

Leave of Absence

Monday, December 17, 2012

HOUSE OF REPRESENTATIVES

Monday, December 17, 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: Dr. Amery Browne, Member of Parliament for Diego Martin Central; Mrs. Paula Gopee-Scoon, Member of Parliament for Point Fortin; [*Crosstalk*] Miss Alicia Hospedales, Member of Parliament for Arouca/Maloney. [*Crosstalk*] These honourable Members have asked to be excused from today's sitting of the House. [*Crosstalk*] The leave which the Members seek is granted.

Members, when the Speaker is on his legs, I ask you to observe the rules of this House. Thank you very much.

PAPERS LAID

1. Annual audited financial statements of the National Maintenance Training and Security Company Limited for the financial year ended December 31, 2009. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]
2. Annual audited financial statements of the National Maintenance Training and Security Company Limited for the financial year ended December 31, 2010. [*Sen. The Hon. L. Howai*]
3. Annual audited financial statements of the National Maintenance Training and Security Company Limited for the financial year ended December 31, 2011. [*Sen. The Hon. L. Howai*]
4. Annual audited financial statements of the Trinidad and Tobago Entertainment Company Limited for the financial year ended September 30, 2009. [*Sen. The Hon. L. Howai*]
5. Annual audited financial statements of the Trinidad and Tobago Entertainment Company Limited for the financial year ended September 30, 2010. [*Sen. The Hon. L. Howai*]

Papers Laid

Monday, December 17, 2012

6. Annual audited financial statements of the Trinidad and Tobago Entertainment Company Limited for the financial year ended September 30, 2011. [*Sen. The Hon. L. Howai*]
7. Annual audited financial statements of the Trinidad and Tobago Solid Waste Management Company Limited for the financial year ended September 30, 2011. [*Sen. The Hon. L. Howai*]

Papers 1 to 7 to be referred to the Public Accounts (Enterprises) Committee.

8. Second report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Diego Martin Regional Corporation for the year ended September 30, 2002. [*Sen. The Hon. L. Howai*]

Paper 8 to be referred to the Public Accounts Committee.

9. Annual report of the Teaching Service Commission for the year 2011. [*The Minister of Housing, Land and Marine Affairs (Hon. Dr. Roodal Moonilal)*]
10. Sessional review of the Second Session (2011/2012) of the Tenth Parliament of the Republic of Trinidad and Tobago. [*The Deputy Speaker (Mrs. Nela Khan)*]
11. Administrative report of the Ministry of Public Utilities for the period 2010—2011. [*The Minister of Public Utilities (Hon. Nizam Baksh)*]

**JOINT SELECT COMMITTEE REPORTS
(Presentation)**

Securities Bill, 2012

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

Report of the Joint Select Committee on the Securities Bill, 2012.

The Minister of State in the Office of the Prime Minister (Hon. Rodger Samuel): I beg to present the following reports:

**Municipal Corporations and Service Commissions
(Arima Borough Corporation)**

Second report of the Joint Select Committee established to inquire into and report to Parliament on Municipal Corporations and Service Commissions

with the exception of the Judicial and Legal Service Commission on the evaluation of the efficiency and effectiveness of the Arima Borough Corporation.

**Municipal Corporations and Service Commissions
(Teaching Service Commission)**

Third report of the Joint Select Committee established to inquire into and report to Parliament on Municipal Corporations and Service Commissions with the exception of the Judicial and Legal Service Commission on the re-evaluation of the efficiency and effectiveness of the Teaching Service Commission.

**Municipal Corporations and Service Commissions
(Police Service Commission)**

Fourth report of the Joint Select Committee established to inquire into and report to Parliament on Municipal Corporations and Service Commissions with the exception of the Judicial and Legal Service Commission on the re-evaluation of the efficiency and effectiveness of the Police Service Commission with specific focus on the performance of the Commissioner of Police and Deputy Commissioners of Police.

JOINT SELECT COMMITTEE REPORT

**Securities Bill, 2012
Adoption**

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai):
Mr. Speaker, I beg to move the following Motion standing in my name:

Be it resolved that the House adopt the report of the Joint Select Committee on the Securities Bill, 2012, subject to the recommittal of clauses 81, 136, 139, 150 and 152 of the Bill to a committee of the whole House.

Mr. Speaker, I am honoured once again to address this honourable House on the matter of the Securities Bill. It is not my intention to detain hon. Members longer than is necessary as this Bill, in a varied form, had been considered by this House on more than one occasion.

I do not think that it is also necessary for me to spend too much time reminding Members of the importance of the Bill and of its critical and strategic nature in the context of what we wish to do in the development of our local financial sector.

Securities Bill, 2012 (Adoption)
[SEN. THE HON. L. HOWAI]

Monday, December 17, 2012

Mr. Speaker, the main capital market institutions in Trinidad and Tobago: the Securities and Exchange Commission, the Stock Exchange and brokerage firms, as well as a number of other financial institutions, depend very significantly on the activities of the capital market.

In the coming years, we expect this sector to be a significant contributor to the growth and development of our economy. I am on record as having indicated that we expect that over the next five years some of the initiatives which we are undertaking in this sector will result in the creation of a minimum amount of 3,000 well-paying jobs in the financial services sector.

Before we can get to that point, however, there are a number of things that we need to do including taking measures to ensure that the capital market itself continues to develop and grow. A very important element of that will be the development of the securities sector and in particular our capital market institutions.

Today, public sector bonds remain the dominant instruments in the primary market and very little trading occurs. The same is true for the equities market. Part of the problem here stems from the low market confidence which arises from the absence of standardized ratings, lack of an abundance of quality information and perceived lack of transparency in dealings. Another problem is the low level of liquidity in the market; a chicken and egg problem, if you ever had one.

It is therefore in this context, Mr. Speaker, and the need to ensure compliance and congruence between our local regulatory and compliance framework and international best practice that we have sought to introduce this Bill which frames us as an investor-based and activity-based jurisdiction rather than simply an issuer-based one. It is in this context, Mr. Speaker, that we seek the support of both sides of this honourable House for this Bill.

As hon. Members would recall, on November 16, 2012 when debate on the Securities Bill was concluded, this House resolved that a joint select committee be established to consider and report on a Bill entitled:

“An Act 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 systematic risk, to repeal and replace the Securities Industry Act, Chap. 83:02 and for other related matters.”

The committee was empowered to consider the general merits and principles of the Bill and report to Parliament by December 09, 2012. On a similar resolution passed in the Senate on November 20, the committee was formally established and eventually comprised the following persons: Dr. Roodal Moonilal, Mr. Rudranath Indarsingh, Mr. Stephen Cadiz, Miss Marlene McDonald, Mr. Colm Imbert, Mr. Larry Howai, Mr. Vasant Bharath, Dr. Bhoendradatt Tewarie, Dr. Lester Henry and Mr. Elton Prescott.

At its first meeting, I had the honour of being elected as Chair of the committee. I should say that this was my first experience in such a capacity in a parliamentary setting. If I may make a personal comment, I would like to thank Members on both sides who made the exercise both an interesting, challenging and learning experience for myself.

Indeed, Mr. Speaker, the committee did a tremendous amount of work in a short period of time. As Members would see in the report, five meetings were held in less than a three-week period, lasting on average four hours each. I wish to express my thanks and appreciation to each Member for attending and participating in the work of the committee.

In between the meetings, extensive work was also done and I think it would be appropriate at this stage for me to thank the technical team who supported this process, including the parliamentary secretariat which was represented by Mrs. Nataki Atiba-Dilchan as well as Mr. Julien Ogilvie, Miss Keiba Jacob and Miss Annika Fritz.

We also had the support of the Chief Parliamentary Counsel's team which comprised Miss Lorraine John, Miss Megan Doyle, Miss Shireen Khan-Hydar Ali, Ms. Priya Pooran and the Ministry of Finance and the Economy in the person of Miss Kimi Rochard, one of the legal officers in the Ministry of Finance and the Economy.

On behalf of the joint parliamentary committee, I want to compliment this team of technical individuals on their responsiveness, their eloquence, their intellectual capability and their professionalism in dealing with the matters which came before the committee.

Mr. Speaker, central to the deliberations of your committee was the input of certain stakeholders, and in this area as well, the committee received the dedicated support and attendance of representatives of the Trinidad and Tobago Securities and Exchange Commission and the Stock Exchange. Again, I just want, for

Securities Bill, 2012 (Adoption)
[SEN. THE HON. L. HOWAI]

Monday, December 17, 2012

purposes of the record, to name the persons from the SEC: Mr. Jack, Ms. Astraea Douglas, Ms. Janine Carrera, Mr. Kevin Deopersad, all from the SEC, as well as Mr. Wainwright Iton, Managing Director of the Stock Exchange.

1.45 p.m.

To complement the perspectives provided by these organizations, I would like to advise this honourable House that the committee also requested written comments and a brief presentation from Mr. Subhas Ramkhelawan, Managing Director of Bourse Securities. As Members will be aware, Mr. Ramkhelawan is a practitioner in the field of securities and a Senator who had served on a previous parliamentary committee that considered a similar Bill. His comments were also extensive and the committee paid particular attention to several of those, which we shall mention subsequently.

In addition, we also received some unsolicited comments from the Trinidad and Tobago Chamber of Industry and Commerce, the Chief Executive of the Chamber, Mrs. Catherine Kumar, as well as from the President and Group CEO of Neal and Massy Group of Companies, Mr. Gervase Warner, who attempted to put in perspective some of the concerns which listed companies had, and some of the major listed companies had, with respect to the elements of the proposed legislation that we were seeking to put into place.

Mr. Speaker, the input of all these individuals was critical to the completion of our work, it was critical to informing the committee on what needed to be done, and it was critical to providing the guidance that we need, particularly from the market practitioners who recognize, in a more intimate way, some of the challenges that one faces in the market.

Members will also recall that several points were raised, during the debate of November 16, by the Opposition Bench, and proposals for amendment to the Bill were considered, and many of these proposals as put forward by Members of the Opposition were accepted. The committee considered these issues, and, as stated on pages 6 and 7 of the report, there were three main areas of the Bill which were identified as needing to be addressed.

Very important for us as part of this process was ensuring that in no way would the Bill be affected or Trinidad and Tobago's application and membership of IOSCO would be—we wanted to ensure that this would be in no way compromised by any of the changes that we were seeking to make to the Bill. As I said, Mr. Speaker, there are three broad areas that we had identified. The first was the operations of the tribunal and limiting its role to that of an appellate court; the

appeals process for persons against whom the commission may make an adverse decision or finding and the rationalization of fines and penalties for offences throughout the Bill.

At this point, without going into all the details which are now before Members in the form of the report of the Joint Select Committee, I would want to identify a few of the areas which the committee recommended to have addressed in order to ensure that we met the needs of the market, as well as the concerns of all individuals associated with this Bill. The first, Mr. Speaker, relates to the Securities Industry Tribunal established under section 158.

The committee decided that the Securities Industry Tribunal, established under section 158, was an unnecessary layer of administration. In that regard, we recognized the comments made by the Member for Diego Martin North/East as far as the question of role of the tribunal in the entire process is concerned. We recognized that it was an unnecessary layer of administration and we recognized also that any appeal against the commission could and perhaps should be made directly to the High Court, and therefore we made an amendment to reflect that requirement.

