation offences, misrepresentations in offering documents and breaches of conflict of interest provisions, now have the right of civil action and the ability to seek compensation directly from the persons who have contravened the Act. So, Mr. Speaker, this is a major departure from what has occurred before.

With respect to investigations, the provisions of clause 150 of the Bill expand on the investigative powers in clause 138 and therefore give the SEC greater authority as far as that is concerned. With respect to penalties and enforcement of penalties, the maximum penalty on indictment for a contravention of the Bill has been increased to $5 million and five years' imprisonment. This is increased from $100,000 and three months' imprisonment under the Securities Industry Act, 1995. In addition, the maximum administrative fine has been increased from $5,000 to $500,000. Given the fact that the current legislation is over a decade old, we have had to significantly change these penalties in order to ensure that the fines are in keeping with the extent of the breaches that might occur.

So, Mr. Speaker, there has been a significant—the Act is being significantly revamped over and above what had existed in 1995. It has also been somewhat updated from what had been previously presented to this House from 2010, mainly to ensure our compliance with the IOSCO recommendations, and also, to bring it more in line with some of the requirements that are needed in this marketplace today.

Following the scandals that occurred with Stanford in the islands; following the difficulties which we experienced here with the CL Financial Group, which have resulted in significant cost to the local economy; following some of the transactions which have occurred over the past few years, including the HMB and a number of other similar type transactions, we have taken steps to ensure that our ability to significantly and more stringently prosecute the breaches which occur, and the scandalous activities which sometimes occur as individuals seek to pursue matters for their own benefit, that, in fact, we can move swiftly and with a certain degree of strength to prosecute these matters, and certainly make things so difficult that individuals would be loath to take the risk of undertaking transactions which would be in breach of what one would consider to be effective and proper practices within the marketplace.

So, Mr. Speaker, the Securities Bill, 2012 before us is one that is proactive and which seeks to satisfy the objectives of IOSCO as articulated by the 38 objectives and principles of securities regulation. The implementation of this Bill will put in place sound and effective regulation and in turn would foster the confidence which is critically important for the integrity, growth and development of the local securities market.

This Bill having been debated at length some two years ago when the matter first came up, and most of these items having been very fully ventilated in many previous incarnations of the Bill, which has gone through, as I said, quite an extensive, consultative process, I conclude the comments that I had to make on this particular Bill at this stage, and I commend the Bill to this House. I therefore beg to move.

Question proposed.

Hon. Member: To concur.

Mr. Colm Imbert (*Diego Martin North/East*): "Ha, you have to be joking"—[*Inaudible*]—among other things. [*Crosstalk*]

Mr. Speaker, this is the second time that we have heard the new Minister of Finance and the Economy in this House. I am not impressed at all. [*Laughter and crosstalk*] You see, Mr. Speaker, let us put this debate into perspective.

Hon. Member: Yes.

Mr. C. Imbert: Let us put it into perspective.

Hon. Member: [*Inaudible*]—unpredictable.

Mr. C. Imbert: No, I would have been impressed—[*Crosstalk*]—Mr. Speaker, through you, if the Minister had explained the legislation, had gone through the clauses, [*Desk thumping*] had explained the policy and had distinguished the fundamental differences between the Bill that is before us today and the Bill that was submitted to the Parliament in 2009; explained why we are here and what is the difference between this Bill—the Securities Bill of 2009, which became the Securities (No. 2) Bill of 2010—and the Securities Bill, 2012. What are the differences? What are the improvements? What are the changes? What are the issues raised by IOSCO that have caused us to be here today?

One of the problems I have, Mr. Speaker, this Government has a habit of coming to this Parliament at the eleventh hour—[*Interruption*]

Hon. Member: On the edge.

Mr. C. Imbert:—right on the edge, when the country is about to be blacklisted or otherwise deemed to be non-compliant—[*Desk thumping*]

Mr. Roberts: "Oh gosh!" [*Crosstalk*]

Mr. C. Imbert: Mr. Speaker, could you control—[*Interruption*]

Mr. Speaker: Yes, you have my full protection.

Mr. C. Imbert: Well, I hope so, Mr. Speaker.

Mr. Speaker: Please allow the Member to speak in silence. Thank you.

Mr. C. Imbert: Mr. Speaker, I know the Members opposite do not like to be—[*Interruption*]

Mr. Roberts: Empty vessels.

Mr. C. Imbert: Mr. Speaker, the Member for D'Abadie/O'Meara is continuing.

Mr. Speaker: Yes, Member for D'Abadie/O'Meara, would you allow the Member for Diego Martin North/East to speak in silence!

Mr. C. Imbert: "Yuh jus cyar help yuhself." So, Mr. Speaker, let us deal with the facts: big noise just now when I made the point that we have come here, or we have been summoned here, at the eleventh hour, with a deadline hanging over our heads, and if we do not meet that deadline—[*Interruption*]

Miss Mc Donald: Like the FIU.

Mr. C. Imbert: This is the Minister's own words; it is not my words, that we would be deemed to be non-compliant. He said that, not me! So—[*Interruption*]—Mr. Speaker!

Mr. Speaker: Member for D'Abadie/O'Meara, please!

Mr. C. Imbert: Thank you, Mr. Speaker. The deadline expires in 44 days; 44 days on January 01, 2013. [*Interruption*] We are expected, and I am advised—and the Minister said nothing about this, so I would like clarification from somebody on that side—that this Bill is to be sent to a joint select committee. That is what I have been told. I did not hear a word of that from the Minister. So, I would like someone on that side to tell us whether this is true or false.

Dr. Moonilal: Would that mean you would continue speaking or—[*Interruption*]

Mr. C. Imbert: No, I want to know. Mr. Speaker, I am willing to give way to the Leader of Government Business. Are we going to a joint select committee or not? I will give way. [*Interruption*] I would give way!

Dr. Moonilal: I would assume a joint select committee.

Mr. C. Imbert: I would give way! [*Laughter*] Could you please clarify?

Dr. Moonilal: Make your speech.

Mr. C. Imbert: I see; you are not clarifying. So, Mr. Speaker, we have before us a piece of legislation—[*Interruption*]

Mr. Speaker: Please, Member for D'Abadie/O'Meara, you might go to early tea if you continue how you are going.

Mr. C. Imbert: Yes, Mr. Speaker, I think he has no respect for you. So, we are here today debating a Bill that has 178 clauses on 196 pages. This Bill was delivered to us last week?

Miss Mc Donald: Wednesday.

Mr. C. Imbert: Last week Wednesday. And we are expected to go through 178 clauses, 196 pages of this thing—[*Interruption*]

Miss Mc Donald: Without resources.

Mr. C. Imbert:—without any resources; without giving us the opportunity to engage in any consultation whatsoever with stakeholders. [*Desk thumping*] The Government has given us just over a week to meet with persons involved in the securities and exchange industry; [*Interruption*] to meet with the public; to consult with the Securities and Exchange Commission; to consult with the Trinidad and Tobago Stock Exchange; with stockbrokers; with market actors; et cetera—[*Interruption*]

Mr. Speaker: Member for D'Abadie/O'Meara, I want to refer you, in particular—I am coming to the Member for Chaguanas East shortly, because he is aiding and abetting.

Miss Mc Donald: "Dat's right."

Mr. Speaker: I would like the hon. Member for D'Abadie/O'Meara, to pay attention to Standing Order 40(a), (b) and (c), and also the Member for Chaguanas East. I am hearing you all distinctly, and you all are disturbing the Members of this honourable House, including the Member who is on his legs. So, could you kindly observe the Standing Order, please! Continue, hon. Member for Diego Martin North/East.

Mr. C. Imbert: Thank you, Mr. Speaker. [*Desk thumping*] Let us hope your admonition works.

Now, the fact of the matter is, this is a very complex Bill. The Bill that was tabled in the Parliament and was sent to a joint select committee, comprising—well, actually it was in the Senate, the other place, and was deliberated upon by Members of the other place, in a group that had very distinguished membership, including your good self, Mr. Speaker—[*Laughter*]

Hon. Member: Leave the Speaker out of this.

Mr. C. Imbert: I am talking about the Speaker in his previous incarnation, not his present incarnation. And there was a meeting of the Special Select Committee of the Senate appointed to consider and report on the Securities Bill, 2009, on Monday December 21, 2009, and at that meeting—[*Interruption*]

3.45p.m.

Dr. Browne: He probably piloted this Bill.

Mr. C. Imbert: "He ent pilot it." And at that meeting the Chairman, Mr. Conrad Enill, together with Mr. John Jeremie, Mr. Mariano Browne, Mr. Wade Mark, as he was then, and Mr. Subhas Ramkhelawan deliberated on the Securities Bill, 2009, which I have a copy of. The Minister failed to tell us what are the significant differences between that Bill that went to the select committee of the other place, and this Bill which we were given about eight days to look at. But the fact of the matter is, Mr. Speaker, in that meeting the Chairman of the meeting pointed out that there were international deadlines to be met in 2010.

Subsequent to that, the committee quite correctly, I think, decided that this was a very weighty matter and that some work was needed to be done on the legislation. As it occurred, subsequently, the legislation lapsed because of the calling of an election—the dissolution of the Parliament. But I would have thought that the incoming Government would have been cognizant of the fact that there were deadlines to be met in 2010, and it is obvious that the Government has missed every single deadline that has been given to it by the international

agencies that look at securities and exchange commissions, the governing legislation and the practices and procedures. That is why we find ourselves now, in a mad rush, 44 days before Trinidad and Tobago is to be deemed non-compliant, looking at, in the greatest of haste, a Bill that has 196 pages which the Minister did not present. He did not present it, and since he did not present it, I will present it, which is commonplace, because the Members opposite do not seem to do their work at all.

