HOUSE OF REPRESENTATIVES

Friday, July 18, 2014

The House met at 1.30 p.m.

PRAYERS

[MADAM DEPUTY SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Madam Deputy Speaker: Hon. Members, I have received the following communication: hon. Jairam Seemungal, Member of Parliament for La Horquetta/Talparo, is out of the country, and has asked to be excused from today's sitting; hon. Winston Dookeran, Member of Parliament for Tunapuna, is out of the country, and has asked to be excused from the sittings of the House during the period July 15—22, 2014; hon. Prakash Ramadhar, Member of Parliament for St. Augustine, is out of the country, and has asked to be excused from the sittings of the House during the period July 13—25, 2014; Miss Alicia Hospedales, Member of Parliament for Arouca/Maloney, has asked to be excused from today's sitting of the House; Mrs. Patricia Mc Intosh, Member of Parliament for Port of Spain North/St. Ann's West, is out of the country, and has asked to be excused from the sittings of the House for the period July 18, 2014 to August 01, 2014. The leave which the Members seek is granted.

PAPERS LAID

1. Report on the Achievements aligned to Government's Framework for Sustainable Development Commitments (Review of the 2010 "Prosperity for All" Manifesto). [*The Minister of Planning and Sustainable Development* (*Sen. The Hon. Dr. Bhoendradatt Tewarie*)]
2. Second Report of the Auditor General of the Republic of Trinidad on the Financial Statements of the Accreditation Council of Trinidad and Tobago for the year ended September 30, 2006. [*The Minister of Finance and the Economy* (*Sen. The Hon. Larry Howai*)]
3. Report of the Central Bank of Trinidad and Tobago on Insurance and Pensions for the year ended December 31, 2012. [*Sen. The Hon. L. Howai*]

Papers 2 and 3 to be referred to the Public Accounts Committee.

4. Annual Audited Financial Statements of the National Maintenance Training and Security Company Limited for the financial year ended December 31, 2013. [*Sen. The Hon. L. Howai*]

   To be referred to the Public Accounts (*Enterprises*) *Committee.*

5. Ministerial Response to the Third Report of the Joint Select Committee of Parliament on Ministries (Group 1) and on the Statutory Authorities and State Enterprises on the Administration of the Legal Aid and Advisory Authority. [*The Minister of Housing and Urban Development* (*Hon. Dr. Roodal Moonilal*)]

JOINT SELECT COMMITTEE REPORT

Insurance (No. 2) Bill, 2013 (Presentation)

The Minister of Transport (Hon. Stephen Cadiz): Madam Deputy Speaker, I beg to present the following report:

Report of the Joint Select Committee appointed to consider and report on the Insurance (No. 2) Bill, 2013.

ORAL ANSWERS TO QUESTIONS

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Madam Deputy Speaker, I wish to inform the House that the Government is in a position to answer all the questions on the Order Paper, except questions148 and 165. We ask that these questions be deferred for one week: 148 and 165, both to the Minister of Finance and the Economy. Minister Ramnarine is here, Madam Deputy Speaker. We are in a position to answer the other 16 questions.

The following questions stood on the Order Paper in the name of Mr. Colm Imbert (Diego Martin North/East):

NIBTT/NIPDEC Purchase of Properties (Details of)

148. With respect to the property located at the corner of Cadiz Road and Queen's Park East currently occupied by the Apsara and Tamnah Thai Restaurants, could the Minister state:

A. Whether the NIBTT or NIPDEC has purchased, or has agreed to purchase this property and for what purpose?

B. If the answer to part A is in the affirmative:

i. What was the agreed purchase price?

ii. Whether an independent valuation was obtained by either NIBTT or NIPDEC prior to the agreement to purchase;

iii. What was the amount of the valuation for the property and who conducted the valuation;

iv. What is the land area of the property and what is the floor area of the building on the property?

Central Bank Employees
(Details of)

165. Could the hon. Minister of Finance and the Economy state:

a) the number of employees on payroll at the Central Bank of Trinidad and Tobago as at July 13, 2012;

b) the number of employees on payroll at the Central Bank as at May 31, 2014; and

c) how many new employees were hired by the Central Bank between July 13, 2012 and May 31, 2014?