Members would therefore notice the proposal to delete clauses 157 to 164 of the Bill—please refer to pages 231—237 of the report—as well as consequential alterations which were adopted where references are made to the tribunal, for example, in the definition clause and in renumbered clauses 157 and 158. Because of the removal of the tribunal, adjustments to the structure and the composition of the commission were necessary. The committee proposes amendments to clauses 8, 9, 10, 15, 22 and 31 which would provide for effective administration of the commission.

Secondly, Mr. Speaker, is the matter of due process for decisions and orders of the commission. It was very important for us to ensure that in no way the commission overstepped the bounds of what would be considered to be good practice, and which might have required the commission to have more powers, than was absolutely necessary, for the carrying out of its duties. The matter of due process and ensuring that there was an appeals process for persons adversely affected by decisions or orders of the commission was addressed with suggested amendments to several clauses. Most notable are the recommended insertions in clauses 157(1) and 161.

The provision for persons likely to be affected by an order or adverse decision to have the right to make representation, and be heard, is in sync with the

Securities Bill, 2012 (Adoption)
[SEN. THE HON. L. HOWAI]

Monday, December 17, 2012

International Organization of Securities Commissions (IOSCO) principle that promotes accountability in the exercise of functions and powers by market oversight institutions. This issue of accountability continued to be a very strong thread through all the deliberations of the committee. While we have given the commission powers to ensure that it properly regulates the market, we believe that it was equally important for us to ensure that there was proper accountability and there were proper safeguards in the exercise of those powers.

Thirdly, Mr. Speaker, with respect to the powers of the Securities and Exchange Commission, this was a matter, as I alluded to, which generated lengthy discussions among members of the committee. Concerns were expressed that clause 150 gave the commission unfettered power to conduct investigations not related to the business of the commission. There was concern that the SEC would have power to demand documents and records from persons who were not subject to the jurisdiction of the SEC, who were not registered with the SEC, and who were not market actors and not involved in the securities industry.

The question was asked—and I have to admit under the leadership of the hon. Member for Diego Martin North/East—as to whether this imposed an unreasonable burden, an unreasonable penalty, on persons who may not be in breach of the Securities Act. Mr. Speaker, we are grateful for the comments made by the other side, in these areas, which we have adopted in their entirety.

Four: fines and penalties for offences; Mr. Speaker, particular attention was paid to the provisions of clauses 150 and 152 with the aim of finding a workable solution. We shall present our recommendations which adopt the proposals of the other side when the matter is put to a committee of the whole.

As Members would note, fines and penalties have been rationalized throughout the Bill. Clauses 14, 60, 99 and 102 are just four such instances. These recommendations were arrived at through an analysis of what obtains in current legislation inclusive of the Anti-terrorism, the Central Bank, the financial institutions, the Financial Intelligence Unit, the Integrity in Public Life and the Proceeds of Crime Acts.

To this end, the committee has proposed an increase in the custodial sentences as follows:

- From six months to two years for offences such as disclosure of confidential information.

Securities Bill, 2012

Monday, December 17, 2012

- In clause 60, for a person who fraudulently engages in market activities including purporting to be a registered broker/dealer, investment advisor or underwriter, an increase from two years to five years.
- As well as for market manipulation offences, an increase from two years to five years, and of course, for insider trading, from five years to seven years.

There are some of us who still think that some of these penalties could be increased further, but we thought that in the interest of finding the right balance that these represented adequate penalties for the breaches identified.

In addition, the committee sought to address the concerns raised by the private sector via the Chamber of Commerce and the Neal and Massy Group. The principal changes related to the exemptions created for private issuers, as well as offers to senior officers and partners at clause 61 and the revised definition for “relatives”. In sum, Mr. Speaker, all these adjustments to the proposed legislation, we think, creates a much richer framework for the proper legislation of the securities industry while at the same time not choking off the growth that we would like to see in this particular sector.

Mr. Speaker, given the time frame in which our committee had to complete its work, Members were very focused and engaged in a very professional manner, even when there was disagreement among the parties, of which there were several. We all agree that this is a substantial and very necessary piece of legislation to bring the local securities industry in line with international best practices in securities regulation, and I believe that this amended legislation can be supported by both sides.

As I would have stated in my presentation to this House last month, at present, Trinidad and Tobago is listed in Appendix B of the IOSCO membership categories due to certain deficiencies in our current legislation. We need to become an Appendix A member, and the passage of this Bill would allow for the Trinidad and Tobago Securities and Exchange Commission to become a full signatory to the International Organization of Securities Commissions (IOSCO) Multilateral Memorandum of Understanding on or before January 01, 2013.

Mr. Speaker, it is to be noted that from January 01, 2013, IOSCO will abolish its B list and will have only one list of compliant countries. Countries not on the single list as of January 01, 2013 would be listed as non-compliant. This will have negative implications for Trinidad and Tobago’s reputation, credibility and standing in the financial community.

Securities Bill, 2012 (Adoption)
[SEN. THE HON. L. HOWAI]

Monday, December 17, 2012

Mr. Speaker, quite a lot has been said during the debate on this Bill, and more extensively so, during the deliberations of the committee. Therefore, I would end as I began, by thanking all those who contributed to the work of this committee. In particular, I commend the Members on the other side including Miss McDonald, an attorney, who, with many years of experience, contributed to the deliberations of the committee; Dr. Lester Henry who, based on his financial background, was able to make his own contributions to the committee and, of course, Mr. Colm Imbert, the Member for Diego Martin North/East, also I suppose a lawyer of sorts, who was able [*Laughter*] to provide quite extensive— [*Laughter*] no, no, I have to admit, quite extensive— [*Interruption*]

2.00 p.m.

Hon. Member: A bush lawyer.

Sen. The Hon. L. Howai: No, no, no; I have to admit, a very quite extensive and comprehensive contribution to the deliberations of the committee and of members of the committee. So I would like to thank those members.

I would like to thank the members for the contributions that they have made to the report that has been laid before this House and I respectfully submit our recommendations for adoption and I beg to move. [*Desk thumping*]

Question proposed.

Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Mr. Speaker. The Joint Select Committee went through—I am just going to try and get the exact number of clauses—a draft Bill or a Bill that contained 178 clauses, most of which were highly complex. In fact, some of these clauses ran into several pages. I think there is one clause that runs into 10 pages. We were asked as a Parliament and as a committee to complete our work in a very, very short time frame. It is hoped that this will not happen again, Mr. Speaker, because the committee was not able to do many of the things that a committee would normally do when studying legislation of this nature that has far-reaching implications for the securities industry and for the financial system in Trinidad and Tobago.

Some of the things that we were not able to do, because of the very, very tight time frame, were to entertain presentations from experts to explain to members of the committee what the implications and the consequences of the changes in the law would be, independent experts. This is normal in a joint select committee. This was not done on this particular occasion.

One of the other things that is critical to a proper examination of legislation is to listen to stakeholders and to entertain comments from persons who may be directly affected by the legislation. Again, because of the tight timetable, the committee was unable to entertain contributions from stakeholders, bar one, and I would not consider Sen. Ramkhelawan to be a stakeholder per se, because he is also a parliamentarian and the time allotted to him was short anyway. So the committee has gone through a Bill with 178 clauses without doing what is normally expected and what should be done with something as important as this. We did so because we took the Government at face value—[*Interruption*]

Dr. Rowley: Again.

Mr. C. Imbert: And yes, again. My leader is making the point, again. And, really, this raises all the issues of section 34 and the anti-gang legislation and so on. [*Interruption*]

Hon. Member: You cannot go there.

Mr. C. Imbert: Of course, because the support of the Opposition is required for this legislation and there are some things that have to be said, lest we be misquoted, misunderstood, misrepresented—[*Interruption*]

Miss Mc Donald: Misconstrued.

Mr. C. Imbert:—misconstrued in the future. It was really unreasonable of the Government to expect us to be able to do all of this work. The Minister himself has made the point. We had five meetings averaging four hours. I think the first meeting ran for six hours. I think we went until seven o'clock in the night and I may say, and I have no shame in saying this, that we, Members of the Opposition, we do this for free, gratis. This is not included in our pay scale. This is unpaid work, Mr. Speaker, and—[*Interruption*]

Mr. Sharma: That is foolish.

Mr. Speaker: Member for Fyzabad, please. Continue, hon. Member.

Mr. C. Imbert:—and for the Government to expect Members of the Opposition to give up their personal and private business and constituency matters and other matters of a political nature and lock themselves away, sequester ourselves in a room for six hours at end—[*Interruption*]

Dr. Gopeesingh: How many hours you sequestered us?

Mr. C. Imbert:—was quite unreasonable, and to ask us to complete the work of this committee within a two-week period was also extremely unreasonable and I hope this will not happen again.

Securities Bill, 2012 (Adoption)
[MR. IMBERT]

Monday, December 17, 2012

There is a habit of this Government—I am not blaming the Minister, because he has just arrived—of coming at the last minute and telling the Parliament that the sky will collapse, doom and gloom will fall upon Trinidad and Tobago and a catastrophe will occur if a particular piece of legislation is not enacted by a particular time frame. I sincerely hope that with the Insurance Act, and the other complex pieces of financial legislation in particular, that we will not be subjected to this level of abuse.

Now, let us go into the Bill itself. One of the unfortunate things that came out in the committee was the fact that the Minister—I will subject myself to correction if I am not representing this correctly—had been told that this Bill had been subjected to widespread consultation and there was general agreement from stakeholders on its provisions. However, during the deliberations of the committee, the committee received correspondence, passed to us in some instances by the Minister, which indicated that this was not so and I would like to read into the record a letter from the Chamber of Industry and Commerce. This is written to the Minister on November 29, 2012. Reference is: Securities Bill, 2012. It reads as follows:

The Chamber is aware that it is the Government's hope to have this Bill passed and assented to before the end of the year. We are also aware of the serious implications for Trinidad and Tobago if we are to be listed as a non-cooperating country by IOSCO. And the Minister has made the point. At present, there are two categories of countries in the IOSCO scale, the A category and the B category.

The Minister has told us and we have taken it at face value, because we have received, as parliamentarians, no correspondence from the IOSCO to confirm that this is true. But we assume that the Minister is telling the truth when he tells us that if, by December 31 or January 01, 2013, Trinidad and Tobago has not improved or upgraded its securities laws, we will be deemed to be non-compliant. We have to take the Minister at face value. We do not expect him to come to this Parliament and make such a gross misrepresentation.

But reading again from the letter from the Chamber:

When the new version of the Bill, which was vastly different from the Bill circulated back in 2009—

[*Interruption*] Mr. Speaker—

Mr. Speaker: Hon. Members on the Front Bench, Member for Tunapuna, I am hearing you very clearly, in terms of your conversation. You can engage in

undertones, I keep saying, but overtones disturb the proceedings. So I would ask Members when they are conversing, they can do it but undertones. Continue, hon. Member.

Mr. C. Imbert: Thank you, Mr. Speaker.