Now, Mr. Speaker, the main innovation in this 2012 Bill which was not in the 2009 or the 2010 Bill, is the introduction as far as I can see of a tribunal. I do not see any other fundamental change per se, but having had only a few days to look at it I may not have read every single word in this 2012 Bill, this 196-page Bill. The fact of the matter is, many of the things that the Minister referred to such as increases in fines from the existing fines in the Securities Industry Act, Chap 83:02 of 1995, many of the things he referred to—and in typical fashion he gave the impression that these are brand new innovations that were somehow dreamt up by this new administration since they came into power. Many of these things were already in the 2009 legislation. For example, let me deal specifically with the whole question of the increase in fines, Mr. Speaker.

In the 2009-2010 legislation, and I go directly to clause 102 which is the clause that deals with offences, the penalty that was prescribed in that Bill for persons contravening certain sections of that legislation that dealt specifically with market manipulation was a fine of $2 million and imprisonment for two years. So, the very idea that the existing fines of $100,000 and three months imprisonment and so on were inadequate, had already been addressed by the various Members in the other place, including your good self, Mr. Speaker, who deliberated on the 2009 Bill in the context of the Securities Act, Chap. 83:02.

I would like the Minister to tell us, perhaps in his winding up, because he did not tell us in his introduction, what is the rationale for the fines in this legislation? Have you plucked the figure of $5 million out of a hat? What is your comparative standard? Is this in reference to anything in the Commonwealth? Is this applicable in the United States? Is this the kind of fine that exists in the United Kingdom? Where did you get these figures from, Mr. Speaker? I am assuming that my information is correct and that this Bill will go to a joint select committee where we can go through every single clause and we can deal with some of the obvious errors that exist in this 2012 version of this Bill. But I would like the Minister to tell us, where did you get these fines from? And as I look through this Bill I see that the fines and the custodial sentence associated with the offences are completely irrational.

Let us take the Integrity in Public Life Act, for example. If someone breaches the Integrity in Public Life Act, like you fail to disclose information on your declaration—$250,000 fine and 10 years jail. But in here, it is two years jail and one year jail for significant offences that could destroy the financial system.

Miss Mc Donald: They are very soft.

Mr. C. Imbert: Of course they are soft, and I would like the Minister to explain, where did you get these penalties from? Where did these penalties come from? Because we have seen all of the things that the Minister very briefly adverted to, such as the problems with Enron and so on in the United States, he spent about two seconds talking about that, but we have seen that these people in the United States like Madoff and so on, they get sentences 999 years. You know Stanford, that I cannot remember—how many years did they sentence Stanford to, for life—200 years.

So if you have somebody who has been dealing in market manipulation, committing fraud, stealing billions and billions of dollars from people, destroying the economy, you will send them to jail for two years? It should be 20 years! So that is the first recommendation that we on this side are going to make, that these penalties must be consistent with the international best practice. For some of these conglomerates a fine of $2 million and imprisonment for six months or whatever is a joke. They will pay that and they will send one of their boys to go and take the rap for six months or a year. We have to send a message that we in this country are serious about dealing with white-collar crime and crimes associated with fraud, money laundering, embezzlement, market manipulation, bid rigging, insider trading and so on.

I do not know who came up with this. What surprised me was the Minister's statement that this thing, this 2012 version went through nine sessions of the CPC and two full sessions of arduous review by the LRC. Were they sleeping? Because if you compare the penalties in this legislation to any other progressive country in the world you will see that these penalties do not make any sense; do not make any sense. So that is the first thing we need to do; to send a message that if you commit the crimes that are described in this legislation or provided for, that you are going to do serious jail time and you are going to pay a whopping fine; not $5 million or $2 million; you are going to pay $100 million if it is necessary for that to be the type of fine that needs to be imposed by the court. We have heard all sorts of things recently, Mr. Speaker, in all sorts of enquiries and so on, about people stealing hundreds of millions of dollars. "A fella walk away with a couple hundred million dollars and yuh go send him in jail for six months?"

So, Mr. Speaker, I am disappointed that the Minister did not explain the policy behind these very weak and very soft fines. That is the first point; and it is right through the legislation. I will not bother to go through clause by clause because even though the Minister of Housing, Land and Marine Affairs, failed to confirm what I have been told that this is going to a joint select, it is not my intention to go through every single clause and highlight the deficiencies or problems with all 178 clauses.

Dr. Moonilal: That is it, less work at the JSC.

Mr. C. Imbert: No problem; that is a good point because, Mr. Speaker, this JSC is going to be under pressure, you know.

Miss Mc Donald: That is right.

Mr. C. Imbert: "This is real pressure, you know. Mr. Speaker, we doh get pay for this work. They getting full pay, you know. We on this side, this is free national service we doing, you know. When they lock us up in some room for five days to look at 178 clauses of a Bill, we doing that gratis, you know; we ent getting pay for that, you know." But be that as it may, Mr. Speaker, we on this side are a responsible Opposition—[*Desk thumping*] and we will do what is necessary to be done. I just hope that this does not happen again.

If you have a deadline that will result in Trinidad and Tobago being deemed to be non-compliant, to being blacklisted, to persons in Trinidad and Tobago being exposed to adverse consequences, to financial institutions of Trinidad and Tobago being put under threat and being subjected to increased cost of raising money and difficulty in attracting investors, if you have a deadline "come better than that". Do not give us 44 days for this matter to be dealt with in joint select and then be dealt with in this House and in the other place; "come better than that". You had two and a half years to deal with this. This Bill could have been here since last year and we could have gone to the joint select and comfortably dealt with it in a three- or four-month period, not in a three- or four-day period. This is serious because you see—this is no laughing matter, you know. This legislation has the potential to make or break our financial sector as the Minister—he gave us a little history lesson. He gave us a little history lesson most of which was entirely and wholly irrelevant. But inside of that history lesson—not entirely irrelevant—"what the Penny Bank have to do the Security Exchange Commission?" Absolutely nothing! But I know that he is—that bank is close to his heart and so on, so I will give him that latitude.

Mr. Speaker, the point is, this legislation, in view of the way the world is moving, in terms of these international organizations like IOSCO and FATF and so

on, they are now putting pressure on countries to comply with international standards in terms of accountability, in terms of regulatory oversight, in terms of financial integrity and so on, and the world is changed. So that there is no doubt that this legislation is very, very important and there is no doubt that we need to reform our securities legislation in order to bring it in line with international best practice or international good practice, and there is no doubt that if we do not do it by next year January we will have some problems in this country. So I just make a little plea to the Government—I do not expect them to take it seriously because that is how they are—that "next time you have this kind of deadline, come better than that." Come at least six months before the deadline.

Mr. Speaker, let us look at what is happening here with this legislation. When you look at it, the 2012 Bill and compare it to the 2009 version, and also take a look—I have a document here before me, I will pass it on to the Minister, I do not know if he has updated his records, but in 2005 or 2006 there was quite a substantial report done by consultants on legislative changes to the Securities Act, 2005. Many changes were recommended in 2005 by a team of consultants. This report is in fact 88 pages long and if the Minister does not know where to find it, you could find it on the website of the Securities and Exchange Commission. Many of the issues that finally found their way into the 2009 Securities Bill, and have also now found their way into the 2012 Securities Bill, were recommended by the consultants as far back as 2005 and 2006, Mr. Speaker.

So this thing has been with us for a very, very, very long time and it is really a pity that the Bill that was sent to the Senate in 2010 has languished in the Ministry of Finance and the Economy under the new Government for the last two and a half years. "Yeah, is like the Children's Bill, just sit down there and languish for two and a half years and then a deadline arrives and you hustle and do something."

4.00 p.m.

There are some particular issues—I see the Minister has—you are in the back there; but there are some particular issues that I would like the Minister to tell us because if he does not tell us today, then, unfortunately, we will have to deal with it in the joint select committee, and that is going to waste time. So that if the Minister could really go through and tell us what are the fundamental differences between this legislation—because insider trading, civil liability, market manipulation, excessive trading, all of these things were there in the 2009 legislation, and I am not really seeing any big difference, although the Minister

gave the impression that these are groundbreaking, revolutionary ideas coming from his Government. They were already there under the former Bill which was piloted by the former administration.

But the part of this legislation that bothers me is clauses 158 to—the ones that deal with the tribunal. Just let me get my notes—from clauses 158 to 175. And, Mr. Speaker, in these clauses a tribunal is established. If I go straight to clause 158 of the 2012 Bill:

> "There is"—hereby—"established a Securities Industry Tribunal consisting of a Chairman and two lay-assessors.
>
> (2) the Tribunal shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.
>
> (3) The Chairman"—a little typo there—"shall…be an Attorney-at-law of not less than ten years standing.
>
> (4) The lay-assessors shall be selected from among persons who have qualifications and experience in finance, accounting, economics"—et cetera.

Now, Mr. Speaker, this tribunal has many of the distinguishing features of a court of superior record, quite similar to the Tax Appeal Board, maybe not in terms of its membership but in terms of the qualifications of the chairman and also the qualifications of the other members of the tribunal. One of the things that I find very, very bizarre in this legislation, and for which I can find no precedent in our jurisdiction, is the way the tribunal will operate in terms of its relationship with the Supreme Court of Trinidad and Tobago.

Normally, a decision of a body of this nature would lie to the Court of Appeal—normally. In fact, when one looks in the 2009 legislation, it did indicate that decisions of the commission would be appealed by the Court of Appeal, and that was in section 157 of the previous Bill that was before the select committee of the other place. In fact, let me just read that section 157 of the previous legislation, and that is the section that deals with appeals. In the previous legislation it said, at 157:

> "A person directly affected by an order of the Commission may appeal to the Court of Appeal."