Questions, by leave, deferred.

Operation of Petrotrin-owned Barge
(Details of)

158. **Mrs. Paula Gopee-Scoon** (*Point Fortin*) asked the hon. Minister of Energy and Energy Affairs:

Could the Minister indicate whether:

a) The Petrotrin-owned barge, the "Marabella", is operating illegally by virtue of being a single hull vessel and if so, has any international treaty been violated?

b) Petrotrin intends to replace the aged "Marabella" vessel?

The Minister of Energy and Energy Affairs (Sen. The Hon. Kevin Ramnarine): [*Desk thumping*] Thank you very much, Madam Deputy Speaker. With regard to question 158 from the Member of Parliament for Point Fortin, the

answer is as follows to part (a): the *Marabella* barge, which is a 3,800 tonne deadweight single-hull barge, was built in 1968. It was purchased by Texaco Trinidad Incorporated, Textrin, in 1977 and vested in Trintoc in 1985, by means of the Textrin Vesting Act of 1985, and subsequently transferred to Petrotrin.

The *Marabella* was issued a qualified cargo ship safety equipment certificate by the Maritime Services Division, under the provisions of the International Convention for the Safety of Life At Sea or SOLAS, as modified by the protocol of 1988, and that relates to the Shipping Act, Chap. 50:10.

Pursuant to the requirements of SOLAS, the *Marabella* was certified by the Maritime Services Division for operation within the limits of the trade area of the Gulf of Paria. The certificate is valid until October 16, 2015, subject to annual and periodic surveys. In the latest survey conducted by the Government-appointed surveyor, dated March 24, 2014, the *Marabella* was found to be in compliance with the relevant requirements of the SOLAS Convention.

Petrotrin, Madam Deputy Speaker, is also in possession of a droghers licence for the purposes of operating the *Marabella* in the Gulf of Paria for bunkering purposes. The *Marabella* is, therefore, operating legally as per the laws of Trinidad and Tobago.

Madam Deputy Speaker, in 1992, the MARPOL protocol was amended to make it mandatory for tankers of 5,000 deadweight tonnes and more to be fitted with double hulls after July 06, 1993. It should be noted that this change was primarily in response to the 1989 Exxon Valdez disaster in Prince William Sound, Alaska—that was for new ships. For existing single-hull vessels, they would be phased out 25 years after the date of delivery—which in the case of the *Marabella* was 1993—or by the year 2015 whichever one came first.

In 2001, the IMO, the International Maritime Organization adopted an accelerated phase-out of single-hull tankers 600 tonnes and above, but less than 5,000 tonnes deadweight, to not later than 2008. It should be noted, however, that Trinidad and Tobago acceded to MARPOL in 2000. The date of deposit of the instrument was March 06, 2000 and the date of entry into force was June 06, 2000.

Trinidad and Tobago, Madam Deputy Speaker, was, therefore, only required to comply with MARPOL from June 09, 2000. However, with specific regard to Petrotrin's *Marabella* barge and its compliance with MARPOL, it should be noted that the *Marabella* is not in violation of MARPOL on two grounds:

(1) The *Marabella* is flagged in Trinidad and Tobago and operates locally in secured ports only. The MARPOL Convention speaks, Madam Deputy Speaker, to international trade; and

(2) Annex one, regulation 21, items 7 of the MARPOL Convention states that a tanker is exempt from the double-hull requirement if it is engaged in voyages exclusively in an area under its jurisdiction, or the jurisdiction of another party. In this case, the other party is the Government of Trinidad and Tobago or the State.

So, therefore, with regard to those two exemptions from MARPOL, the *Marabella* is not in violation of the MARPOL Convention.

With regard to part (b) of the question from the Member, although the *Marabella*—and part (b) asked what Petrotrin intends to do with the *Marabella*.