When the new version of the Bill, which was vastly different from the Bill circulated back in 2009, and upon which the private sector commented, was published for consideration in mid-May 2012, a group of listed companies, all members of the Chamber, met and thereafter submitted comments to Mr. Norton Jack of the Securities and Exchange Commission. While some of the comments were taken into consideration, there was no feedback from the SEC on the comments tendered. It was not until the Bill was laid recently—

which is within the last couple weeks:

that the public became aware of the final version.

Now, that is just wrong. If you are changing a regime within the financial sector, as important as the regulation of the securities industry, and you have met with stakeholders, common courtesy demands that at least you let them know whether you have taken their comments into account or not.

Upon review, it is noted that a number of significant matters raised in the July 10, 2012 submission to the SEC were not amended. We also note that additional changes were introduced on which stakeholders were given no opportunity to be consulted.

So not only did the Government not give feedback to these stakeholders but they also introduced additional changes and did not consult stakeholders on these matters. As I said, I hope with other pieces of complex legislation, that this type of behaviour will not recur.

We are indeed concerned about the impact the passage of this Bill can potentially have on the business climate in Trinidad and Tobago.

The Bill requires the registration/reporting on every issue of a security in advance of distribution. This will now cover the incorporation of any company where two shares are issued at incorporation.

So what the private sector was saying is that any private company that has two shareholders, if they want to do a private issue, issue a prospectus and issue shares and so on, they would have to register with the SEC. Now, the committee, as far as I can recall, addressed that and I would hope that the Minister, in his winding up, will properly explain what the committee has done.

Securities Bill, 2012 (Adoption)
[MR. IMBERT]

Monday, December 17, 2012

My memory tells me that private companies that have 35 or less shareholders will now be exempt from this requirement to register with the SEC when they are issuing a private issue, but I would like the Minister to confirm and to clarify that, because this will address this concern of the private sector.

The Chamber also was concerned about passage of by-laws without the purview of Parliament, but the by-laws are, in fact, subject to negative resolution so they misunderstood that one, so that is not a cause for concern. The by-laws will come here and if there is need to challenge them, then a Member of the Opposition would file a resolution to negative the by-laws in the normal manner.

As a responsible chamber advocating for good corporate governance and an environment that promotes business growth, we make an appeal for the further consideration of the matters raised by the private sector group.

And I think it is incumbent upon the Minister to address the concerns raised in this letter.

I can also tell you, Mr. Speaker, that I was also sent a document in which a number of concerns of the private sector were raised and I did share that document with the Minister. I received this document Thursday of last week, which again confirmed my own view that there was inadequate consultation on this legislation, or if there was adequate consultation, the way it was handled was wrong, in that stakeholders were not told of what was being done and the Minister was misled to believe that there was consensus on the legislation.

2.15 p.m.

I have sent this document to the Minister. It is my understanding that he may be looking at some of the issues raised by the private sector companies, and I will list them. They all sent comments to the SEC and I will list the companies: ANSA McAL; RBC; Guardian Holdings; Republic Bank; Neal and Massy Holdings; Sagicor Asset Management; Sagicor Life; One Caribbean Media Limited and the West Indian Tobacco Company.

These companies came together and sent their comments in to the Government in June 2012. Having now looked at the final product, they have a number of concerns which I have sent to the Minister, and I would hope that at some point in today's proceedings, the Minister can tell us whether he has been able to accommodate any of the concerns of the various companies that I have just raised.

The point is, Mr. Speaker, I am hoping, and this is my understanding, that the Government—the Leader of Government Business and the Minister—would

complete the session today in good faith, as we have agreed, that at some point in time we would adjourn, and then we would look at various amendments that have to be made to the legislation, so that when it leaves this House at least there would be some consensus among Members present, before it goes to the other place. This is what had been proposed in a pre-session meeting today.

I am hoping the Government will do that so it will give us enough time, as Members of the Opposition, to consider any further amendments to the legislation that may be required, to accommodate the concerns of the private sector in particular. I think the private sector is particularly concerned about private placements and private issues of shares and securities and so on, Mr. Speaker. This, from what I have seen, is the gist of this document that has come from the private sector.

I will just read some of the headings. They are concerned about the definition of a “market actor”; they find it is too broad. They are concerned about the definition of “registrant”; they also find it is too broad. They are concerned about the definition of “connected persons to a reporting issue”; again, they find it is too broad. In particular, the requirement for registration of all issuers, again, that is a serious concern on the part of the private sector. Whether it is a public issue or whether it is private issue, and whether a company with just two shareholders should have to now go and register with the SEC when they are issuing shares to their shareholders. They are very concerned about that, as am I, Mr. Speaker.

As I said, we looked at that and amendments were made to the relevant clause in the legislation that appear to address the matter and, as I said, I would hope the Minister would properly explain this and go through it in some detail because people are listening to us, they are watching us and they want to know what is going on. We would not want to have a situation where there is a belief that this Parliament is just proceeding in complete defiance of responsible commentary and responsible criticism coming from major companies within the local private sector. So, I trust the Minister will address that.

The Government or the committee agreed—it has a majority of Government Members on it, so the Government would have had to agree otherwise the recommendations of the Opposition would not have been adopted. The committee agreed, quite correctly in my opinion, to remove this tribunal for many different reasons. The tribunal was completely unnecessary. It created a third layer of bureaucracy between the commission and the High Court.

There was a very convoluted process whereby some things would have been appealable to the tribunal; some things would go to the High Court; some things

Securities Bill, 2012 (Adoption)
[MR. IMBERT]

Monday, December 17, 2012

would be referred to the tribunal for further consideration, and then when you got to High Court, there was a crazy piece of drafting which I was told afterwards was a typographical error. It is amazing when people draft these things and you confront them, they say it is a typo. There was a crazy piece of drafting where it stated in the Bill that if someone was aggrieved with a decision of the tribunal, they could appeal to a High Court judge on matters of fact and matters of law. But, after the High Court judge had finished his work, the Court of Appeal could not deal with matters of fact.

Miss Mc Donald: Yeah.

Mr. C. Imbert: I consider that to be abhorrent because the High Court judge would not be a specialist in the way, for example, the Industrial Court is comprised of specialists, and I had not seen any similar provision in our legislation, unless you are dealing with a specialist court such as the Industrial Court. All of that is gone. The Minister has accepted that it was completely unnecessary, it was unwieldy. Where were you going to get these people to populate this commission? How are you going to establish the whole system—the bureaucracy required to allow this commission to function?

We have many such tribunals. We have many such appeal tribunals in this country which do not do any work, Mr. Speaker. Some of them have been enacted into law and then have not functioned for years, because it was impossible to find suitably qualified persons to head and to be members of these tribunals. Then there was the whole question of the bureaucracy, the resources and the infrastructure that had to be put in place to support the operation of these tribunals. I am glad the Government saw that it was entirely unnecessary that they just go straight from a decision of the commission to the High Court, Court of Appeal, Privy Council—[*Interruption*]

Miss Mc Donald: That is right.

Mr. C. Imbert:—and the normal system, that is all gone. So, that is a vast improvement in the legislation. [*Desk thumping*]

Mr. Roberts: “First time ah ever hear yuh compliment this Government, if I remember correctly.”

Mr. C. Imbert: Mr. Speaker, through you, I am simply complimenting the Government for accepting my recommendation. [*Desk thumping and laughter*]

Mr. Roberts: It is only fair. It is the season of Christmas. “Yuh going good.”

Mr. C. Imbert: Okay. All right. “It hah nutting to do with Christmas, is common sense.” [*Desk thumping and laughter*]

Miss Mc Donald: Thank you for acknowledging.

Mr. C. Imbert: Anyway, the other deficiency in the legislation was the fines and penalties. They really made no sense. The Minister has made the point now that the penalties and fines have been increased, quite correctly. I mean, the very idea that somebody could misappropriate \$100 million and then serve six months, imprisonment, I mean, there are quite a few people who would be quite willing to do that—[*Interruption*]

Miss Mc Donald: That is right. Yes.

Hon. Member: Monteil!

Mr. C. Imbert:—and send the money abroad to some jurisdiction where it cannot be easily found, serve their six months and then come out, leave the country and enjoy the fruits of their ill-gotten gains.

So, the penalties and the fines have been harmonized and the custodial sentences in particular have been increased significantly from six months to two years, to five years and seven years and so on. As the Minister said, there was a view they should be increased even more, but I think it is adequate for the time being. When the Attorney General’s office has the time or maybe the Law Review Commission or Law Reform Commission could take a look at it and see whether additional amendments need to be made to fines and penalties.

Mr. Speaker, the other issues that have concern to us, and we spent a lot of time on this in the committee, was the whole question of natural justice. You may have heard the Minister speak about adopting the report subject to the recommittal to the House of particular clauses. There were clauses that we on this side considered to be deal-breakers, because the clauses were punitive, draconian and completely unnecessary.

I want to warn the Government, quite often when the Government is confronted by deadlines, that you have to have something done within the next two weeks, within the next month, and some agency is pushing you, whether it is the Financial Intelligence Unit, whether it is the Customs Department or in this case the Securities and Exchange Commission, they are pushing you and telling you as a Government that if you do not fix this problem within the next two to three weeks, a catastrophe will occur, which is what we were faced with here.

Securities Bill, 2012 (Adoption)
[MR. IMBERT]

Monday, December 17, 2012

What happens, Mr. Speaker, and I am not ascribing too much of a hidden agenda on these agencies, but what happens is that these agencies take the opportunity in this tense atmosphere, where things have to be done in a very short space of time, to get some things done that they want, that has absolutely nothing to do with the matter at hand.

We had that situation here, where the SEC was pushing for all sorts of wide and draconian powers which had nothing to do with the IOSCO requirements, which will cause us to be blacklisted on January 01, if we do not do what we are about today. It is a common thing. During the committee we had that all the time, confronted with unreasonable legislation and asking the question, "Is this an IOSCO requirement?" And there was resistance. It will always happen. It is human nature.

All of these commissions and agencies try to sneak things in and abrogate on to themselves all sorts of overreaching and overarching powers, under the guise that, if this is not done, the country will be blacklisted. I am happy to say that when we stood on particular clauses which we found to be an affront to natural justice, and also to basic common law principles, the Minister had the good sense to establish whether these clauses were just things that the commission wanted, or whether they were mandatory in terms of making us IOSCO compliant, and clause 150 was one such clause.

Let me read the clause as it is in the report, which we expect, as we go back into the whole House, will be reverted to something that is much more reasonable. The commission wanted the power to investigate as it considered expedient in order to assist the Central Bank, the Financial Intelligence Unit or any other regulatory agency in Trinidad and Tobago, in the supervision and regulation of the financial system in Trinidad and Tobago.

Now, if you do not look at that carefully it seems innocuous, but it is crazy, because what this clause would have done, if we agreed with it, a person may not be in breach of the Securities Act, a person may not even be involved in the trading in securities in Trinidad and Tobago, but some other agency is investigating that person for a breach of some other Act, and under that legislation, the other legislation, the other agency cannot get access to this person's books and records.

So what they wanted is, if the FIU or the Central Bank or some other regulatory agency is conducting an investigation into a person, and they cannot get access to this person's books and records without a court order, they will just

Securities Bill, 2012

Monday, December 17, 2012

call up the SEC and say, “Go and break down the door and take the person’s document for me.” That is what they wanted. We stood on that and said absolutely not! Absolutely not! We are not creating a police state in Trinidad and Tobago.