Now that is standard in our jurisdiction. Once you have a body with quasi-judicial powers and they make a decision and you go through the various processes of appealing the decision within that body's purview and so on, then, if you want to take it to the other level, you appeal to the Court of Appeal.

What I do not understand here is that not only have they inserted a tribunal, which, as I said, has all the features, or most of the features of a court of superior record—because the chairman must be an attorney with not less than 10 years standing, which is the qualification of a judge of the High Court in Trinidad and Tobago. In order to function as a judge, you must be an attorney of 10 years standing and, therefore, the chairman of this tribunal would be on par with a person who is qualified to be appointed as a judge of the High Court. So you have this tribunal, which, as I said, has the features of a court of superior record, with the chairman having similar qualifications to that of a judge, but what the Bill before us is telling us is that appeals of the decision of the tribunal will go to the High Court.

Now, it appears to me to be layers and layers of bureaucracy, Mr. Speaker. You have a commission, and if you are dissatisfied with the decision of the commission, you appeal to the tribunal; if you are dissatisfied with the decision of the tribunal, you go to the High Court, and if you are not happy with what the High Court judge did, you go to the Appeal Court. Whereas in the previous legislation, the commission makes a decision and that goes straight to the Court of Appeal for review or rescission and so on. But it introduced the tribunal and then introduced the High Court as well.

What is also very peculiar about this—as I said, this has no parallel in our jurisdiction. Why on earth would you want to insert the High Court into a process where you already have a tribunal which has the features of a superior court of record, with a chairman similar to a judge? What are you doing that for? But even so—and the Minister, of course, did not deal with these things at all. He did not even tell us that the main feature of this legislation is the introduction of the tribunal and modification of the procedures for appeal. He did not say a word about that. But the fact is that that is not the only peculiar aspect of this new appeal procedure. What I also find extremely bizarre, Mr. Speaker, is clause 169 because, in addition to the High Court now adjudicating on decisions of the tribunal, listen to this—I have never seen this anywhere:

> "Appeals from decisions of the Tribunal shall lie to the High Court on questions of law or partly of law and partly of fact and appeals from decisions of the High Court shall lie to the Court of Appeal on questions of law only."

Mr. Speaker, follow me. You are saying that this tribunal which has a chairman who is equivalent in his qualifications to a judge, the decisions of that tribunal will now be reviewed by a person who is on par—not superior—with the

qualifications of the chairman of the tribunal. But putting that aside for the moment, you are saying that the High Court can look at questions of fact and look at questions of law but the Court of Appeal cannot.

So what is going to happen here is that the High Court judge is now vested with some supreme power to determine the facts with respect to a dispute between an aggrieved person and the commission and the tribunal and the Court of Appeal cannot review the judge's decision with respect to what are the facts with respect to a matter, Mr. Speaker.

Miss Mc Donald: Nonsense!

Mr. C. Imbert: I have never seen this in any legislation. Maybe they could show me, and if they could show me, it is wrong because what you are saying here is if a judge gets his facts wrong, the Court of Appeal cannot establish that these facts are wrong and cannot address or review this wrong finding of fact on the part of a High Court judge—completely inappropriate, Mr. Speaker.

Mr. Speaker, I do not know where this has come from. What is this all about? Mr. Speaker, the appeal should go straight to the Court of Appeal. You have a tribunal in the middle there already, and I want to repeat, this tribunal has the features of a superior court of record. Why are you inserting the High Court inside there and giving the High Court judge more powers than a Court of Appeal panel? Why? I mean, the Minister has to explain this and I dare say he cannot. [*Interruption*]

That is not the point. Through you, Mr. Speaker, I hear the acting pro tem, temporary—whatever it is—Leader of Government Business muttering *sotto voce* at me: "What happen if they agree and take it out?" But what "it doing there in the first place?" You said this thing went through nine sessions of the CPC and two arduous—those are not my words—

Miss Mc Donald: And wide consultations.

Mr. C. Imbert: Wide consultation and arduous and rigorous examination by the Legislative Review Committee.

Dr. Rowley: It came from the same place section 34 came from.

Mr. C. Imbert: It must be—must be the same place section 34 came from.

So, Mr. Speaker, we are not agreeing to this. I am saying one time, we are not agreeing to this. This is usurpation and an abuse of our judicial process. The Court of Appeal must have the power to look at matters of fact as well as matters of law. This is not a specialist court. The only parallel, which is a misplaced parallel, is the Industrial Court. And, Mr. Speaker, I am not bringing you into the

debate but I know you have some knowledge of the Industrial Court, and in the Industrial Court, because it is a specialist court comprised of practitioners who have vast experience in industrial relations law, the appeals go to the Court of Appeal, but only on matters of law. It is left up to the Industrial Court to establish matters of fact with respect to an industrial relations dispute. That is so because they are a specialist court comprised of specialists in industrial relations.

But this High Court judge is not a specialist in securities and exchange matters; he or she is not a specialist in the stock exchange; not a specialist in insider trading, market manipulation, bid rigging and—what was the word the Minister used?—churning. So there is no specialization within our High Court system that will allow a judge to be a specialist in securities matters, that that particular High Court judge would be superior to the Court of Appeal.

So I just want to emphasize that this is wrong and we will not be agreeing to it on this side, Mr. Speaker, and this whole section of this tribunal is just convoluted. Because what I am also seeing inside of here is that the commission cannot act without referring matters to the tribunal. I "doh" understand that either, Mr. Speaker. As far as I am concerned, you are hamstringing the commission when you tell it that it cannot take certain actions unless it refers these matters to the tribunal. What is that for?

The tribunal should be an appeal body. The commission should be clothed with the powers and the teeth to take action within our securities market. They should not have to find out that something is going on, and then send it to the tribunal for the tribunal to decide what the issues are and what should be done, because this is in here, Mr. Speaker, and let me just refer to the specific clauses that give—well, let me say that constrain the commission in terms of its powers. This is "Market Misconduct Proceedings" section 165:

> "If it appears to the Commission that market misconduct is taking place"—they—"may conduct an investigation..."

Then, let us go right down to 165(3):

> "Where an investigator appointed pursuant to section 150(1) reports to the Commission in accordance with section 150(10) that based on his investigation he has reasonable grounds to believe that any person has committed, is committing or is about to commit a breach of this Act, the Commission may institute proceedings before the Tribunal..."

What is that for? Why is the commission not being given the power to deal proactively and quickly with problems within our securities market, with market manipulation, bid rigging, insider trading and all of these offensive things that the Minister spoke about?

Why is it that all you are giving the commission the power to do is to conduct an investigation and when they find out, "this time the horse done gone. Yuh know, de money done gone; billions ah dollars gone; the whole system collapse, and yuh telling the commission, yuh find out something is wrong? Well, okay, send it by the tribunal now for them to decide what to do." That is wrong, Mr. Speaker. You are emasculating the commission, and I am sorry, we do not agree to that either. Set up a system where we have a properly functional, powerful and strong Securities and Exchange Commission; give them the ability to make decisions to deal with transgressions and if somebody is aggrieved, let them appeal to the tribunal and give the tribunal the power to review, overturn, suspend, or whatever, decision of the commission. But do not leave the commission in some kind of halfway house, that all they could do is investigate and when they think something is wrong, they send it by the tribunal for them to start all over again and investigate and determine what should be done.

Mr. Speaker, I do not know what jurisdiction this came from, but this is not, in my opinion, good practice and perhaps the Minister will explain to me the policy behind all of this. Explain the policy. Why do you have these layers of bureaucracy?

One of the problems we had with the Clico affair was that the Central Bank could not intervene and deal with a problem with respect to an insurance company until a waiting period or cooling off period of 30 days. Well, you know what could happen in 30 days. The whole financial system could be wrecked. But under the previous Central Bank legislation, the Central Bank had to do the same thing: appoint somebody to look at a problem and then give the insurance company 30 days to respond and so on. We changed that. The Parliament changed that, giving the Central Bank the powers to move in immediately and suspend trading, take over an insurance company and to take all the necessary corrective action to prevent systemic collapse of the economy.

4.15 p.m.

We recognized that the Central Bank needed those powers. We recognized that these provisions in the previous legislation, where they had all these long, lengthy, drawn-out procedures—these procedures were archaic and were

counterproductive to swift and effective corrective action in this global marketplace where things can happen in seconds.

In our global economy with the power of the Internet and so on, you can have reports issued on companies and people lose confidence in seconds. You have the traded value of securities that can drop by 20 and 30 per cent in one day. While all of that is going on, you could not have a provision where the Central Bank would have to wait 30 days. We changed that so that they could move in immediately. I do not understand what is going on here. We seem to be going backwards because we have this Securities and Exchange Commission that we are seeking to introduce or seeking to replace the previous commission with, but we are hobbling them and telling them if they find out that something is wrong they have to go by a tribunal to deal with it.

I am sorry, Mr. Speaker, this just cannot be correct. I would really like the Minister to seriously look at this and look at the hierarchy of the various players in the system and give everybody a proper identity and proper role and proper functions and proper powers, but preserve natural justice with the appeal process.

I noticed the Minister spoke about natural justice, but of course, once you have an appeals tribunal you are preserving natural justice because you are giving the person a right to be heard, a right to appeal a decision, but the commission must be given the power to act immediately to deal with the problem, because our market—and the Minister will know this—is really in the Stone Age.

You have people buying Republic Bank shares; for example, a "fella" will buy 100 shares and he will drop the price to $3. I see the Minister smiling—because I have seen this. I have seen Republic Bank trading at $100. Now Republic Bank has a market capitalization. I do not know what it is, $10 billion—something so. It is a big sum of money. So, Republic Bank is trading at $100. Then you see a transaction, 200 or 300 shares and they drop the price to $3. That is hundreds of millions of dollars gone up in smoke just like that you know, Mr. Speaker, because somebody is manipulating the market and with a very small transaction is depressing the price of a very large security. We have to stop that. That has to stop in this system.