Although the *Marabella* is not in violation of any domestic law, or international treaty, it is the view of the Board of Petrotrin that the time has come to procure a double-hull vessel to replace the ageing *Marabella*. Petrotrin, by public advertisement, sought expressions of interest from suitably qualified and experienced companies, for the supply of a new bunker barge—and I have a list of dates and newspapers, but I will just say it was advertised in the *Express*, *Guardian* and *Newsday*, and in an international journal called the *Marine Log Magazine*, all in the month of June 2014. Companies that have been proven eligible and which have passed the technical evaluation shall be invited to an e-auction to be held on July 29, 2014, which is a few days from now. Madam Deputy Speaker, this concludes my answer to question 158.

Mrs. Gopee-Scoon: Madam Deputy Speaker, through you. Minister, notwithstanding the protection which you have, and the fact that the *Marabella* is not operating illegally, one would recall the Aegean disaster, with the *Atlantic Empress* sometime in 1979, within our own waters, and that remains on record as being the fourth or fifth worst oil spill in the world. So having regard to that collision which took place and the very disastrous effects, have you quantified the risk of operating the *Marabella*? Because that happened within our internal waters. Have you quantified the risk at all of operating this single-hull vessel in

our waters, yes, legally yes, but in terms of the chance of a collision and the likely—[*Interruption*]

Mr. Sharma: Is that a question?

Mrs. Gopee-Scoon:—it is a question, if you listen—and in view of the number of deaths that occurred on that occasion, and the other consequences with regard to disasters of that type? Has Petrotrin quantified the risks? Is there something in place in terms of mitigating the risks as well, attached to operating that kind of single-hull vessel?

Sen. The Hon. K. Ramnarine: Thanks very much, Member of Parliament for Point Fortin, for reminding the House of that 1979, I think it was, oil spill, which is on record at that time as one of the largest oil spills in the world. It has since been, of course, eclipsed by the Exxon Valdez oil spill, and the Macondo oil spill and so on. But interestingly, the Minister of Energy at the time was a dear friend of this House and all Members, Minister Errol Mahabir, and I think the Minister of National Security was Mr. John Donaldson. I have spoken to people at the Ministry who were involved in that oil spill, and I think Commander Kelshall was also involved in that rescue operation. It is something that has faded in the memory of Trinidad and Tobago. It happened to, I think the north-east of Tobago. That little history lesson aside—[*Interruption*]

Dr. Rowley: That was not an oil spill, boy, that was a collision of ships.

Sen. The Hon. K. Ramnarine: It was a collision of ships, but there was a spillage of oil as a result of the collision of the ships. So, the answer is, yes, we consider the operations of a single-hull barge to be a risk, regardless of whether or not it is in compliance or not with international law and local law. It is for that reason we have taken the decision to procure a new double-hull barge to service the bunkering needs of the Gulf of Paria, and that, as I said in the answer, will be going out for tender very soon, July 29. So that is a risk that we are treating with.

1.45 p.m.

Trou Macaque HDC Building (Details of)

160. Mr. NiLeung Hypolite (*Laventille West*) asked the hon. Minister of Housing and Urban Development:

With respect to the Trou Macaque HDC building, which was destroyed by fire in December 2011, could the Minister state:

(a) when will the refurbishment commence;

(b) the name of the contractor selected to carry out the work;

(c) the estimated date of completion; and

(d) the estimated cost of the work?

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Madam Deputy Speaker, question No. 160, part (a): on December 20, 2011, a horrific arson attack destroyed Building No. 2, Pashley Street, Upper Trou Macaque, Laventille, Port of Spain and left 20 families homeless. The tenants at Building No. 2, all 20 families, were successfully and immediately relocated on the same day, December 20, 2011, to three-bedroom/two-bathroom apartments in Oropune, Piarco housing community. The same day they were relocated.

In October 2013, tender packages were issued to contractors with October 31, 2013 as the closing date for renovations, alterations and upgrades for Buildings 1, 2, 3 and 4, Pashley Street, Trou Macaque, Laventille. The scope of repairs, renovations and retrofit works to be undertaken on the Trou Macaque project would include:

(1) repairs and renovations of the fire-damaged Building 2 to completely reinstate the apartment units within the building;

(2) construction of fire escape stairs to Buildings 1, 2, 3, and 4;

(3) installation of fire prevention and protection systems to Buildings 1, 2, 3 and 4, including fire water storage tanks and fire pumps, standpipe and hose reel equipment and fire sprinkler devices in all apartments.