I am glad to see that the Minister has agreed. The Government has agreed that that is coming out, because another clause that was in there that has to be read in tandem with that, as I say, ridiculous request that the SEC would have the power that other agencies would not have to deal with matters, nothing to do with the SEC, was clause 152. Listen to this:

Notwithstanding any other written law, no person shall alter, withhold, conceal, destroy or refuse to produce any book, document, instrument or record which he is liable to produce or has been required to produce in accordance with this Act.

And (2):

A person who breaches subsection (1)—that was subsection (1) I was reading—commits an offence and is liable on conviction on indictment to a fine of \$500,000 and imprisonment for two years.

So, put the two clauses together.

2.30 p.m.

The SEC was asking for the power to investigate, which means demanding documents from persons even though those persons would not be in breach of any securities law and, if you do not produce it, look at what you are getting: \$500,000 and imprisonment for two years; strict liability.

What bothers me is: who dreams up these things? So I am going about my business, some other agency is looking to investigate a person; they “cyar” get to the person’s premises; they cannot get in; they cannot seize documents without a court order; they call the SEC and say: “Break dong dah fella door fuh meh!” The person is now confronted—there are no rules; there is no procedure for this search—with somebody saying: “I am from the Securities and Exchange Commission; I want all your papers.” You ask, “Why?” “Doh worry; we doh need to tell you. We are simply assisting another agency in Trinidad and Tobago.” The person says no. They say: “Fine; \$500,000 and two years in jail for you.” Who dreams up these things, Mr. Speaker?

I want to warn the Government—it is coming out, thank God. It is out. If it is not out, we on this side will not be supporting this legislation, but we have a

Securities Bill, 2012 (Adoption)
[MR. IMBERT]

Monday, December 17, 2012

commitment from the Leader of Government Business and the Minister that it is coming out.

Mrs. Mc Intosh: That coming out again?

Hon. Member: Watch me, watch me!

Dr. Rowley: Section 34 [*Inaudible*]

Mr. Imbert: Well, I am hoping it is—

Miss Mc Donald: “Dey cyar be trusted.”

Mr. C. Imbert: I am listening, Mr. Speaker, through you, to the little across-the-floor exchange that the Leader of the Opposition has asked: is this a section 34 commitment? And the Leader of Government Business is saying: “Trust me.”

Miss Cox: I trust in God alone.

Mr. C. Imbert: Mr. Speaker, this could become the script for Play of the Month. “It have no trust in this.” When we see it, then we will believe it; but the Government has made a commitment [*Crosstalk*—yes that 150(b) will be deleted and 150(2) will go back to the original clause, which did not have this nonsense about \$500,000 and two years’ imprisonment.

The commitment has been given, but, you know, there are Members on your side who have given commitments in this Parliament already and then broken them, so we shall wait and we shall see. We have no intentions of getting ourselves caught in a section 34 fiasco again, based on undertakings given by Members on your side in this House. We want to see it in black and white. When we see it—[*Interruption*] Cement. Dr. Rowley is telling me he wants to see it in cement. [*Interruption*]

What I might also say, Mr. Speaker, [*Crosstalk*—I do not know what is going on there—but let us go to another clause which has been dealt with, which is 157, and we asked the Government to insert certain words to give persons protection and it has been suitably proposed for amendment in the report. It would read as follows:

The Commission shall before making an adverse decision, finding or order provide a reasonable opportunity for each person or entity adversely affected to make either oral or written representations and shall give reasonable notice to each such person or entity, including a statement of the time within which representations are to be made; reference to authority under which that order

may be made; concise statement of case; statement that the person fails to make representations within the time referred to; the Commission may proceed without notice—and so on, and so on, and so on.

This is the natural justice protection we are talking about because this commission will now have very powerful powers, in that they can suspend trading in a security; they can delist a security from the stock exchange; they can impose fines and they can even make a recommendation to the DPP for action. That is another clause I thought we should let the House know about and let the national community know about. That is another clause that we took our time with and that is the whole question of reference to the DPP.

What the commission wanted again—and again I have to shake my head and wonder who dreams up these things—is the power to refer matters to the DPP without giving an affected person a right to be heard. Again, we have precedents in Trinidad and Tobago of persons whose matters have been referred to the DPP and they were not given a right to be heard. There is even a court decision coming out of that where the decision of the authority to refer the matter to the DPP was quashed and reversed and the particular authority that was the subject of that matter was subject to some severe criticism and censure. Let me just find the particular clause. [*Interruption*]

Yeah, we all know what we are talking about here; but can you believe that the SEC wanted to be able to refer matters to the DPP without letting the affected person, the accused, know that matters have been referred to the DPP and without giving the accused person a right to be heard, to make representations. We have changed that. What they wanted previously was as follows:

Nothing in this Act prevents the Commission from referring any matter to the DPP.

“So yuh coulda just go ahead and do it.”

We have asked the Government and they have put it in the following words:

No report concluding that a person to whom this Act applies has failed without reasonable justification to fulfil a duty or obligation under this Act shall be made—this is the one before to the DPP—until reasonable notice has been given to such person of the alleged failure and the person has been allowed full opportunity to be heard either in person or by an attorney-at-law.

I cannot imagine why this was not there before. You would not believe, Mr. Speaker, when we challenged this, “we getting resistance”, you know. They

Securities Bill, 2012 (Adoption)
[MR. IMBERT]

Monday, December 17, 2012

wanted that power. They wanted the power to refer matters to the DPP without giving the accused person a right to be heard. The thought process is what is bothering me. You have to wonder where all of this is coming from.

There was also a definition of “relative” which, I mean, again, absolutely crazy, and you have to wonder where is all of this coming from. Who dreams up these things? I will go to the definition of “relative” now so that you can see the very peculiar definition of “relative” that was in the Bill that we have caused to be removed.

Listen to this. This is the original definition:

“‘relative’ ...means a—

(a) spouse or a cohabitant;”

Okay, no problem.

“(b) a parent;”

Fine.

“(c) a grandparent;”

Okay. This is the mischief.

“(d) a brother or sister, whether or not connected by—

(i) consanguinity;

(ii) affinity;

(iii) reason of cohabitational relationship;

(iv) adoption;”

and so on; and:

“(e) a son or daughter, whether or not connected by—

(i) consanguinity;

(ii) affinity;

(iii) reason of a cohabitational relationship;”—et cetera.

When we saw this very strange language, we asked the technocrats: explain what that means. Of course, we got resistance again, but we were standing our ground. So we asked: “Wha dat mean?” Believe it or not, Mr. Speaker, the meaning of “a brother or sister, whether or not connected by affinity; or a son or

daughter whether or not connected by affinity” means that if you grow up in a house, but you are not related to the people in that house, you are captured by this.

If, for example, somebody from Tobago who has to come to Trinidad to study goes and takes lodging by a friend, they are now considered to either be a brother or a sister or a son or a daughter by affinity. So it means anybody who lived in your house for a short period of time, or you are associated with in some way, would have been considered to be your relative for the purposes of breaches of this Securities Act. Absolute madness! Absolute madness, Mr. Speaker.

This would have affected so many people in Trinidad and Tobago. [*Crosstalk*] So we have got them to remove that and now it is “brother”, “father”, “mother”, “sister”, “grandparent”, the normal definition. [*Desk thumping*] What bothers me is: who dreams up these things and tries to sneak them into legislation? It is a good thing. “Even though you are under pressure; even though they had us sequestered in a room for six hours and we tired; and dey pushing—”

Dr. Gopeesingh: “Doh complain, nah. Yuh tired do that to us.”

Mr. C. Imbert: No, you stay out! Mr. Speaker, could you ask [*Crosstalk*]—could you talk to them for me, please? The Government of Trinidad and Tobago, of which I was a part, never asked Members of the Opposition to “siddong” in a room and finish 178 clauses in four days. Do not try that on me! Never!

The Member for Caroni East, it is a fact, made very valuable contributions on the Children Bill in the select committee but that was over a period of 12 months; not 12 days. So do not try that on me. It is a good thing that even though we were tired, Mr. Speaker; even though they had us under pressure, there were sufficient persons present to be able to pick up all of these anomalies and all of these draconian and invasive provisions in this legislation. In our opinion, the legislation is much better now than it used to be.

I will give you another example of what we insisted upon, and again we got resistance. The commission is empowered to issue guidelines for the conduct of market actors—so guidelines for listed securities, for brokers, for broker/dealers, for other persons involved in the securities industry—and even though those guidelines would not have been statutory instruments, the commission was reserving unto itself the power to take action against a market actor if they were in breach of the guidelines.

Now, that is the mischief in all of these things because there is no oversight. The commission was giving itself the power to issue guidelines and if somebody

Securities Bill, 2012 (Adoption)
[MR. IMBERT]

Monday, December 17, 2012

breached those guidelines, they could suspend trading in the security; they could delist a security; they could do all sorts of things. They even wanted to fine people and subject them to administrative fines. We have changed that to “the Commission may in consultation with the Minister issue guidelines on any matter it considers necessary.”

So no longer can the commission act on its own and issue guidelines which could cause an entire listed security to be removed from the stock exchange, they have to talk to the Minister and explain to the Minister what they are doing. We were given an assurance by this Government, by some of its more naive Members—because there are some Members opposite who really have not been in Government very long and they are very naïve—that if the commission was misconducting itself, the Government would simply fire the commission. Easier said than done!

When you go to fire these people, they use all of the contacts and the connections at their disposal; all their connections in the media; all their connections in the professional organizations; they start to lobby; they whisper in the ear of the Prime Minister. I know this, Minister. I have been through that, you know. When you have a board of directors misconducting itself and you want to get rid of them, they use every possible connection they have—whether family connection or not—

Hon. Member: Affinity.

Mr. C. Imbert:—to—affinity. Whatever affinity they may have, they use everything to prevent that from happening. It is easier said than done. “That is why I said some of the more naive Members of the Government felt that, alright, if they misbehaving and they issue a foolish guideline, we go just fire them. Not so. It doh work so.” At least the Minister will be consulted now and if there is need to remove the members of the commission, then at least the Minister will have some forewarning as to what they are up to and appropriate action could be initiated.

There were many other things that we looked at—the whole question of disclosure; the whole question of whether, if there is a material misrepresentation in a prospectus as to—*[Interruption]*—yeah, that is quite all right. Mr. Speaker, there is someone in the back of me. I really do not like him being behind me *[Crosstalk]* but, unfortunately, I have no control over where he sits. Mr. Speaker, could you ask him to stop talking behind me, please?

Securities Bill, 2012

Monday, December 17, 2012

2.45 p.m.

Mr. Speaker: Hon. Member for St. Joseph, you are disturbing the Member for Diego Martin North/East. [*Laughter*] Continue, hon. Member.

Mr. C. Imbert: Thank you. The point is, Mr. Speaker, it could be in any report but the public is not aware of these things, and our purpose in this Parliament here today is to explain to the public what we are about, because, when mistakes are made, they are not going in any report to see what went on. And this is why I am speaking now, Mr. Speaker.