I have seen it the other way as well, where a "fella" will buy 500 shares and send the price up 5 per cent. If you are talking about something worth $10 billion, 5 per cent of $10 billion is $500 million. So in one day, a "fella" could buy or trade 500 shares of Republic Bank at $100—what is that $5,000 or $50,000?—and change the market value by $500 million.

This does not happen in the more developed markets because of the volume of transactions. In the New York Stock Exchange, for example, you have millions of transactions taking place on a daily basis. Our stock exchange is not like that.

I have heard Members opposite talk about the value of the securities in our exchange. While it is true that the value of several of the securities in our stock exchange has increased over the last several years the trading activity has not.

If you look at the trading activity on our stock exchange it is minimal. Some of the bigger securities are 1,000 shares, 500 shares, 2,000 shares. That is not an active stock market. Something is wrong with the system and we need to deal with it. In the United States it is five million transactions. So even if one "fella"—[*Interruption*]

Hon. Member: [*Inaudible*]

Mr. C. Imbert: No, you do not worry—decides he wants to sell his shares at 2 or 3 per cent below market value, within seconds that would be corrected by another person coming in and bringing the share back up to the proper level. We do not have that here.

So, there are lots of problems with our stock exchange and the commission—the reason why I am saying all of this is the commission needs to be given the teeth to deal immediately with insider trading, market manipulation or disclosure of non-public information and so on. They need to be able to move in right away. Deal with it! Take action! If the person is aggrieved, let them go to the tribunal.

The concept of the commission only having an investigatory role, with respect to several—it is not in all—of the issues involved with the operation of the market, the concept of the commission only having an investigatory role and having to refer that to the tribunal for the tribunal to deal with it is just archaic. I do not support it, Mr. Speaker, and I am asking the Government to just get that out of the Bill. Let us make this thing clean, so that we create a commission that has the necessary regulatory powers that are required for a modern securities industry.

I doubt that IOSCO has recommended this kind of halfway house that is in this Bill. This is somebody's idea, but I doubt this is coming from IOSCO, saying that you must create this kind of hybrid system where you have a commission with some kind of semi-power and the commission cannot take action here and there and you must send it to a tribunal. I seriously doubt that. I have not seen that anywhere and I doubt it is coming from them.

So, this is really the fundamental change in the Bill, this introduction of the tribunal and perhaps some strengthening of some other areas. I think, this is

where we are going to spend quite a bit of time in the joint select committee—assuming that what I have been told is correct—dealing with it.

There are some other things; the fines and the penalties, you really need to look around the world and see what an appropriate penalty is, because if you are dealing with something that has a capitalization of $2 billion or $3 billion and people are playing with the value and persons can profit $50 million in a day—that can happen. People can engage in market manipulation in Trinidad and Tobago and pocket $20 million, $30 million, $40 million. "A fella like that," six months imprisonment is a joke to him or a fine of $1 million.

So, we really need to look around the world and increase these penalties and make them realistic, so that they would be a deterrent to people, because, as I said, some people might be happy to pay that fine and "make the jail". "They doh care because when they come out, a year from now, they walking away with dey $50 million." "Yuh eh find it. Yuh doh know where it is". You know that kind of thing. You have not been able to trace it. You do not know what happened to it and so on.

There are some other issues inside of here. I did not see any provision for the accounts of the commission to be laid in Parliament. I see some sort of internal—[*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. Mc Donald*]

Question put and agreed to.

Mr. C. Imbert: Thank you, Mr. Speaker. I am sure, hon. Members opposite will be glad to know I will not take my 30 minutes. I do not intend to because, you know, we will deal with these details in committee. But, I am not seeing any requirement in this legislation for the accounts of the commission to be laid in Parliament. I think that is a weakness. I would like the Minister to look at that because it means you cannot have any parliamentary oversight of the financial operations of this new Securities and Exchange Commission.

We have our parliamentary committees and they represent the balance of power in the House. They have a majority of Government Members, and

therefore, there is equity, as far as that could be equitable. It means that all Members would be given an opportunity to scrutinize these accounts. I think you need to insert a provision that requires the commission to present its accounts to the Minister, which is what is the normal formula and that the Minister would lay these in the Parliament and then they be referred to the appropriate committee of the Parliament. In the case of entities that are created by statute, it is usually the Public Accounts Committee as opposed to companies which are sent to the Public Accounts (Enterprises) Committee. I would like the Minister to look at that.

The other thing that I find a little odd—it may have been there before—but, I would like the Minister to look at this as well: clause 146 with respect to guidelines.

Now, guidelines are very important because in the absence of guidelines and rules and regulations it can become a free-for-all, and we have had situations in our financial system where the system could be described as being generally unregulated.

I notice in clause 146: The Commission may issue guidelines…to give effect to this Act," but "Guidelines issued under this section shall not be regarded as a statutory instrument" and "Contraventions of a Guideline…shall not constitute an offence,"—but then they have this curious thing—"but this shall not prevent the Commission from taking action under section 90." But, if a guideline is not a statutory instrument and contravention of a guideline is not an offence then on what basis would the commission be taking action under 90? I think you need to look at that and see if that makes any sense and see whether you even need those words inside of there, because if it is not a statutory instrument well just leave it as that.

The other issue that I would like the Minister to look at is the whole question of whether you want to put into the Act, timelines. I would like the Minister to tell me what is the policy of the Government with respect to commissions, because again, in the United States in the New York Stock Exchange, if you trade you could purchase $10 million in securities in the United Stock Exchange and you pay $20, $30 and $50. That is the fee that you pay to a broker on the New York Stock Exchange for a transaction. So, as I said, it could be a million US, US $2 million, you pay US $20, $30 per transaction. It is a small amount. These brokers make their money because of the size of the market and because of the volume of transactions. So even though the commission might only be $20 or $50, there would be millions of them, so that the brokers through volume will make their money.

In Trinidad and Tobago we have a very strange situation and I personally have never agreed with this, Mr. Speaker. When you purchase a security on the stock exchange you have to pay a commission of 1.5 per cent and when you sell it you have to pay another 1.5 per cent. So, you are losing 3 per cent of the value of your asset simply in commissions to brokers.

Now, I know the brokers will love this. I mean they like it too bad. Let us say you do a million-dollar transaction, they are getting $30,000 out of you, for that transaction. If you did a million-dollar transaction in the United States it is $20. Look at the difference, $20 in the United States; $30,000 in Trinidad and Tobago. I do not think there is any justification for this. In any modern system I believe commissions must be based on reality not on some formula that somebody dreamt up, that you could take 3 per cent of my asset, away from me, just because I have to trade on the stock exchange—and I must trade through a licensed broker, because it is extremely difficult, in fact, virtually impossible to do off-market trades in Trinidad and Tobago.

So, again, should these things be in the Act or are they going to be coming in regulations where the Minister is now going to regulate the commissions that brokers can charge, or are you going to just leave it up to them so that they charge us these fees which I consider to be quite excessive?

The other thing that I would like the Minister to look at, is I noticed that when a trade has taken place the broker is obliged to send a notice to the person who has purchased the security or sold the security within two days of the transaction, but I see nothing that tells me when the person is going to receive their money. So if I sell 100 shares of Republic Bank, the broker that does that transaction on the floor of the stock exchange must tell me within two days, "Yes, your shares sold for $100", but there is nothing in the legislation that says, I must get my money within five days.

Mr. Speaker: Hon. Member, I know you did say that you probably would need another five minutes. We can take the—[*Interruption*]

Mr. C. Imbert: I am nearly finished.

Mr. Speaker: Okay. Go ahead. Continue.

Mr. C. Imbert: Mr. Speaker, I do not intend to detain the House much longer. I would like the Minister to look at these things. There are certain practices that need to be regulated and need to be in the legislation and I would far prefer to see them in the Act—in a schedule to the Act—that the Minister could amend by order rather than leave them up to regulations and so on.

So the whole question of the timeline between the trading in security and when the person who has traded gets their money, I think that needs to be in a schedule to the legislation. The whole question of commissions, I think this needs to be regulated. And I think I have also identified this whole end piece of this legislation from clauses 158 to 175 where you have introduced this tribunal which really makes no sense.

So I am hoping that when we go into the joint select committee, we can look at these matters and also take a good look at the penalties because we do not want to pass any Mickey Mouse legislation here that would become ineffective and that we would be just giving the impression that we are doing something, but it has no real deterrent effect on persons who want to manipulate our stock exchange. I thank you, Mr. Speaker.

Mr. Speaker: Members, this sitting is now suspended until 5.05 p.m.

4.31 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

The Minister in the Ministry of Finance and the Economy (Hon. Rudranath Indarsingh): Thank you, Mr. Speaker. As I rise to make my contribution to this debate, I do not intend to be very long—[*Interruption*]

Mr. Sharma: Very good point.

Hon. R. Indarsingh:—because of the state of play as it relates to this particular Bill. Mr. Speaker, having listened to the Member for Diego Martin North/East, I am really tempted to respond to him, but his ramblings in this particular House have become so predictable in terms of what he has to say in responding to this Government, I really will not say anything as it relates to what he has said. He has seemed to be the official spokesman now of what we would term to be "prophet of doom and gloom" in relation to what we are putting forward as the Government of Trinidad and Tobago.