The general scope of works would include site servey, site preparation, excavation for foundations, earthworks and related external works, reinforced concrete works, structural steel fabrication, erection and metalworks; builders' work, consisting of blockwork, floor, walls, ceiling, finishing; installation of doors and windows and plumbing and electrical installations. No bids were received as the contractors indicated their disinterest due to Trou Macaque being a hot spot area.

The HDC then proceeded to advertise an expression of interest in the daily newspapers, inviting contractors interested in performing these works to submit specified documentation. Submissions for the expressions of interest closed on January 31, 2014 and evaluation of submissions was concluded and suitably qualified contractors were then shortlisted.

The invitation to tender packages for renovation, alterations and upgrading of the existing multi-storey Buildings 1, 2, 3, 4, Pashley Street, Trou Macaque, were issued to the select shortlisted contractors on June 03, 2014. The invitation to tender closed on July 11, 2014. Ideally, it usually takes one month after the close of tender bids for the evaluation process and board approval to be granted. After the letter of award and contracts are signed off, the contractor usually mobilizes within one week. With this timeline in mind, works should commence on or about September 2014.

Part (b), no contractor has been selected to carry out the work as the invitation to tender closed recently. The invitation to tender closed on July 11. The tender process dictates that an evaluation has to be conducted upon the close of the tender and subsequent board approval sought and conferred.

Part (c), the estimated date of completion: there is no estimated date of completion at this time as the invitation to tender closed recently. The estimated date of completion will depend on the successful contractor's submissions as they relate to the schedule of works. The estimated cost of the work, which is an internal estimate, cannot be released at this time, given the ongoing process. The invitation to tender has just recently closed, a few days ago. Madam Deputy Speaker, thank you.

Trou Macaque HDC Building (Construction of Fire Escape Steps)

161. Mr. NiLeung Hypolite (*Laventille West*) asked the hon. Minister of Housing and Urban Development to state:

(a) when will fire escape steps be installed at the three HDC buildings at Trou Macaque;

(b) whether a contractor has been selected to do the work and, if so, who;

(c) the estimated date for completion; and

(d) the estimated cost of the work?

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Thank you, Madam Deputy Speaker. It is related, of course, to the earlier question.

The multi-storey facility, as I indicated before—I do not want to repeat a lot of it, but the fire did take place on December 20, 2011. Buildings 1 and 4 possessed 16 apartment units each and Buildings 2 and 3—2 was burnt—20 apartments each.

The scope of repairs, renovations and retrofit works to be undertaken include repairs and renovations of the fire-damaged Building 2; construction of fire escape stairs to Buildings 1, 2, 3 and 4; installation of fire prevention and protection systems to Buildings 1, 2, 3 and 4, including fire water storage tanks and fire pumps; standpipes and hose reel equipment and fire sprinkler devices in all apartments.

The scope of works would include site survey; site preparation; excavation for foundations; earthworks and related external works; reinforced concrete works; structural steel fabrication and metal works; builders' work, consisting of blockwork, floor, wall and ceiling finishing; installation of doors and windows; plumbing and electrical installation. Fire escapes will be installed during the execution of the works and in accordance with the successful tenderer's programme of work.

While we await the outcome and conclusion of the tender process, the HDC has adopted several health and safety measures within the Trou Macaque community through the execution of fire prevention and life safety programmes throughout the communities of the Housing Development Corporation, with the outcome of preventing accidental fires and/or associated incidents.

The Trou Macaque community has been exposed to three aspects of this programme:

(1) the installation of fire suppression equipment for firefighting;

(2) the installation of signage;

(3) exposure to awareness sessions geared to preventing fire.