There was the whole question as to whether a person who is purchasing a security based on a prospectus, whether that person relied upon all of the information that is in the prospectus and whether they have a cause of action against the issuer if there was a material misrepresentation in the prospectus. And, in fact, it was one of our Members, Dr. Henry, who insisted that we go with a particular wording that the person who issues the prospectus, if they misrepresent the facts, if they mislead, if they lie, and, subsequent to that, the person who invested in that particular security loses their money, they can take action against the issuer whether or not they relied upon the misrepresentation in the prospectus, because they might not even know. “They just buy it because it looking nice and, next thing you know, the share loses all of its value and they lose all their money.”

So we have made this thing so accommodating to persons who may invest in the stock market without the proper knowledge of what is required; what they should look for when they are investing in a security. That is another material change that we made.

There was another clause we put in and we had some reservations on this. Well, we did not put it in, this is something that the securities commission wanted and we were not happy about it.

Mr. Speaker: Hon. Members, the speaking time of the hon. Member for Diego Martin North/East has expired.

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

Question put and agreed to.

Mr. Speaker: You may continue, hon. Member for Diego Martin North/East.

Mr. C. Imbert: Mr. Speaker, I can see I will have to write you formally and ask for this hon. Member to be relocated—[*Interruption*]

Miss Mc Donald: This independent—

Mr. C. Imbert:—[*Pointing action by the Member*]*—so or so, or somewhere out so. [Laughter]* But the fact is, Mr. Speaker—[*Interruption*]

Dr. Moonilal: [*Inaudible*]

Mr. C. Imbert:—I would not take up the entire 30 minutes.

Miss Ramdial: Thank God!

Mr. C. Imbert: I would not. No, I would not take up the 30 minutes because I am almost at the end. The fact is, though, that I want to put on record that at the end of the day the Government accepted all of the requests that we made. There were Members of the Government who do not seem to be—[*Interruption*]

Dr. Moonilal: Government business.

Mr. C. Imbert: You want to ask me something? Well, ask me now. Okay, I will give way to the Leader of Government Business.

Dr. Moonilal: Thank you very much, hon. Member. I just want to make clarification and seek the views of the hon. Member on a matter he raised earlier. We did agree, earlier in the day, that we would take a break, suspend the sitting to reflect on some of the comments and suggestions made by the private sector.

The Government has circulated the list of amendments to the Members in the House, and looking at the list of amendments at this stage, would the Member still want to pursue that course of action; to suspend to consider other matters raised by the private sector, or would you want to continue with the session and go to the vote on the matter? If there are other issues that you think we need to suspend to consider further amendments outside of this, or would you want to go immediately straight on to the vote? I am just asking and we will be guided.

Mr. C. Imbert: Yes. I thank the Member for that request. The fact is, Mr. Speaker, I am advised that some of these amendments that are going to be proposed when the matter is recommitted to the House do take into account the views of the private sector. I still think we should not rush this. I mean, it is only 10 to 3.00 and I think we can still move as planned. What I would ask the Leader of Government Business to do is that, if we finish our business quickly, that we could reconvene at an earlier time. I do not know if the Standing Orders allow that, but I think we could work it out, but I still think we need that hour. We need at least one hour to study the amendments that are being proposed to clauses 8, 136, 139, 150 and 152 just to make sure that all of the requests that we have made have been accommodated.

This is reminding me of the deliberations of the committee. “Dey han meh ah piece ah paper an tell meh, ‘In five seconds, agree to that’”. I mean, at least we had four days to look at the—so, Mr. Speaker, as far as I know there is agreement that we will not go to the vote; we will suspend for an hour and take a look at these final amendments and if everything is okay, then we can complete our business.

Coming back to the point I was making before the Leader of Government Business intervened; the commission wanted the power to apply to a High Court judge *ex parte* to enter the premises of a person to conduct an investigation. We had some problems with this, because although we recognized that there may be situations where the commission has to move with speed, we still needed to have some sort of natural justice provision inside of here.

Now, it is a fact that when you go to a judge *ex parte* to get an *ex parte* order, authorizing a search of a premises, that you have to satisfy the judge, but we decided to put some additional words in there that the circumstances must require this order from the judge. In other words, we are giving the judge an additional point to consider that this power, or this mechanism, whereby the commission will go *ex parte* to a judge, must be done in extraordinary circumstances; not just so, not by “vaps”.

So we agreed to this but we recognized that this will now be up to the judge to establish whether the circumstances warrant an *ex parte* approach to the court to get an order to search premises and retrieve documents and so on, Mr. Speaker. So what we sought to do, in the committee, is to balance the competing requirements of the regulator and natural justice provisions.

Mr. Speaker, apart from that, apart from the change in the definition of “relative”, apart from the deletion of clause 150(b), and the reversion of clause 152, and amendments to clause 161, and also, one of the Independent Senators also wanted a change to clause 139, which is the one dealing with the prospectus, I believe if we break now, Mr. Speaker—and as I said, if we can break for an hour—I do not know what is your plan. I will give way.

Dr. Moonilal: Yes. The plan would be to take the break at or around 3.00 p.m. for one hour to reconvene at 4.00 p.m., and then we will consider the amendments circulated, but also the other issues that you are raising.

Mr. C. Imbert: Right. You are just going to suspend for an hour?

Dr. Moonilal: For an hour.

Mr. C. Imbert: Okay. Well, Mr. Speaker, on that basis, therefore—
[*Interruption*]

Dr. Moonilal: Do you want to stop now or you would want to—

Mr. C. Imbert: I can stop now. Okay? And if you want to suspend, you could suspend now if you want. Mr. Speaker, I am in the hands of the Leader of Government Business.

Dr. Moonilal: We can suspend?

Mr. C. Imbert: Suspend for an hour? Just suspend, so that makes it easy. If you suspend now you suspend everything for an hour, but I am not finished. I will just have about three, four minutes when we come back.

Dr. Moonilal: When we come back you will take a few minutes.

Mr. C. Imbert: So I am still on my feet.

Mr. Speaker: Okay. Hon. Members, we shall suspend the sitting at this time so that there can be further discussions between parties, and this House will resume at 4.00 p.m. This sitting is now suspended until 4.00 p.m.

2.55 p.m.: *Sitting suspended.*

4.15 p.m.: *Sitting resumed.*

Mr. Speaker: The hon. Member for Diego Martin North/East.

Mr. C. Imbert: Thank you, Mr. Speaker.

Dr. Moonilal: [*Inaudible*]

Mr. C. Imbert: Mr. Speaker, I am getting instructions from the Leader of Government Business. You are confused. I do not work for you.

Hon. Member: [*Inaudible*]

Hon. Member: Wind up.

Mr. C. Imbert: I am not on that side, I am on this side.

Mr. Roberts: And we are very happy that [*Inaudible*]

Mr. C. Imbert: And after all the things that occurred in our meeting, I may have to talk for another hour. The fact is, Mr. Speaker, that we were able to reach

tentative agreement on the amendments to the various clauses, and the clauses that need to be amended are as follows: clauses 81, 136, 139, 150, and I believe there is another clause that will require amendment and may I explain, Mr. Speaker, why it is necessary to amend this clause.

As it now stands, if you are the owner or a shareholder in a private company—and I know there are people present who may have an interest in this, on the other side—and you want to distribute shares to your shareholders, if we do not amend the specific clause that deals with a private issuer and a limited offering, what it would mean, Mr. Speaker, let us say you have a small, private company with four shareholders and each shareholder has been issued one share at the time of incorporation, but for some purpose, maybe for raising a loan or some other purpose, you want to issue additional shares to these four private shareholders, or you want to bring in a fifth shareholder who may be investing in the private company, if we do not amend this Bill, what it would mean is that a report would have to be made to the securities commission with respect to the issue of those shares in that private company.

Now, you will agree, Mr. Speaker, that makes absolutely no sense. It could not have been the intention that shareholders in small, private companies, who are issuing shares to themselves, or to new shareholders, would have to register with the Securities and Exchange Commission and would have to file distribution statements and in other ways comply with the requirements of the Securities and Exchange Commission.

So, in our meeting, during the suspension of the House, we have resolved that issue by saying that the provisions of the legislation that require registration and reporting to the Securities and Exchange Commission shall not apply to companies that have less than 35 shareholders, and shall not apply in situations where these shares are being offered to employees and officers of the company.

4.20 p.m.

Mr. Speaker, I have only just seen what the Chief Parliamentary Counsel has done. I am unable in the next five seconds to digest this, so I assume that at the committee stage we will go through this in some more detail. If in fact it captures everything that we discussed in the private meeting, then I think we will be okay, but we will have to go through this in some detail at the committee stage.

The point is that we have sought in this Joint Select Committee to deal with the concerns of the private sector, our own concerns and the concerns of the wider public. Based on the limited time we had and the intense pressure that we were

Securities Bill, 2012 (Adoption)
[MR. IMBERT]

Monday, December 17, 2012

subjected to—[*Laughter*] I know you are laughing, but we were put under serious pressure, and I am not even sure why we are agreeing to this. I remember the PNM held a position that we would not support the Government on any such matter in the future. We must have had a change of heart; I do not know why.

Mr. Sharma: “Cut out de comedy, nuh.”

Mr. C. Imbert: I follow instructions unless I consider the instructions to be outrageous.

Dr. Moonilal: You thought that was outrageous?

Mr. C. Imbert: Well, I am compliant today, so that it appears that we will go along with this legislation, as long as the amendments that we have requested are made and the amendments that we have just discussed are made. From what I am seeing we will have to recommit clauses 81, 136, 139, 150, 61, 62, 73—as far as I can see. Let me just go over the clauses that have to be recommitted to the House: 61, 62, 73, 81, 136, 139 and 150. This is what I am picking up from this.

Mr. Speaker, with those few words, I would indicate that we will support this legislation, as long as the amendments that are being proposed address the concerns of the private sector and other stakeholders and we are not certain of that yet. We will just deal with that in the committee stage. Thank you. [*Desk thumping*]

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): [*Desk thumping*] Thank you, Mr. Speaker. In terms of what the hon. Members raised, there were not a lot of new matters that needed to be addressed. Most of them had been addressed by way of discussion in the Joint Select Committee, as well as in the short recess we had a short while ago. The issues that came up were, one, the issue of consultation, which certainly as Minister I have taken note of. In fact, there was widespread consultation, what there was not was widespread feedback to the people with whom there was consultation and then subsequent distillation of the feedback. [*Laughter*]

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

Sen. The Hon. L. Howai: I take the point, and I understand that, in terms of how this process works, in the future we need to ensure that the private sector gets the feedback in time to distil it and provide any further comments, so that we have a very broad-based view of what the concerns are and how they need to be addressed, so that when we put them into the final Bill they do not come as a surprise to anyone.

Nevertheless, the points that were raised by the private sector were well made, as a consequence of which, one of the big changes that had been incorporated, even before we came to this honourable House from the Joint Select Committee, was the issue of the

limited offerings, as well as private issuers, clauses 61 and 62. That was a major change that was made to the Bill that was sent to Joint Select Committee. That is one, in fact, that was very sorely needed, and I am very glad we picked that up and were able to make that change. It would have been very unwieldy and very difficult to implement had we not made that change.