He attempted to focus on the issue of fines, penalties and so on, in relation to this piece of legislation. To take that into consideration—that the Member for Diego Martin North/East would have taken the approach because he attempted to point the Minister of Finance and the Economy in the direction of imposing stiffer fines and penalties as they relate to contravention and offences under this particular piece of legislation—the Member would have been saying to this House that the fines and penalties would be draconian and high-handed and so on, if it would have been different numbers in relation to being crunched.

You know, in this day and age we are seeing front page headlines, photographs and so on, in the context of coalition politics of Trinidad and Tobago. In fact, we on this side, led by the distinguished Prime Minister and Member for Siparia, have shown the direction in terms of how coalition politics and the dynamics of coalition politics should be handled. In fact, those on the opposite side seem to have collapsed in their ambition and their desire to realize their ambition of coalition politics in Trinidad and Tobago. [*Laughter*]

Miss Mc Donald: "We know you rambling. Oh God, save meh nah."

Hon. R. Indarsingh: Member for Port of Spain South—[*Interruption*]

Miss Mc Donald: "Yeah!"

Hon. R. Indarsingh:—if you all need to have some lessons in coalition politics and so on, we will be willing to give you that sense of direction and input in terms of how—[*Desk thumping*]

Miss Mc Donald: No, let me tell you what to give me lessons on. I need lessons on the Securities Bill. Tell me what clause 140 says.

Hon. R. Indarsingh:—it will be dealt with in relation to the politics of Trinidad and Tobago. [*Laughter*]

Miss Mc Donald: Mr. Speaker, I have to rise on 36(1), you know. Stick to your text, the Securities Bill.

Hon. R. Indarsingh: Mr. Speaker, I am seeking your protection at this juncture. [*Laughter and desk thumping*]

Mr. Speaker: You have my protection. Continue! You have my protection. Continue, please.

Hon. R. Indarsingh: Thank you very much, Mr. Speaker. The introduction of this piece of legislation, which is geared towards the repeal of the Securities Industry Act of 1995, is a continuation of the People's Partnership administration to bring progressive and relevant legislation to this House which will be of tremendous benefit to all the people of Trinidad and Tobago. It is a piece of legislation that will bring Trinidad and Tobago in line with international best practice standards in securities regulation and will allow for the Trinidad and Tobago Securities and Exchange Commission to become a full signatory to the International Organization of Securities Commissions' multilateral memorandum of understanding.

Mr. Speaker, this particular piece of legislation is an indication that we are continuing to build on critical pieces of legislation which have already been successfully piloted in this House and, in this regard, I refer you to the Financial Intelligence Unit of Trinidad and Tobago Act of 2011, the Anti-Terrorism (Amdt.) Act of 2011, the Trafficking in Persons Act of 2011, the Financial Obligations (Financing of Terrorism) Regulations of 2011 and the Miscellaneous Provisions (Financial Intelligence Unit of Trinidad and Tobago and Anti-Terrorism) Act of 2012. So, as I said, this particular piece of legislation must be seen in that progressive and groundbreaking direction.

Also, Mr. Speaker, the Bill that is before this House must be seen in the context too of what the People's Partnership offered to the people of Trinidad and Tobago, through its manifesto, when we went to the people in May of 2010. We campaigned basically on seven pillars of what we would term to be interconnected development for sustainable development and one which was pursuing a foreign policy which will secure our place in the global environment, and, as such, the People's Partnership manifesto stated very clearly and I quote:

> "We are one of 84 countries in the world with population size of under three (3) million and it is imperative that we structure our foreign policy to support and advance our objectives for sustainable national development, progress, peace and"—safety—"for our 1.3 million people. From a foreign policy perspective, we will work in concentric circles, beginning with CARICOM, in an increasingly connected and interdependent world, to secure space and opportunity in the world for our country and…region. We will strike an appropriate balance between bilateral and multilateral initiatives. The entire thrust of our international relations strategy will be to achieve the national goals and objectives that we set for ourselves and to work with others, wherever and whenever mutual interests and objectives meet, to advance"—this—"common cause."

In that regard, Mr. Speaker, the manifesto zeroed in on outlining economic, monetary and fiscal policies or avenues as they relate to the creation of an enabling environment. It stated:

> "As a prerequisite for investment and growth we will facilitate…"—a supportive—"environment. We will review and redress regulatory barriers to investment, and"—also—"as well as processes and procedures that unnecessarily increase the cost of doing business."

Under the investment environment:

> "We will develop strategies to create an environment for investment by increasing domestic savings, facilitating competitive interest rates, securing property rights, by establishing good governance practices, by…expanding and deepening domestic value-added production and…managing to "—decrease—"…inflation. Beyond creating an appropriate environment"—some of the benefits, Mr. Speaker, we expect to achieve will be—
>
> "• Encourage local and international firms to list on the stock exchange
> • Create and nurture a competitive business environment
> • Develop long-term investment…like tradable deposit certificates
> • Identify strategic sectors and incentivise them to elicit private sector investment to enhance and accelerate the diversification process"—of the economy—
>
> "• Consult with the credit union movement to strengthen credit unions through legislation and effective supervisory mechanisms."

Mr. Speaker, it is therefore along these lines we must conclude—and I am sure that all Members on the opposite side, too, will agree that the people, in the context of this particular piece of legislation which is before this House—that the manifesto of the People's Partnership was clearly thought out in terms of the pieces of legislation that I referred to which were successfully piloted through this House, and also this particular Bill which is before this House as it relates to the overall fiscal presentation of this particular administration which goes until September of 2013, which places that emphasis on job creation, growth and investment.

Mr. Speaker, the SIA of 1995 is required to be upgraded as a matter of urgency in the context of an evolving regional and global experience, and dynamic market conditions which continue to change from time to time. So the issue of regulation will always be an ongoing process based on what continues to transpire in the local market and in the context of the international financial market.

In this regard, Mr. Speaker, the time for change is now in the context, again, of what has transpired locally since the Trinidad and Tobago Securities and Exchange Commission was established in 1997. When this Securities and Exchange Commission was established in 1997, the capital market at that time was in the vicinity of $6.35 billion—that is TT dollars—or 16 per cent of the GDP, and there were 77 market participants existing at that time.

Mr. Speaker, as we speak of the capital market at this particular juncture, that market size has grown and expanded in excess of $250 billion and there are in excess of 206 market participants in the context of what the Trinidad and Tobago Securities and Exchange Commission has to overseer.

5.20 p.m.

It is clear, Mr. Speaker—[*Interruption*] the Member for Point Fortin, I see that you have migrated to the seat your colleague for—[*Interruption*]

Mr. Sharma: She wants to be noticed on her promotion.

Mr. Speaker: Please ignore the Member for Fyzabad; focus on the Chair.

Hon. R. Indarsingh: [*Laughter*] I will so be guided, Mr. Speaker. It is clear that the time of renewing approaches to financial regulations globally is now, and this Bill comes at an opportune moment because prior to the financial crisis many probably would have questioned the importance or the relevance of this particular piece of legislation and the importance of the regulation. Mr. Speaker, we must see it in the context of being important to act all within our powers and do everything that is possible to ensure that we avert and avoid the consequences of another crisis in the context of Trinidad and Tobago. Because, Mr. Speaker, we know for a fact what has transpired from an international point of view and the fallout in terms of what has occurred in 2008/2009 continues to impact upon small economies, developing states such as Trinidad and Tobago, and we must be very mindful of how we approach our business as it relates to our very own economy.

I am saying this, Mr. Speaker, against the reality that the financial sector of Trinidad and Tobago, or what we would term "the public purse" cannot afford another scenario as it relates to what transpired at CL Financial, Clico and the Hindu Credit Union Cooperative Society Limited. It is very clear that the strain on the public purse of $23-plus billion has tremendous implication for the focus of a Government which has to find the necessary cash flow to address this particular gap or hole in the financial system, and certainly as all responsible legislators in this House, and by extension, the citizenry of Trinidad and Tobago, would have agreed that $23-plus billion could have been utilized in what we would term the effective development of Trinidad and Tobago, whether it is from the point of view of hospitals, schools, infrastructural development and so on.

So, I am saying to this House, and I am saying by extension to the people of Trinidad and Tobago, that we cannot afford another hole of $23-plus billion to the taxpayers of this country, and this is why we have a fundamental responsibility to ensure that there is broad-based consensus and agreement on the way forward as

it relates to this particular piece of legislation in fulfilling our national responsibility and our responsibility in terms of the governing framework of Trinidad and Tobago.

We need stronger oversight to ensure, as I said, that bailouts are not required in the future, and, Mr. Speaker, having an adequate and effective regulatory framework is a critical aspect of effective supervision in today's economy. As we focus on the continued development of Trinidad and Tobago, we must see this Bill's importance in facilitating innovation and increasing the efficiency of raising capital in the international market. Mr. Speaker, the reality is that our economy is heavily based on revenues from the energy sector.

As a Government, as we pursue initiatives for growth and diversification, the People's Partnership Government is ensuring that investors, and more so from the point of view of local investment, and foreign direct investment point of view, we are creating that enabling environment in ensuring that investors have a sense of comfort and a sense of feel in terms of doing business in Trinidad and Tobago.

Mr. Speaker, with a strong regulatory framework and oversight and taking into consideration that Trinidad and Tobago is now FATF compliant, we will be in a stronger position to attract, not only, as I said, local investors but foreign direct investment. As we continue to roll out infrastructure development and other associated services, we have to ensure that we leverage, as I said, the private sector and also the international investors as it relates to the public/private partnership model, and what we want to achieve in terms of infrastructural development in Trinidad and Tobago.