Madam Deputy Speaker, the three existing buildings within the Trou Macaque housing community were provided with a total of 20, 20-pound portable fire extinguishers within cabinets. The fire extinguishers were secured in fire cabinets and strategically placed within all buildings. All extinguishers installed were ABC type which caters for fire-fighting hazards likely to be existing within residential households.

Installation was done on July 20, 2012. Similarly, safety brochures were developed specifically for tenants at the Trou Macaque site. Apart from installation, the HDC invited the Trinidad and Tobago Fire Services to demonstrate the use of such equipment and general fire prevention. These community chat forum sessions were done on January 28, 2012 and May 26, 2012.

Apart from the cordon done by estate management, six no-trespassing signs were installed on the burnt-out buildings as a means for communicating any possible hazard to personnel interested in traversing within and around the building.

Madam Deputy Speaker, the second major initiative instituted within the Trou Macaque community is the ongoing fire prevention and life safety awareness programme. The HDC launched its fire prevention and life safety awareness sessions throughout its tenanted communities with the aim of increasing tenants' awareness pertaining to fire prevention and life safety; discussing measures to be adopted to preventing accidental fires; displaying measures to treat and/or respond to fires in the case of an accidental fire; demonstrating the practical use of fire extinguishers, hose reels and smoke detectors. This session was conducted at the Trou Macaque basketball court on April 28, 2014 and continues within all other communities.

Part (b), a contractor has not been selected. The invitation to tender closed on July 11, 2014.

There is no estimated date of completion. As I indicated, this will be determined by the tenders submitted. That will determine the proper scope of works, the schedule of works and an estimated date of completion. The estimated cost will also be released after, since there are ongoing discussions now of the tender committee, which may or may not include further negotiations with contractors.

Thank you very much.

Cable Car Project
(Upper Picton Road)

168. Mr. NiLeung Hypolite (*Laventille West*) asked the hon. Minister of Planning and Sustainable Development:

With regard to the proposed Cable Car project from Upper Picton Road to the Central Market, could the Minister please state:

(a) The estimated date for the commencement of infrastructural works;

(b) The name of the company to whom the contract is/was awarded;

(c) A breakdown of the cost related to the project; and

(d) The estimated date of completion?

The Minister of Planning and Sustainable Development (Sen. The Hon. Dr. Bhoendradatt Tewarie): Thank you very much, Madam Deputy Speaker. Question No. 168: the proposal for a cable car system was made in the context of a sustainable City of Port of Spain initiative being supported by the Inter-American Development Bank. This is one of 10 sustainable cities initiatives being supported by the bank across the western hemisphere.

The proposal emerged as a result of a visit of architecture and planning students of the ETH University in Zurich, Switzerland, in collaboration with students from UTT and UWI, who participated in a visit to Trinidad at the request of the IDB, under the Emerging Sustainable Cities Initiative in 2012.

The IDB, in collaboration and consultation with the East Port of Spain Development Company Limited and the City Corporation of Port of Spain, identified three priority areas for the university students' focus during the trip, which included Fort Picton and its environment. As a result, what was proposed was that the restoration of Fort Picton may be enhanced by cable car access to and from City Gate, which would then improve accessibility to the site for local and foreign visitors and residents who navigate the route daily.

This project, as well as other aspects for the development of East Port of Spain and the sustainable City of Port of Spain, was discussed in a series of community consultations. The proposal was received and accepted for further consideration as a possible functional and design solution to improving access to a heritage site and to residents of the surrounding community.

To date, the IDB has funded a comparative study of cable cars in Latin America. The consultant hired has also prepared draft terms of reference for a feasibility study for a proposed cable car system in Port of Spain, Trinidad. The draft terms of reference are being reviewed by a local technical team. To date, therefore, no specific cable car project is on the table for consideration, nor for approval by the Government of Trinidad and Tobago.

After expressing an interest in a cable car system to connect Fort Picton to City Gate, the necessary technical and economic financial feasibility studies are to be completed. As a result, there is no estimated date for commencement of infrastructural works until the feasibility studies are undertaken and a decision made on whether or not to pursue the proposal to implement a cable car system to Fort Picton.