There are a few other items which the hon. Member for Diego Martin North/East has raised which we will pick up in the committee stage, and which he has enunciated on. For example, participation in employee share option plans, how that would work and what would be the kinds of implications for that. In particular we wanted to ensure that private issuers did not run into problems with ESOPs, neither as we would also be concerned with public issuers also being caught in that trap. Therefore we have streamlined and made that process a lot easier than had been in the original Bill that was tabled before this House.

There are a number of other issues which we have dealt with, which relate to things such as relatives, as well as other areas which speak to the requirements of private issuers post an issue; for example, requiring a post-distribution statement and so on. We have made it easier as a consequence to allow private issuers, who would do a limited offering, not having to provide post-distribution statements for having done a share offering within the context of what we contemplate as being a limited offering. That is an area that we have made some additional changes to, having gone back in the short recess, which allowed us to take another look at specific sections of this proposed Bill. Apart from that, there are not any other major changes which we have made.

As I said, Mr. Speaker, this Bill has been reviewed previously and, of course, quite a significant amount of work has been done. What I would want to do is bring my own response to an end.

I beg to move that the report of the Joint Select Committee on the Securities Bill, 2012 be adopted subject to the recommittal of clauses 61, 62, 73, 81, 136, 139 and 150 of the Bill to a committee of the whole House. [*Desk thumping*]

Mr. Speaker: Hon. Members, the question is, be it resolved that the House adopt the report of the Joint Select Committee on the Securities Bill, 2012, subject to the recommittal of clauses 61, 62, 73, 81, 136, 139, 150 and—is it 150? Do we have 152 or we stop at 150?

Hon. Members: Clause 150.

Mr. Speaker: And 150.

Miss Mc Donald: And 152 as well.

Mr. Speaker: It is 152 as well?

Securities Bill, 2012 (Adoption)

Monday, December 17, 2012

Miss Mc Donald: Clause 152 is the original. We are going back to the original, so you have to put it in.

Mr. Speaker: And 152; we have to incorporate 152.

Question put and agreed to.

Report adopted.

SECURITIES BILL, 2012

Bill committed to a committee of the whole House.

House in committee.

[Interruption]

Mr. Chairman: Hon. Members, may I advise that just for the record, only the matters that have been recommitted to this whole committee can be considered. No additional matters will be entertained, in accordance with our Standing Orders. Only those clauses that I have mentioned will be entertained by the whole committee of this House.

Clauses 1 to 178 ordered to stand part of the Bill.

Clause 61 recommitted.

Question again proposed: That clause 61 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 61 be amended as circulated:

A. In subclause (3) insert after the words “government entity” the words “, international agency or such other person as may be prescribed”.

B. Insert after subclause (3) the following clauses:

“(4) Subsection (1) shall not apply to:

(a) a limited offering provided that the issuer files a post distribution statement in accordance with section 84; or

(b) a limited offering made to a person who:

i. is a senior officer or partner of the issuer;

- ii. is directly involved in the business of the issuer;
- iii. is an associate or relative of the issuer;
- iv. a shareholder of the issuer; or
- v. meets such other conditions as may be prescribed.

(5) Notwithstanding subsection (4), the Commission may determine that it is in the public interest that the requirements of subsection (1) be met by the issuer.”.

Mr. Imbert: Thank you, Mr. Chairman. Firstly, I think the word “is” is missing in 61B(b)(iv). Is the word “is” missing at the front of that?

Dr. Moonilal: Yes.

Mr. Imbert: So we could put in “is”.

Mr. Speaker: We will put that in, thank you.

Mr. Imbert: Secondly, more importantly, this should apply to persons who will become shareholders. The way it is worded, it seems to be limited to only persons who are existing shareholders. You are making the offering, the person would not yet be shareholder. We are limiting it to the 35, so a company may have five shareholders at this time, they may want to bring in five more, but those people are not yet shareholders so they are not captured by this clause.

Dr. Moonilal: Remember the exemption is as of the time of the offering, it is worded in the present tense, it cannot be futuristic “whoever will become”.

Mr. Imbert: Why not?

Mrs. Persad-Bissessar SC: The law is always speaking in the present tense.

Mr. Imbert: I know that.

Mrs. Persad-Bissessar SC: So if someone becomes a shareholder he will fall within “is a shareholder”.

Mr. Imbert: No, no, no, because you are making the offering to people who are not yet shareholders. When we had the discussion in the meeting during the break, we were talking about two categories of people: people who are shareholders at this time, where there are less than 35, or people who may become shareholders but still fall below the 35 limit. This does not capture that.

Securities Bill, 2012 (Adoption)
[MR. IMBERT]

Monday, December 17, 2012

4.35 p.m.

I think the Minister's proposal is quite correct.

Mr. Howai: But then each one of the subclauses from (i) to (v) could change because—*[Interruption]*

Mrs. Persad-Bissessar SC: Roman (i) to (v) will delete that.

Mr. Howai:—it should be made to a person who is or becomes a senior officer.

Mr. Imbert: No, well, you see, that is an employee stock ownership plan—

Mr. Howai: Yes.

Mr. Imbert:—so it is to existing employees. That is quite different from shareholders.

Mr. Howai: No, but you may hire someone and say, “look, as I am bringing you in, I am putting you into the—

Mrs. Persad-Bissessar SC: You become.

Mr. Imbert: Yeah, but when you make an employee stock ownership offer, it is to existing employees. So I do not see a problem there, but if you are making—let us use a specific example. A small private company wants to raise some capital and, in return for the investment, they issue shares to the investors which could be just two or three people.

Mr. Howai: Um-hum.

Mr. Imbert: But those persons are not yet shareholders—

Mr. Howai: I understand that.

Mr. Imbert:—they are going to become shareholders, whereas employees are already employees. I am sure the drafters can deal with this.

Mr. Howai: Yeah, yeah. We should be able to make that.

Mr. Imbert: I am sure they can deal with it. Mr. Chairman, I have a proposal. Can we revisit this while the draftspeople think about it?

Mr. Howai: What he is saying is what we agreed. That is what we agreed but it is the drafting. *[Crosstalk]*

Mr. Chairman: We like Members to take their time because I do not want to come back and revisit. Take your time and have this matter resolved.

Securities Bill, 2012

Monday, December 17, 2012

Mr. Imbert: No problem.

Mr. Howai: It does not change, well—if he wants to put it in.

Mrs. Persad-Bissessar SC: It does not change the price of cocoa. Is this redundant? [*Crosstalk*]

Mr. Imbert: So what do you want to make? What is the change you are going to make?

Mr. Howai: Yes, so it “is or becomes”.

Mr. Imbert: Is it “is or becomes”?

Mr. Howai: Yeah.

Mr. Imbert: Good.

Mrs. Persad-Bissessar SC: It makes no difference.

Mr. Imbert: Well it makes a big difference to me.

Mrs. Persad-Bissessar SC: It makes no difference. [*Crosstalk*] Well, they cannot do it for you. It does not make sense.

Mr. Howai: Okay. So we are just doing it for shareholder; “is or becomes a shareholder of the issuer”.

Mr. Imbert: As long as they agree, I am happy, you know.

Mrs. Persad-Bissessar SC: Do you want it for all of them?

Mr. Howai: No, no. Just for (iv).

Mr. Imbert: Just this one.

Mrs. Persad-Bissessar SC: Just that one.

Mr. Howai: Okay. Good.

Mrs. Persad-Bissessar SC: You plan to become a shareholder perhaps?

Mr. Imbert: Yes. Yes.

Mrs. Persad-Bissessar SC: Okay.

Mr. Chairman: Is that okay?

Mr. Howai: Yes.

Mr. Imbert: Yes.

Mr. Howai: Agreed.

Mr. Chairman: So we are saying that clause 61—

Mrs. Persad-Bissessar SC: Further amended.

Mr. Howai: Yeah.

[Pause]

Mrs. Persad-Bissessar SC: The draftsmen are suggesting that it is not appropriate to put the word that you are suggesting [*Inaudible*].

Mr. Imbert: That was not my suggestion; it was the Minister's suggestion. It was a concept that I want to capture.

Mr. Howai: Yeah.

Mr. Imbert: And it is really up to the draftspersons to tell us how to address the concept.

Mr. Howai: No, but once you are within the 35, it should not be a problem. So it meets the requirement of a limited offering, so no matter who—[Pause]

Mr. Howai: The suggestion by the draftsmen is that the way we have it here, actually, “is a shareholder of the issuer” meets the requirement. If we went with “becomes,” or any other wording, it would create a problem.

Mr. Imbert: All right. But how does this deal with a private company—a small private company—issuing shares in order to raise capital? How does this address that? Because the complaint was that you have a small company, with four shareholders that may wish to raise capital by issuing four more shares but they are still not a listed security or anything like that, now having to file reports with the securities. How does this address that problem? [*Crosstalk*] The problem is, the shares may be issued to people who are not shareholders of record at this time.

Legal Advisor: Each issue is a separate distribution. So the first issue would be the first four people, and if they issue another four, there will be now eight. And if they issue another four, there will be twelve.

Mr. Imbert: Yeah, but those persons are not shareholders at this time because look at the words. “A limited offering made to a person who”, well we are putting in the “is”, “is a shareholder”, but they would not be shareholders before they take up the share offering.

Legal Advisor: But at the time that they take it up, there would be a new distribution and they would be subject to the exemption so they would be now captured each time. So each issue would be a new offering.

Mrs. Persad-Bissessar SC: Is an offer.

Legal Advisor: So the first four would be captured and then the second four would be captured because you did not go over the 35. Then the third four would be captured because you did not go up over the 35 and it would continue like that until it goes up to 35.

Mr. Imbert: Yes, but would they not be required to file the post distribution statement?

Legal Advisor: No, because they did not cross the 35.

Mr. Imbert: So, Minister, could we just look at that clause with the 35, please, just to make sure we know what we are talking about?

Mr. Howai: You are speaking to the definition of a limited—

Mr. Imbert: The one with the 35; private issuer or whatever it is.

Mr. Howai: So that would be—a “private issuer” would be page 71 of your document and page 68 would be “limited offering”.

Mr. Imbert: It is not a reporting issuer, okay.

Mr. Chairman: Are we comfortable?

Mr. Imbert: No. Not yet, Mr. Chairman. You had said let us settle it, “eh.”

Mr. Chairman: Yes, of course. I am just wondering if you all are comfortable.

Mr. Imbert: No, no, no.

Mr. Chairman: Silence is reigning, you see.

Mr. Imbert: No, Sir. We are not comfortable.

Mr. Chairman: All right.

Mr. Imbert: Okay. A limited offering means, following the distribution, the number of security holders is not greater than 35. Right. Then a private issuer means an issuer that is not a reporting issuer—okay—and whose securities are beneficially owned by no more than 35 persons. Fine. So we need to look at clause 61.

Mr. Howai: Sixty one.

Mr. Imbert: The same one that we are amending; the same clause we are amending.

Mr. Howai: Yeah. They say it is unlimited offering. So what they are saying is, following the completion of such distribution. So, in effect what they are saying is that the number is really counted following the distribution. You see, it starts by saying, “means the distribution by a private issuer where following the completion of such distribution a number of securities holders of the issuer is not greater than 35 persons”.