This is one of the avenues in relation to creating an enabling environment which will allow the Government of Trinidad and Tobago, and more so, the Minister of Finance and the Economy and the Ministry of Finance and the Economy, to raise the revenue stream, to build or to look at the whole question of the continued development of the Piarco International Airport and the ANR Robinson International Airport, and also to extend the Churchill Roosevelt Highway from Cumuto to Sangre Grande, the dualling of the Rivulet Road and so on. This is the importance too in relation to what we want to achieve from a public/private partnership point of view, and we must see and understand the importance of this particular piece of legislation.

Further, Mr. Speaker, this Government is very concerned about the well-being of its citizens particularly when it comes to investment perspectives. We are very concerned where the investor places his or her money, and whether it is in banks, insurance companies, pension funds, investment portfolios, credit unions and the security markets, the Government of Trinidad and Tobago is of the firm belief

that investors should be protected from misleading, manipulative or fraudulent practices, including insider trading, front-running trading ahead of customers or misuse of client assets. In addition, the issue of full disclosure and transparency is of critical importance in relation for investors to make the necessary decisions.

In that regard, the legislation in itself speaks to annual audited financial statements in clause 65, interim financial statements in clause 66, and I could go on and on, Mr. Speaker, as it relates—[*Interruption*]

Mrs. Gopee-Scoon: No! [*Laughter*]

Mr. Imbert: Please do not!

Hon. R. Indarsingh:—to the different clauses and the relevance of what we are trying to achieve on behalf of the people of Trinidad and Tobago, and in relation to the fact that we want to protect the ordinary citizens—something that you all failed to do miserably from a regulation point of view during your nine years of governance and administration. [*Crosstalk*]

Mr. Speaker, it is important to understand that the Government of Trinidad and Tobago remains committed to the provision of investor confidence, fairness and the orderly growth of the local capital market through increasing collaboration with all the stakeholders. I can assure that we look forward to intense and productive work, suggestions and recommendations, from the other side as we move forward to ensuring that this piece of groundbreaking legislation occupies its rightful place on the legislative books of Trinidad and Tobago. I thank you. [*Desk thumping*]

Mr. Speaker: Hon. Chief Whip, there is no one else?

Hon. Member: Nobody else, Sir.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you, Mr. Speaker. We have brought the debate close to completion now, we have to go to joint select committee, but before I do so, there were a few issues which had been mentioned by the Member for Diego Martin North/East. Most of those areas we will deal with in joint select.

As the Member noted, the Act itself, apart from a few areas which IOSCO raised—the areas which IOSCO raised had to do with the time period for recording, confidentiality areas, information sharing and access to bank records. So those were the four areas that we would have addressed as part of the input from IOSCO. Those we can give some, you know—certainly I made mention of it earlier, it is in the *Hansard*, but we could probably have some more discussion on it during the period of the joint select committee.

The other areas which have been identified in relation to penalties, basically, what we had done is we did make an increase to $5 million in one particular

instance but apart from that, we had basically kept the penalties as they were in the previous legislation which had been debated by this honourable House. So, there are a number of other areas, as the hon. Member mentioned, which we will take in the joint select.

I thank the Member on the other side for the comments which he made which were very helpful in terms of us focusing our minds on the areas that would need to be addressed in the debate or in the discussion in the joint select committee. So, Mr. Speaker, with those short words, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

5.35 p.m.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Mr. Speaker, I beg to move that this Bill be referred to a joint select committee comprising an equal number of Members of the House of Representatives and the Senate and that this committee be empowered to discuss the general merits and principles of the Bill, along with its details, and be mandated to report by December 09, 2012.

Question put and agreed to.

Mr. Speaker: There is now a procedure to name Members of the joint select committee.

The Minister of Housing, Land and Marine Affairs (Hon. Dr. Roodal Moonilal): Mr. Speaker, provided that the Senate concurs with this House on the establishment of the Joint Select Committee to discuss the general merits and principles of the Securities Bill, 2012, along with its details, I beg to move that the following Members from this House be appointed to serve on the committee: Dr. Roodal Moonilal, Mr. Rudranath Indarsingh, Mr. Stephen Cadiz, Miss Marlene Mc Donald and Mr. Colm Imbert.

Question put and agreed to.

ADJOURNMENT

The Minister of Housing, Land and Marine Affairs (Hon. Dr. Roodal Moonilal): Mr. Speaker, I beg to move that this House do now adjourn to a date to be fixed.

Mr. Speaker: Hon. Members, before putting the question on the Motion for the Adjournment, you would recall the hon. Leader of the Opposition has filed and has been given approval to raise three matters on the Motion for the Adjournment, as well as there is another matter by the Member for Port of Spain North/St. Ann's West.

I understand that today we are only going to deal with two matters involving the Leader of the Opposition and at the next sitting of the House of Representatives, he will raise his final matter, along with the Member for Port of Spain North/St. Ann's West. Do I have it correct?

Hon. Member: Yes.

Severe Flooding in Diego Martin Constituency (Government's Response)

Dr. Keith Rowley (*Diego Martin West*): Thank you very much, Mr. Speaker. I rise to raise a matter of some concern in my constituency. The matter has to do with Motion No. 1, directed to the Minister of Local Government. This has to do with some inconvenience and I would dare say suffering being experienced by my constituents in the Point Cumana area.

As you may recall, Mr. Speaker, in August of this year, early August, we suffered from extreme heavy rains, which resulted in some severe flooding and physical and infrastructural damage in the western peninsula throughout the Diego Martin area. One must acknowledge that at the time the Government responded fairly promptly with respect to bringing immediate access and egress arrangements where we lost infrastructural assets, such as roads and in some cases bridges. That was good at the precise moment when the flooding took place and immediately after. But severe damage took place in a number of areas, which warranted the Government to respond, if not on an ongoing and immediate basis but some reasonable time frame after, that the acknowledged damage be addressed, either through the local government or the central government.

I regret to report that if you travel through the Diego Martin area today, you will, as a visitor, be able to point out all the areas that were damaged during the flood and most of those areas are either just cordoned off or remain unattended.

In my constituency, in Diego Martin West, at the mouth of the La Horquette River, which outfalls in the Point Cumana Village, the roadway in Schuller Street and the surrounding drainage and the main watercourse itself have been considerably damaged. What is required now, which is the basis for this Motion, is for the Government to pay attention to the reinstatement of the roads and the drainage area, and in some cases there are walls, drains, and other aspects of property in danger because the last flooding in August, removed the protected areas like walls and fences and so on, and we are still in the rainy season.

As I speak to you now, the clouds can get dark and we can suffer similar kinds of rains. Between now and December, we have to expect more rain and if it rains

and the areas are left unreinstated, especially at the very outfall of the river and the road in Schuller Street, more damage will occur. And in the meantime, the people who live in these areas are living with a certain amount of trauma and a lot of inconvenience with respect to the road.

So, I simply want today, Mr. Speaker, to do what I have done before, which is to ask the Government to make the special provision, and in fact I do not even need to do that, because in August we were coming to the end of the last budget and at the time we were saying that because of the damage in the areas resulting from the unexpected heavy rains and the excessive flooding, the Government needed to make special provisions as a disaster budget to respond to the areas where people suffered damage. In many instances persons had to leave their homes and so on, but since then we have passed a new budget. We have passed the biggest budget in the history of the country in October and now, we are not seeing a response that we expect to see, and today I am calling on the Minister of Local Government to respond to the areas in point Cumana in particular, especially in the Schuller Street area where the road has been destroyed, where the drainage has been damaged; respond to the outfall in the La Horquette River mouth, where there are walls damaged, where there needs to be some protection for the watercourse and to protect us from any heavy rains that may come between now and the end of the rainy season.

Mr. Speaker, the Government has heard us before. They do not agree, but we have to come to the conclusion that in the western peninsula, in the Diego Martin area, matters of this nature, which require the Government's attention, are not seeming to attract the Government's attention or willingness for a response. This thing took place since August. At the end of the fiscal year in September, we expected the Government to have made financial arrangements available. We have a new budget. We are now approaching the end of November and the Government has not set about to reinstate these areas.

If you travel on the Morne Coco Road, in one area the road is destroyed to one lane and all you will see, since August, is a piece of tape and some plastic. In fact, it is downright dangerous and I think the Government of Trinidad and Tobago has the resources. It certainly has the responsibility and I think the Government needs to respond, as the Government of Trinidad and Tobago, to the needs of the people of Point Cumana and the wider Diego Martin area, and I would like to hear from the Minister that this matter would be addressed in the shortest possible time. Thank you, Mr. Speaker.

The Minister of Local Government (Hon. Dr. Surujrattan Rambachan): Thank you, Mr. Speaker. Let me express, once more, our sympathies with the people of Diego Martin in general, who were victims of the devastating floods in August of 2012, and to again state that the Government recognizes the plight of the residents in that area and the Government is not in fact unsympathetic at all to them and is very cognizant of its responsibilities, in terms of what has to be done.

May I even at this stage say that it is not just the Ministry of Local Government that is looking at this matter but also the Ministry of the Environment and Water Resources and the Ministry of Works and Infrastructure which deals with drainage problems, and the three Ministries have been putting together programmes to implement in that area, as I will outline particularly for the Ministry of Local Government.

I was very pleased to hear the Leader of the Opposition acknowledge the efficiency and the speed and responsiveness of the Government when the floods took place and the speed with which action was taken to return the area to some level of normalcy and create accessibility in the shortest possible time. And an excellent example of that was in fact La Horquette Road, in terms of what we are speaking about. I thought that was very generous of the Leader of the Opposition. It is good he recognized it, because you are witnessing a Government that is more caring;—[*Crosstalk*]—a Government that has set the value of responsiveness as something that it is going to work by in order to achieve satisfaction for people.

Mr. Speaker, in that light, recently we witnessed the—we saw some live pictures of the devastating floods that took place in New York, as a result of the storm Sandy, and weeks after, in a country known for its excellence and leadership in disaster management—[*Crosstalk*]—there are still big sections of New York which have not been returned to normalcy and it therefore speaks volumes for us, in terms of how we were able to respond in such a short time to the plight of the people in the Diego Martin area.