No contract has been awarded, except for the contract issued by the IDB to consultant Julio Melgar to undertake a comparative study of cable car systems in

Latin America and to prepare draft terms of reference for the detailed feasibility studies. No specific cost for the project has, therefore, yet been calculated.

As a result of answers to (a), (b) and (c) above, there cannot be an estimated time of completion.

The cable car proposal is to be seen against a background of transportation solutions as well as tourism development initiatives within the framework of a sustainable City of Port of Spain concept. Currently, in Port of Spain, a committee under the chairmanship of the chairman of the Economic Development Board, which includes community, business, East Port of Spain Development Company, Port of Spain City Council and government representatives, is looking at park and ride and other transportation solutions, business improvement initiatives, investment projects led by the private sector and reinvigoration of Port of Spain. In East Port of Spain by the end of this year, over 40 projects will have been completed since 2011. [*Desk thumping*]

2.00 p.m.

Mr. Hypolite: Madam Deputy Speaker, through you, I am certain that a feasibility study, all right, can be related to that of the whole breakdown of the project and therefore, I am hoping that the Minister would be able to state exactly what is the cost of the feasibility study for this project.

Madam Deputy Speaker: Are you asking a supplemental at all?

Mr. Hypolite: Yes.

Madam Deputy Speaker: Is it a supplemental question?

Sen. The Hon. Dr. B. Tewarie: I am not aware of the cost now, but it is something that I can check on; I can find out.

Mr. Deyalsingh: Further supplemental, Madam Deputy Speaker. Based on your answer, hon. Minister, where you said it was due to the number of local and foreign visitors, could you tell us how many foreign visitors currently use that route so that the cable car can add some value?

Sen. The Hon. Dr. B. Tewarie: I think you misinterpreted my answer.

Mr. Deyalsingh: Further supplemental, Madam Deputy Speaker. The Minister did say this project with the university students was as a result of the numbers of domestic and foreign visitors to the area. I am asking the Minister, could he tell us, as part of his feasibility studies, how many foreign visitors he has identified that currently use the area?

Sen. The Hon. Dr. B. Tewarie: I will read what I said, Madam Deputy Speaker. I simply said, what was proposed was that the restoration of Fort Picton may be enhanced by cable car access to and from City Gate which would improve accessibility to the site for local and foreign visitors and residents who navigate the route daily. That is what I said in English, Madam Deputy Speaker.

Mr. Deyalsingh: Further supplemental, Madam Deputy Speaker. Therefore, how many foreign visitors use the route?

Sen. The Hon. Dr. B. Tewarie: Look up the tourism—

Mr. Deyalsingh: Further supplemental, Madam Deputy Speaker. The hon. Minister did say in his contribution, this was part of the overall transportation solution. Could the hon. Minister tell us, what is the particular transportation problem that exists on that route that the cable car would solve?

Sen. The Hon. Dr. B. Tewarie: The question is meant to be facetious, but I will answer. The cable car, I said, would enhance the notion of Fort Picton as a tourist site, and therefore, if you had an overhead cable car system, it would add to the system. It would add to the view, so to speak, of the city from City Gate. But also it would be an easy transportation system from City Gate up there, as you know that terrain, you understand how the terrain is, and there are roads there that cannot be accessed, and a cable car system would facilitate that. This is not something I am doing or I am saying, it is something that is proven in other areas in which this has been done, like Cali in Colombia, et cetera, where a very successful model exists.

Mr. Deyalsingh: Further supplemental, Madam Deputy Speaker. Could the hon. Minister tell us whether the thought process that went into this cable car initiative was the same thought process that went into the tunnel from Tunapuna to Maracas? [*Crosstalk*]

Madam Deputy Speaker: Member for Chaguanas West.

Mr. Warner: Can the Minister tell us, based on his answer, how many community consultations—which you mentioned in your statement—were held, with whom and when?

Sen. The Hon. Dr. B. Tewarie: Basically when these matters relating to east Port of Spain are involved, and certainly in the case of the cable car, what happens is, there are 19 communities in the east Port of Spain district, and it will

be very difficult to have 19 consultations. So what they generally do for each one of these rounds is that they will pull people together in different centres. And I believe on the specific issue of the cable car, they spent a total of 10 days, and they held three consultations in different locations in east Port of Spain.