Mr. Imbert: Yes, but look at 61(4) (c), it says that:

“Subsection (1) shall not apply to: a limited offering provided that the issuer files a post distribution statement (a)...”

Mrs. Sampson-Meiguel: It has a 61(4)?

Mr. Howai: Yeah, yeah, 4 (c).

Mrs. Sampson-Meiguel: Where?

Mr. Howai: (c) would be “a limited offering provided”—

Mr. Imbert: It says, it does not apply provided the issuer files a post distribution statement.

Mr. Chairman: Sixty one, four.

Legal Advisor: The (c) is supposed to be (a) and (b).

Mr. Imbert: The (c) is supposed to be (a) and (b)?

Legal Advisor: On the new—the (c) supposed to be (a) and (b), but the exemption that it would fall under does not require—

Mr. Howai: Okay, 64(4)—

Mr. Imbert: Sixty four? My 64 does not have a (4).

Legal Advisor: Sorry, 61.

Mr. Howai: Oh, 61(4) (b).

Mr. Imbert: Yeah. I see that, but let me just tell you when I read it—let me explain what I mean.

Mr. Howai: Okay, okay.

Securities Bill, 2012

Monday, December 17, 2012

Mr. Imbert: “Subsection (1) shall not apply to:

a limited offering provided the issuer files a post distribution statement... or”;
we are dealing with the “or” now:

“a limited offering made to a person who:
is a senior officer...”

So that is an employee.

“...directly involved in the business...
is an associate or relative...
is a shareholder...”

So, how is this going to work if the person is not yet a shareholder?

Legal Advisor: When the first distribution takes place—

Mr. Howai: Yeah. Uh hum.

Legal Advisor:—there is no requirement for the distribution statement because it does not fall [*Inaudible*]

Mrs. Sampson-Meiguel: Speak loudly for them to hear.

Legal Advisor: At the subsequent issue, with the new distribution, you would just add up the numbers and you still would not be required to file a post distribution statement because there is no mention of a post distribution statement in 61(4) (b).

Mr. Howai: Yeah. Yeah. So, 61(4) (b)—

Mr. Chairman: Before you continue, you can speak through the Chair, but allow everyone to hear. You are here in the committee so the information could travel. So you can speak through your voice so that Members on the other side can hear.

Mr. Howai: All right. Okay. Speak through the Chairman, okay.

Mr. Chairman: And you are speaking through me so that Members can hear. Okay. You can go ahead. You can proceed.

Legal Advisor: Sixty-one (4)(a), requires a post distribution statement.

Mr. Imbert: Got that.

Legal Advisor: Sixty-one (4)(b), does not require a post distribution statement. For each subsequent shareholder—each subsequent issue of shares to a

new shareholder would be a new distribution, it would be captured by the exemption, and there would be no requirement for the post distribution statement. So each time there is an issue, you now fall under (b). So you take the exemption each time there is a new issue. So the first issue would be the first four shareholders and you would fall under it because, you would say, okay, it is a limited offering made to a shareholder, and the next time it is still a limited offering made to the shareholders, and there is no requirement in that exemption linked to shareholders to file a post distribution statement.

Mr. Imbert: So, Mr. Chairman, through you, are you saying the person would become a shareholder before the requirement to file the post distribution statement?

Legal Advisor: The person would be a shareholder, the issue would be made to them and then, because it is made under this exemption, there would be no requirement to file a post distribution statement.

Mr. Imbert: So, just let me get this clear. So the limited offering would be made to new potential shareholders.

Legal Advisor: No, they would have to be shareholders on—they would have to be registered shareholders. So, if you had people—if you had new shareholders you wanted to issue some more shares to the people, you would take them on and when you issue those shares, that is the distribution. However, the distribution would not require registration or would not require the filing of the post distribution statement because it falls under this exemption. So it is almost a simultaneous action. You issue the shares to the person, the person becomes a shareholder, you fall under the exemption, and you have no obligation.

Mr. Imbert: Well, you ended off well but you started badly. Let us go back. Let us use a specific example—small private company with four shareholders each having one share, wants to raise capital by issuing shares to four new people who would each have one share. Are you saying that when they issue the shares to those four new people, those people will immediately become shareholders, and the post distribution statement referred to in (a) applies after they become shareholders and not before?

Mr. Chairman: Minister, do you want to intervene at this time?

Mr. Howai: No, no. Let her answer the question.

Mr. Chairman: Okay.

Securities Bill, 2012

Monday, December 17, 2012

Legal Advisor: It would not apply at all because it is being offered under an exemption that does not require a post distribution statement.

Mr. Imbert: No, but they have to be captured by the exemption by becoming shareholders.

Legal Advisor: Yes.

Mr. Imbert: So that you are saying they will become shareholders first and then they will be exempt because the post distribution statement is after the distribution?

Legal Advisor: Yes.

Mr. Imbert: “Ah seeing some shaking, some nodding.” Could I get consensus down here, please?

Legal Advisor: The post distribution statement is after the distribution. So if they were not shareholders, then they would have to meet it, right? But it is a simultaneous action. So you issue the shares to the new people who you want to raise the capital from and, because you are falling under (b), there is no post distribution statement. So even if they were to have to file one, it would still be after, because you can only—the post distribution statement contains information about the distribution, so you can only file it after the distribution is made, but since the exemption you are filing it under does not require a post distribution statement, you just issue the shares to the four new people, and that is it, there is no post requirement; that is the end of the transaction.

4.50 p.m.

Mr. Howai: You are okay with that?

Mr. Imbert: That is an acceptable explanation.

Mr. Chairman: So, what is the amendment?

Mr. Howai: “Is”.

Mr. Chairman: The question is that clause 61 be amended as circulated subject to a further amendment where we insert the word "is" at the beginning of 4(b), Roman (iv).

Question put and agreed to.

Clause 61, as amended, again ordered to stand part of the Bill.

Securities Bill, 2012 (Adoption)

Monday, December 17, 2012

Clause 62 recommitted.

Question again proposed: That clause 62 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 62 be amended further at (b)(4) with the similar insertion of “is”.

- 62 A. In subclause (2) (b) insert after the words “government entity” the words “or international agency”.
- B. In subclause (4) insert after the word “offered” the words “or as otherwise prescribed”.
- C. Insert after subclause (8) the following:
- “(9) Subsection (1) shall not apply to:
- (a) a limited offering provided that the issuer files a post distribution statement in accordance with section 84; or
- (b) a limited offering made to a person who:
- i. is a senior officer or partner of the issuer;
- ii. is directly involved in the business of the issuer;
- iii. is an associate or relative of the issuer;
- iv. a shareholder of the issuer; or
- v. meets such other conditions as may be prescribed.

(10) Notwithstanding subsection (9), the Commission may determine that it is in the public interest that the requirements of subsection (1) be met by the issuer.”.

Mr. Chairman: The question is that clause 62 be amended as circulated subject to a further amendment where we insert “is”, rather, in 9(b), Roman (iv).

Question put and agreed to.

Clause 62, as amended, again ordered to stand part of the Bill.

Clause 73 recommitted.

Question again proposed: That clause 73 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 73 be amended as circulated:

73(1) Delete the words “where such trade would be a distribution” and substitute the words “that would be required to be registered pursuant to section 62(1)”.

Mr. Imbert: Mr. Chairman?

Mr. Chairman: Yes.

Mr. Imbert: Could the Minister please explain this amendment or could someone on that side please explain this amendment to 73?

Legal Advisor: This amendment was made as a consequential amendment to the requirement that shareholders be exempted from—be included in this exemption, so it is a prospectus exemption and, by deleting the words “where such trade would be a distribution” and substituting the words “that would be required to be registered pursuant to 62(1)”, it means that any securities that are not required to be registered under 62(1), which would include the list discussed above, would also automatically be qualified for prospectus exemption, because if the securities are not required to be registered then you do not need a prospectus.

Mr. Chairman: All right, let us proceed.

Question put and agreed to.

Clause 73, as amended, again ordered to stand part of the Bill.

Clause 81 recommitted.

Question again proposed: That clause 81 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 81 be amended as circulated:

81(1) A. In subparagraph (f) after the words “initial distribution” insert the words “with the exception of securities previously acquired pursuant to an exemption contained in section 79(1) (d)”.

Question put and agreed to.

Clause 81, as amended, again ordered to stand part of the Bill.

Clause 136 recommitted.

Question again proposed : That clause 136 stand part of the Bill.

Securities Bill, 2012 (Adoption)

Monday, December 17, 2012

Dr. Moonilal: Mr. Chairman, I beg to move that clause 136 be amended as circulated:

- 136(1) A. In subclause (1) delete the words “section 4(3)(a), (b) or (c)” and substitute the words “section 4(3) (a) or (c)”
- B. In subclause (1) after the words “reporting issuer by him” delete the words “and his associates”.

Question put and agreed to.

Clause 136, as amended, again ordered to stand part of the Bill.

Clause 139 recommitted.

Question again proposed: That clause 139 be amended as circulated.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 139 be amended as circulated:

- 139 A. In subclause (1) delete the words “, without regard to whether the purchaser relied on the misrepresentation”
- B. Insert a new subclause 139(7) as follows:
- “(7) In this section, a purchaser who purchases a security distributed under a prospectus shall be deemed to have relied on the prospectus at the time of making the purchase.”.

Question put and agreed to.

Clause 139, as amended, again ordered to stand part of the Bill.

Clause 150 recommitted.

Question again proposed: That clause 150 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 150 be amended as circulated:

- 150 A. In subclause (1)
- (a) in the *chapeau* delete the words “suitably qualified”;
- (b) delete paragraph (a) and substitute the following paragraph:
- “(a) to ascertain whether any person has contravened, is contravening or is about to contravene this Act”.

- B. In subclause (2) delete the words “or entity” wherever they appear.
- C. In subclause (3) delete the words “or entity” wherever they appear.
- D. In subclause (4)-
 - (a) delete the words “suitably qualified”;
 - (b) delete the comma appearing after the word “enter”;
 - (c) delete the words “with his or its consent,”;
 - (d) delete the words “hour if the occupier of the place of business consents” and substitute the words “hours if the occupier of the place of business consents or pursuant to an order under subsection (5)”.
- E. Delete subclause (5) and substitute the following:

“(5) Notwithstanding subsection (4), the Commission may, at any time if the circumstances so require, apply to a judge of the High Court for an *ex parte* order authorizing a person appointed under subsection (1) to enter the premises of a person or entity at any time to conduct an examination under subsection (3).”.
- F. Delete subclause (9).
- G. Renumber subclause (10) as subclause (9).

Question put and agreed to.

Clause 150, as amended, again ordered to stand part of the Bill.

Clause 152 recommitted.

Question again proposed: That clause 152 stand part of the Bill.

Mr. Imbert: Mr. Chairman, which 152 would now stand part of the Bill?

Hon. Member: The original.

Mr. Chairman: The original.

Mr. Imbert: The original?

Mr. Chairman: Yes.

Mr. Howai: Not what is in the Joint Select Committee.

Securities Bill, 2012 (Adoption)

Monday, December 17, 2012

Mr. Imbert: All right.