Mr. Speaker, we are going to do what is necessary in order to repair the roads in that area, but let me just say for the record, that the Government has been doing things in that area in the last couple of months and I just want to put on the record that, in the Point Cumana area, the councillor is Councillor Slater and that councillor has been there since July 2010. He is a PNM councillor. I also want to put on the record that the area has been represented by the Leader of the Opposition for a number of years and it is not just overnight that the roads deteriorated.

Dr. Rowley: I caused the flooding!

Hon. Dr. S. Rambachan: And, therefore, the Leader of the Opposition must take responsibility.

Dr. Rowley: I caused the floods!

Hon. Dr. S. Rambachan: He must take responsibility because roads that are in a poor condition would be devastated by floods like that. The Leader of the Opposition should have gone to Forres Park in July 2010 and see the kind of roads that the PNM built in Forres Park so that when the floods came they lifted the entire road because they did not put any oil on the road before they paved the road. If it is that they built bad roads that were subject to devastation to the extent that they were devastated, then the Leader of the Opposition and Member for Diego Martin West must also take responsibility because he was a Member of that Government that built roads like that and that quality of roads during that time. [*Desk thumping*]

Mr. Speaker, a number of jobs have been done in that area and I want to put it on the record. But before I do that, I just also want to put on record that in the Diego Martin Regional Corporation, by the way, where under this—[*Interruption*]

Dr. Rowley: Mr. Speaker, I rise under Standing Order 36(1), irrelevance. [*Crosstalk*]

5.50 p.m.

Mr. Speaker: Allow the Member to continue and so on, and let us see if he will be able—[*Crosstalk*] Yes, I know it is a Motion, but let him continue.

Hon. Dr. S. Rambachan: Mr. Speaker—[*Interruption*]

Hon. Member: "Parlez! Parlez!"

Hon. Dr. S. Rambachan: Mr. Speaker, in the 2009/2010 budget, the PNM provided $9.4 million to the Diego Martin Regional Corporation. This Government in 2012/2013 has provided $15.5 million; last fiscal year, $14.2 million which represents—[*Interruption*]

Dr. Rowley: Mr. Speaker, my Motion has to do with the floods of August.

Miss Mc Donald: That is right.

Dr. Rowley: This Motion has to do with the effects of the floods of August 2012. I rise under Standing Order 36(1), irrelevance. [*Desk thumping*]

Mr. Speaker: Yes. I would imagine that the hon. Minister is going to come to that particular matter shortly. So could you at least link up the points?

Hon. Dr. S. Rambachan: Thank you. But I must make the point—[*Interruption*]

Hon. Members: "No, talk bout de floods."

Hon. Dr. S. Rambachan:—that we have provided in 2012/2013, 64.8 per cent more money than they provided in 2009/2010 for Diego Martin. [*Desk thumping*] Even as we speak, for the very first time in the history of local government, the Diego Martin Regional Corporation, just after 30 days of the budget being passed, has received releases for $7.8 million to fix roads and so on in that area; that never happened under the PNM. [*Desk thumping*]

To put it in a wider context, as of today, six corporations, including Diego Martin, have received between releases and confirmations, $53.9 million or 24.7 per cent of the PSIP in terms of development projects in local government. That is history in terms of the performance of this Government and the performance of the Ministry of Local Government. [*Desk thumping*] So to respond to the Leader of the Opposition, the Diego Martin Regional Corporation at this point in time has $7.8 million ready in releases to begin to do this work.

Mr. Indarsingh: "Put it on de records."

Hon. Dr. S. Rambachan: As we speak, Mr. Speaker, to let the Leader of the Opposition know, recurrent projects from July 2011 to now, the following were done:

- Big Yard, construction of box drain;
- Neckles Drive, construction of curb wall, repairs to box drain and retaining wall;
- St. Nicholas Street, construction of curb wall and slipper drain;
- McKenzie Drive, construction of retaining wall and curb wall;
- Upper Haig Street, repairs to box culvert;
- Hope Street, repairs to causeway;
- Church Street, construction of footpath, curb and slipper drain.

The reason I am putting this on the record is to show that there was continuous maintenance work on those roads.

Development projects from July 2011 to now:

- Smith Hill, construction of box drain;
- Scorpion Alley;
- Seaview Hill;
- L'Anse Mitan Road;
- Mt. Pleasant Road;

- Neckles Drive, the roadway was resurfaced;
- St. Nicholas Street, the roadway was resurfaced.

And as we speak, the following roads are to be resurfaced and fixed in your area:

- Resurrection Extension;

Hon. Member: "Dat too."

Hon. Dr. S. Rambachan: Big Yard;

- Edge Hill;
- Sonora Park;
- McKenzie Drive;
- Colter Street;
- Mt. Pleasant Road;
- Unity Street East, the construction of a box drain at entrances, $603,000 to be spent on that.

Dr. Rowley: Mr. Speaker, I rise under Standing Order 36(1). My Motion has to do with flood, the specific damage of the flood. I rise in the context of the flood damaged areas.

Hon. Dr. S. Rambachan: "Yuh doh want to hear what I am going to do."

Miss Cox: "He say yuh doh want to hear."

Mr. Speaker: Well, Member, you have seven more minutes and the Member is saying if you can probably try to address his specific points, but continue.

Hon. Dr. S. Rambachan: Mr. Speaker, with due respect to the Member, I am addressing that. That is why I am calling the names of the roads that are to be paved in the 2012/2013 budget in the first phase right now. These are projects that have been approved and for which moneys have been released. Normally under the PNM moneys would be released next year. After 30 days, moneys have been released under this Ministry of Local Government to do this work. [*Desk thumping*]

What happens, when you bring out the truth and when you bring out the performance of this Government, it hurts them. [*Desk thumping*] This a Government that is performing in the interest of the people, and let us face it, these are the records, and I am putting it on the record. [*Crosstalk*]

Mr. Speaker, all of these roads are going to be fixed in addition to the programme of works under the Ministry of Works and Infrastructure, and the programme of works under the Ministry of the Environment and Water Resources, and all of these things are going to happen. So to say that I am not

answering you as to what is going to be happening is not true at all. In fact, it is going to happen. [*Crosstalk*]

The URP programme—[*Laughter and interruption*]

Hon. Members: URP? [*Laughter*]

Hon. Dr. S. Rambachan:—the core construction projects of the URP programme; certain works are also going to be introduced under that programme in terms of minor construction work on those very areas, and that is being programmed even as we speak. So, both in terms of the URP, in terms of the local government programmes, in terms of the Ministry of Works and Infrastructure, and the Ministry of the Environment and Water Resources, all of these programmes are being introduced at this point in time. I speak for the Ministry of Local Government and for the URP programme. The much maligned URP programme is a programme, and the people are beginning to perform and you will see that performance in that very area. [*Laughter and crosstalk*]

Dr. Rowley: Mr. Speaker, I rise under Standing Order 36(1). [*Laughter and crosstalk*] My Motion has to do with the specific area of Point Cumana—damaged by the floods. I filed no Motion on URP.

Mr. Speaker: All right. Member, you have four more minutes. The hon. Member for Diego Martin West is asking you to give him some—he wants to get some information on his Motion. Continue. [*Crosstalk*]

Dr. Khan: "URP medical, tell him dat."

Hon. Dr. S. Rambachan: It seems that we might have to have a lesson in listening, because if the Member for Diego Martin West is really listening, I have been outlining a number of roads that form part of the programme in which the roads are going to be fixed and paved. [*Crosstalk and laughter*] So he has not been listening. I am saying that different agencies are going to be used to do that, and I am saying that that work is being programmed. Therefore, I have given the Member, but the Member is not listening, because what happened, the Member thought he would come here and find a Minister who is not prepared and who has not done his homework in order to answer. [*Crosstalk and laughter*] This Minister has done his homework, and this Minister is ready to answer. [*Desk thumping, laughter and crosstalk*] That is what happened.

This Minister is working and this Government is working in the interest of the people of Trinidad and Tobago. [*Desk thumping and laughter*] So it is now in the *Hansard* what we are going to do. And, Mr. Speaker, he can always go back to the *Hansard* and come back to find out if we did what we do, because we deliver on our promise. We fulfil our promise in this country.

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

NP Carenage Gas Station (Failure to Open)

Mr. Speaker: The hon. Leader of the Opposition. I think you are going to the failure of National Petroleum to open the Carenage gas station?

Dr. Keith Rowley (*Diego Martin West*): Mr. Speaker, I was going there, but I am tempted to ask him: when are you going to pave Schuller Street? [*Crosstalk and laughter*] I am relieved to be talking to a real Minister.

I raised the matter, item 3, which has to do with the NP gas station in Carenage. For as long as I can recall, there has been a gas station in Carenage. In the upgrade programme at NP, the Carenage gas station has been upgraded, we have a beautiful gas station, well lit at nights but there is a chain across the entrance, and the chain has been there for at least two years, because subsequent to the upgrade of the gas station at that location, NP discovered that there is some issue with respect to the ownership or tenancy of the property. It seems as though there is no solution to this problem which will allow the people who use the western peninsula, especially the residents of Carenage and the surrounding areas, to have use of this gas station. [*Crosstalk*] NP seems not to have an idea as to how to solve this problem.

Mr. Speaker: Both the Member for Diego Martin North/East—[*Interruption*]

Mr. Imbert: I apologize.

Mr. Speaker:—and the Member for D'Abadie/O'Meara, you are disturbing the House and I am not hearing what the Leader of the Opposition is saying.