Mr. Chairman: The original.

Mr. Imbert: Right. Okay.

Question put and agreed to.

Original clause 152 again ordered to stand part of the Bill.

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

House resumed.

Bill reported, with amendment.

Question put: That the Bill be now read a third time.

Mr. Speaker: Members, this Bill requires a special majority of 26 Members. A division is therefore required.

The House voted: Ayes 37

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar SC, Hon. K.

Dookeran, Hon. W.

Mc Leod, Hon. E.

Sharma, Hon. C.

Warner, Hon. J.

Ramadhar, Hon. P.

Gopeesingh, Hon. Dr. T.

Peters, Hon. W.

Rambachan, Hon. Dr. S.

Seepersad-Bachan, Hon. C.

Khan, Mrs. N.

Roberts, Hon. A.

Cadiz, Hon. S.

Baksh, Hon. N.

Securities Bill, 2012

Monday, December 17, 2012

Griffith, Hon. Dr. R.

Baker, Hon. Dr. D.

Ramadharsingh, Hon. Dr. G.

De Coteau, Hon. C.

Khan, Hon. Dr. F.

Douglas, Hon. Dr. L.

Indarsingh, Hon. R.

Samuel, Hon. R.

Roopnarine, Hon. S.

Ramdial, Hon. R.

Alleyne-Toppin, Hon. V.

Seemungal, Hon. J.

Partap, Mr. C.

Mc Donald, Miss M.

Rowley, Dr. K.

Cox, Miss D.

Hypolite, N.

Mc Intosh, Mrs. P.

Imbert, C.

Jeffrey, F.

Thomas, Mrs. J.

Volney, Mr. H.

Mr. Chairman: Hon. Members, may I have your attention? Hon. Members, with a division of 37 Members voting for, no Members voting against and no abstentions, the Motion for the third reading of the Securities Bill, 2012 is unanimously approved by this honourable House. [*Desk thumping*]

Question agreed to.

Bill accordingly read the third time and passed.

Adjournment

Monday, December 17, 2012

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 adjourning this House to a date to be fixed, we may be at our last sitting, and, as you know, the season of goodwill and peace toward all men and women is fast approaching and it is appropriate for us at this time to bring greetings at this particular moment. I call on the hon. Prime Minister to bring greetings at this time. [*Desk thumping*]

Season's Greetings

The Prime Minister (Hon. Kamla Persad-Bissessar SC): Thank you very much, hon. Speaker, and indeed, I think the season is upon us and more approaches as we come to the very holy, blessed day of Christmas.

Before I bring greetings, I think I would like to spend a moment to announce an early Christmas gift to our beloved nation, as we congratulate Mr. George Bovell III. He has won this country's first ever world championship medal in swimming. [*Desk thumping*] Last night he won a bronze medal in the 100 metre individual medley with a time of 51.66 seconds. I just say this comes as an early Christmas gift which we can all feel very grateful for and rejoice in as we celebrate the Yuletide season.

5.05 p.m.

I would like to take the opportunity, as well, to congratulate his former coach, the hon. Minister of Sport, Mr. Anil Roberts, for helping him to bring home that medal.

Mr. Speaker, I think our proceedings this evening and for the past several days, as work was ongoing on the Securities Bill—a very important Bill to be passed in our Parliament which would allow us not to become backlisted; and I trust that in the Senate, because of the hard work done by Members of this House, jointly with Members of the Senate, that the spirit of unity and coming together which was demonstrated in the Joint Select Committee, and today where we got unanimous votes in this House—I want to congratulate all Members for putting country first [*Desk thumping*] and for the hard work they engaged in.

So, as we prepare to celebrate Christmas, I know at this time of the year the Christian community, in particular, but, indeed, all of Trinidad and Tobago, we

Season's Greetings

Monday, December 17, 2012

reflect on the joyous birth of the Christ child and on the Christmas message of hope, compassion, faith and love.

As a nation, all of us are once again blessed with the opportunity to share in another of the religious observances and traditions of our very culturally diverse society. May I congratulate our colleague, Dr. Amery Browne—I noticed in the newspaper recently, his wedding. [*Desk thumping*] He looked very resplendent in a traditional eastern garb, I must say. I see that the eastern clothing is really having a great impact, and really demonstrating our diversity, but at the same time our unity in diversity. [*Desk thumping*] So we congratulate our colleague.

Throughout the country, in homes, in offices, we will participate in decorating our spaces, exchanging gifts, sharing meals, and so whilst we are in the spirit of the season, I think individually and collectively we will ensure that our most vulnerable citizens, especially our children, experience the joy and goodwill which is characteristic of Christmas.

Mr. Speaker, you would have seen that we have been engaged in distributing toys throughout Trinidad. On Thursday we will be in Tobago at several venues. We went to the eastern constituencies, in Arima; we then went to the north-west constituencies here in Port of Spain. Thereafter, we went down to the south-eastern constituencies, Mayaro. Over this weekend we were in the central constituencies, in Couva and then in the south-west constituencies. So all 41 constituencies, children came from all of them. At the end of the exercise I think we would have given out about 60,000 toys to children in that [*Desk thumping*] Prime Minister's Christmas giving.

So I am saying, on behalf of us all here, whilst we are celebrating a very joyous time and the love we have for our children, I think it was very heart-rending, very tragic, to learn of the horrendous events in Connecticut which unfolded last week. Twenty-six persons lost their lives; 20 of them innocent children under the age of 10. So, on behalf of us all here in the Parliament, I extend our condolences to the people of the United States and, in particular, the families of those lost to this very senseless crime, in this their time of grief and mourning. We hold you all in our hearts; we lift you up in our prayers that you will find the strength to move beyond the pain, the anger and anguish that you feel, trusting that in time you will experience God's healing power and grace.

Here at home, too, we have witnessed some unbelievable acts of violence against our own children, and so such behaviour is intolerable, unconscionable and I respectfully task each Member of Parliament and every adult citizen of

Season's Greetings
[HON. K. PERSAD-BISSESSAR SC]

Monday, December 17, 2012

Trinidad and Tobago to become a child advocate, ensuring that our children are safe, protected and loved. Let us use the celebration of Christmas to recommit to our shared responsibility of caring for all our children, the future of our nation. At this time I remind all of us here, as Members of Parliament, of the mandate given to us by the people of this country to represent them fairly, without fear or favour to the best of our ability.

Today, again, I say, in coming together and voting on this Bill, it was very clear that every Member of Parliament here acted without fear or favour to the best of their ability to secure our place in the global village, as well as nationally. So in the coming days as we move about our constituencies during this season, delivering hampers, delivering toys—and may I congratulate the Ministry of the People and Social Development for once again ensuring that every Member of Parliament [*Desk thumping*] receives food hampers so that they can distribute them to their own constituents in all 41 constituencies.

Let us then, as we go out delivering these hampers, as we deliver toys, as we join in festivities, I ask that we redouble our efforts to identify the neediest persons in our communities so we may bring long-term, meaningful interventions to our vulnerable citizens.

Mr. Speaker, I extend to you, the Members of this honourable House, to members of the staff of the Parliament—the Clerk of the House and all others engaged in the work here in the Parliament, and to all your families—our sincerest wishes for a very blessed and a very happy Christmas. I wish each of you fellow Parliamentarians, members of the Parliament staff, hon. Speaker and all your families, peace, happiness and, of course, indeed, a brighter and more prosperous next year, 2013.

To my colleagues, I want to thank you for this year's work that we have done in this Parliament. We have managed to get quite a lot of work done, and in the new year, indeed, there is far more to be done. We look forward to 2013, gloriously and brightly. May God continue to bless each of you and may God continue to bless our very great nation, Trinidad and Tobago. Merry Christmas. Happy New Year. [*Desk thumping*]

Dr. Keith Rowley (*Diego Martin West*): Thank you very much, Mr. Speaker. Mr. Speaker, Christmas is a celebration that we recognize with respect to the acknowledgement of the Christian community, noting the birth of the Christ child. It has become a national—or, in fact, a worldwide—holiday and it usually is a time of merriment, a time of great joy and hope.

Season's Greetings

Monday, December 17, 2012

The year 2012 for us in Trinidad and Tobago coming to a close, one would want to, in the spirit of Christmas, try to maintain that positive spirit and the hope that we started the year with. And, Mr. Speaker, as I do that and acknowledge the hope that is associated with Christmas, I simply want to say to the people of Trinidad and Tobago that those of us on this side of the House would like to wish all our colleagues and the national community a safe, healthy, happy 2012 Christmas and we look forward to 2013 to be a less traumatic year than 2012 was. If, Mr. Speaker, I sound a little sombre, it is because 2012 had not been a good year for Trinidad and Tobago, and hopefully 2013 would be a better year.

The experiences of the people of Connecticut are experiences that we in Trinidad and Tobago can acknowledge and reach out to families that are experiencing horrendous pain, and hope that nobody else in the world will experience that kind of development in their community because, Mr. Speaker, every time it appears on the news, one feels as if it has happened again, and in Trinidad and Tobago we have to take all necessary steps to ensure that the promise of Christmas and the hope of Christmas will be realized in the years ahead, that we would never experience those kinds of pain.

So, Mr. Speaker, on behalf of my colleagues on this side, we say to all those whom we represent and those who we live with in Trinidad and Tobago, Merry Christmas and a bright and prosperous new year. [*Desk thumping*]

Mr. Speaker: Hon. Members, as Speaker of the House, I would like to take this opportunity to reflect on the year just passed—almost. In this year we had the longest debate in the history of our Parliament. The importance of this debate is not necessarily the result, but the constitutional provision which affords a Member of the House the right to file such a Motion if they see fit. That debate was a true testimony of the strength of our parliamentary democracy.

This year we also held the first ceremonial opening at our temporary home here at Tower D of the Port of Spain International Waterfront Centre, which was a monumental task. The continued uninterrupted activities of the Parliament during our temporary relocation from the Red House—the traditional seat of Parliament—proves that the powers and privileges of Parliament which are at the heart of our democracy cannot be unseated with a change of venue.

Hon. Members, as we move forward in this 50th year of our independence, let us strive to do better and be the example for every citizen to emulate. We must carry ourselves in a manner that would make our families proud and, most importantly, the constituents who vested in us, through representation, the authority to make decisions on their behalf.

Season's Greetings
[MR. SPEAKER]

Monday, December 17, 2012

I would like to say a sincere thank you to the group of parliamentary departments and agencies that support us in the performance of our duties throughout the year. I would also like to say a special thank you to the police service and the staff of the Government Printery, a division of the Ministry of Public Utilities.

Hon. Members, we are currently in the season of hope, peace and joy. Therefore, on behalf of my family, I would like to wish each Member of Parliament and their respective families, staff and their families, the media, and all citizens of this wonderful twin-island Republic, a very Merry Christmas and best wishes for a new year of happiness in a world of peace.

Hon. Members, before putting the question, may I extend to all hon. Members a warm invitation for you to join the hon. Speaker in a reception we are hosting this afternoon in the lobby of this Tower D where we are located, beginning at 6.00 this afternoon and ending at around 9.00—9.30. So we would like to extend to all our colleagues here to join us in the lobby later on this evening.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 5.18 p.m.