Mr. Imbert: I apologize.

Mr. Speaker: So I ask you to just observe the Standing Orders. Continue, hon. Leader of the Opposition. [*Crosstalk*]

Dr. K. Rowley: Yes, Mr. Speaker. As Member of Parliament for the area, my constituents ask me all the time: when are you all going to open the gas station? [*Laughter and crosstalk*] The gas station—[*Interruption*]

Mr. Speaker: Please! Please! Members! If you are tired let me know, I will retire you. [*Laughter*]

Hon. Member: "Talk to dem. Talk to dem" [*Laughter*]

Miss Mc Donald: "Send dem out. Let dem go and drink some tea."

Dr. K. Rowley: The problem is that NP has a gas station on a site which NP has been occupying for decades. There are legal issues, but there is nothing to prevent NP from opening the gas station and providing the service that NP provided in the old gas station, because all that has happened there is that an old station has been upgraded to a better facility, the occupancy remains the same.

On that basis, Mr. Speaker, the advice that I have received is that there is nothing to prevent NP from obtaining its licence for the station, and for making the service available. If there are issues with respect to the ownership, there is a place for that to be adjudicated upon, and that adjudication would meet an NP that is willing and able to comply with any aspect of the country's laws including a court order.

On that basis, as Member of Parliament for the area, I am pleading with NP to open the gas station and if somebody has a problem with it, there are places to complain when your problem exists. And if NP has liabilities or bills to pay or valuations to be done, they will then do that in response to the developments and NP should open the gas station and proceed to dispense the service. What is unacceptable is for there to be some insoluble, intractable arrangement where for years this gas station will remain a brand new upgraded facility, with chains across the entrance and no service being provided.

If there is somebody claiming that they own the property and there is some problem, it would have been there for a long time, NP would have been occupying the land for a long time and NP has a case and good lawyers. The gas station can and must be opened and NP should be able to respond to any challenges that come from that. In the meantime, the service would be provided to the population. And that is, Mr. Speaker, what I expect of the Minister. He is here this afternoon and I am hoping that he will tell me how and when we are going to get service in Carenage in the new gas station.

Thank you, Mr. Speaker.

The Minister of Energy and Energy Affairs (Sen. The Hon. Kevin Ramnarine): [*Desk thumping*] Thank you very much, Mr. Speaker. From the outset let me say that the Government is fully aware of the issue at hand as it relates to the Carenage service station, and is committed to providing the people of the western peninsula and those citizens who frequent that area with this vital service.

I myself, before I became a Member of Parliament in 2010, would sometimes pass by that gas station and remark how it was closed and it was such a lovely station and that area, of course, I believe the closest gas station one could go to is the Peake's gas station in Cocorite. So the western peninsula is essentially without a service station at this point in time.

Allow me to give a history of this matter, because I think the facts need to be presented to the Parliament and to the public. So I will provide some information

which has already been presented to the Parliament in the form of an answer that I gave to this Chamber on March 16, 2012 in reply to a question from the hon. Leader of the Opposition.

The existing station on the Western Main Road in Carenage, Mr. Speaker, was closed for upgrade in April 2008. Upgrade works at the site started in September 2008. Work on the new station was completed in July 2009 and the total cost was $8,629,711.15. The project was started and completed under the then Lawford Dupres Board of NP. At the time that the station was closed for upgrade—this was April 2008—NP's lease for the said lands had expired, and that expiration was in March 2008. I, therefore, could not help but find it rather strange and unusual that very shortly after the lease had expired in March 2008, NP moved to close the station for upgrade. This, however, means that the former board of NP sanctioned the investment in this project, and I would add using PSIP funds, taxpayers' money, without confirming the status of land title. Coming from the private sector as I do, that is certainly a no-no. That, therefore, is the root of the problem and it has us in the problem that we are in today.

6.05 p.m.

The current board of NP, upon discovery of this situation, commissioned an audit of the process and the audit was, I am advised, done by somebody who is very familiar to the Members opposite. The audit report was submitted to the board on March 09, 2011 and the following items were revealed:

(1) construction started before final approval was obtained from the Town and Country Planning Division;

(2) no application was made for Water and Sewerage Authority approval;

(3) construction commenced and was completed without approval from the relevant regional corporation—I believe that is Diego Martin; and

(4) probably the least of the apostles—final approval was not obtained from the Ministry of Energy and Energy Industries and the OSH Authority of Trinidad and Tobago.

In light of these issues, the current board guided the management of NP with a view to correcting these regulatory breaches and, more significantly, in charting a way forward in respect of the land ownership issues and matters related to the implication of the expiration of the lease.

The board later discovered that, not only had the lease expired, as it had expired in March 2008; but the lease rental had been in arrears for the period

1990—2008. In an attempt to rectify the situation, by letter dated June 30, 2009, NP indicated to the owners its willingness to enter into a lease and to settle the arrears of rent due and owing under the expired lease.

As a result, the owners' representative met NP's representatives in July 2009 and advised that they were not interested in granting another lease and were instead interested in outright purchase of the freehold lands. NP had, however, commissioned a valuation report to determine the fair market value of the land. In a valuation report dated July 10, 2009, by Linden Scott & Associates, the land was valued at TT $3.2 million. The owners were advised of the 2009 Linden Scott valuation and they indicated that they intended to undertake their own valuation.

In or around 2009, Mr. Speaker, at a meeting with the then Chairman, Lawford Dupres, and the then CEO, Richard Calendar, the owners proposed that NP pay something in the order of TT $25 million in full and final settlement of the matter. This is what the owners "say" they wanted.

This figure was confirmed in a letter dated February 10, 2010 from the chairman of NP, Lawford Dupres, to the then Minister of Energy, Sen. Conrad Enill. Allow me just to quote from that letter. This is the letter from Lawford Dupres to the then Sen. Conrad Enill, dated February 10, 2010:

"Dear Hon. Minister,

As you are aware, NP rebuilt a station in Carenage which has not been opened to the public since it was completed in July 2009. NP had assumed incorrectly, and without an in depth check on the title to the property, that it owned the site, having operated a station thereon for over 40 years and having no evidence of lease payments for 20 years."

So, this is an admission by the former chairman of that situation.

It appears as though after that meeting—this is the last meeting that board had with the owners—the matter was at a standstill until the previous board took office in, I think it was November 2010. The new board, that is the board appointed by this Government, sought a legal opinion and determined that NP could be considered a tenant at sufferance. The board determined that the best approach was to settle the matter amicably with the owners of the land. NP also sought to treat with the issue of lease rental and arrears of lease rental.

As recent as September 27, 2012—very recently—two cheques were sent to the attorneys for the estate covering the following periods:

April 2008 to December 2011; and

March 2012 to December 2012.

As of November 15, 2012, which was yesterday, these cheques had not been cashed. For the period January to February 2012, which was the missing gap there, a cheque dated November 28, 2011 was issued and cashed by the owners.

At a meeting on November 06, 2012, very recently, between NP and the beneficiaries, as well as the legal personal representative, the owners maintained that they would only accept now a sum of $12 million as the purchase price of the said property. They reminded NP that they had submitted a valuation report prepared by one Solomon Weekes, chartered valuation surveyor, dated July 2012, to substantiate their offer price.

In that valuation report, the property in question was valued at $10,655,000. NP recently commissioned two new valuations: one again by Linden Scott and the other by Raymond & Pierre. Linden Scott & Associates, in a report dated July 18, 2012, valued the property at $3,555,000 and Raymond & Pierre, in a report dated August 10, 2012, valued the property at $2,780,000. So we are getting an idea, Mr. Speaker, of the value.

NP had advised the owners, Mr. Speaker, at a meeting on November 06, 2012, that it was not prepared to meet the price of TT $12 million for the property. The owners requested further time to discuss the matter and they asked that they be allowed until the week ending November 16, 2012, which is today, to give a counterproposal.

As it relates to the regulatory breaches, the management of NP has confirmed that all the approvals from the respective agencies have been granted with the exception of:

(1) the final approval of the Minister of Energy and Energy Affairs once a lease of freehold title is presented. This approval takes the form of a retail marketing licence;

(2) the now conditional approval granted by the OSH Authority will be satisfied concomitant on the approval of the Minister of Energy and Energy Affairs.

With regard to ongoing negotiations with the owners, on November 14, 2012, NP received another offer from the owners and this offer will be the subject of consideration by the board of NP. NP has advised that all negotiations—I wish to emphasize: NP has advised that all negotiations on this matter will be brought to an end by November 30, 2012, which is the last day. I think that is a Friday.

Should negotiations prove unfruitful, the board of directors of NP will consider the following options:

(1) removal of its assets, restoration of the site in question and relocation to a new site in the Carenage area; and

(2) approach the court for adjudication on the matter.

The hon. Leader of the Opposition has proffered another recommendation, which is something that we would explore. I would certainly ask the lawyers in the Ministry of Energy and Energy Affairs and the Attorney General to provide us with legal advice on that recommendation.

I close by saying that I, too, like the Leader of the Opposition, am bothered by the fact that the State, through NP, using PSIP funds, built a brand new station in the Carenage area—the last administration—and that station has not been put to use for the benefit of, not only the people of Carenage, because, as Members know, the north-west peninsula is an area that we all frequent from time to time, so we on this side commit to providing the people of Trinidad and Tobago with a modern service station network.

There are approximately 161 service stations, I believe, in Trinidad and Tobago. We are in the process of expanding that network and upgrading some of those stations and we would not like the people of the north-west peninsula, Carenage and environs, to be left behind. We commit, therefore, to bringing this matter to a resolution in the shortest possible time.

I thank you very much, Mr. Speaker.

Question put and agreed to.

House accordingly adjourned.

Adjourned at 6.15 p.m.