Mr. Deyalsingh: Final supplemental, Madam Deputy Speaker. Oh, sorry.

Madam Deputy Speaker: Member for Chaguanas West. Yes.

Mr. Warner: Minister, would it surprise you if I tell you that from the information that we have in the area, no consultations were held with any community at any time?

Sen. The Hon. Dr. B. Tewarie: No. I would be very surprised because I have been involved with some personally.

Mr. Warner: Okay.

Madam Deputy Speaker: Member for St. Joseph.

Mr. Deyalsingh: Supplemental, Madam Deputy Speaker. Could the Minister say whether this cable car project is inextricably linked, as your previous statement, to the Invaders Bay project? That is, one will not happen without the other.

Sen. The Hon. Dr. B. Tewarie: I think the question is irrelevant.

Miss Mc Donald: Thank you, Madam Deputy Speaker. To the Minister, Picton Road I share as MP with my colleague from Laventille West. Could you tell us here this afternoon, what is the benefit which will be derived to the constituents in Picton Road? You said this is a project that will take people from Upper Picton to Central Market. Tell me, what is the through traffic—when you did your research you would have seen exactly what is the true benefit of this project to the livelihood of the constituents in Picton Road—please?.

Sen. The Hon. Dr. B. Tewarie: I would like to say that I mentioned that a feasibility study is being done. So the feasibility will address all of those things in a comparative way. But I want to say this, which is that I sense a certain hostility to the idea and [*Crosstalk*] if you do not wish to have anything done in east Port of Spain, that is fine with me. [*Desk thumping* and c*rosstalk*] Because, Madam Deputy Speaker, with your permission, for 30 years they did nothing in east Port of Spain.

Madam Deputy Speaker: Members! Members, please! I want order in this House. I need some order in this House, please. [*Crosstalk*] Member for Laventille East/Morvant.

Dr. Rowley: He is disrespectful and out of place!

Madam Deputy Speaker: Members, please. [*Crosstalk*]

Miss Cox: Minister, could you tell us where this idea originated concerning the cable cars?

Sen. The Hon. Dr. B. Tewarie: The idea was one of a sustainable city. And as I indicated, the students came down to Trinidad, they were asked to look at various options that could be explored. As you know, cable cars are something that exist in New Zealand—sorry, in Switzerland. So it would be something that they were familiar with. And the Trinidad and Tobago students who were from UTT and UWI were engaged in the process, and they came up with the idea. The cable car was not the only idea. They have built, in fact, a model of the entire area, and things that could be done to enhance it. The idea of the market was one idea: rehabilitation of the market, and we are prepared to work with the City Council on that issue. The idea of the East Dry River, the flooding issue, that was one of the solutions—the solution of flooding for which we have taken a loan of $120 million executed by the Ministry of the Environment and Water Resources, and the linear park, once the flooding is solved, above the East Dry River, bridging east and west of the dry river. Those were some of the projects involved.

Miss Cox: Further supplemental, please. Mr. Minister, do you not think that that money, concerning the cable car project, could be better spent in east Port of Spain?

Sen. The Hon. Dr. B. Tewarie: Well, I do not know how much money is involved. You are just against the idea because it is new, because that is your disposition, as when you were in Government and in Opposition. [*Crosstalk*]

Madam Deputy Speaker: Members. Members. Have your seat. Have your seat. Have your seat. Members, I am asking you to have some respect for this House. I want you to know that I am in command today, [*Desk thumping*] and I am begging you, this is my House today, and I am asking you to have some respect for this Chair. Okay? Member for Diego Martin West.

Dr. Rowley: Thank you. Madam Deputy Speaker, through you, is the Minister aware that his Government announced quite categorically that there is to be a cable car project for east Port of Spain? My question to you now: is that the same project, as announced, for which the feasibility study has not yet been done?

Sen. The Hon. Dr. B. Tewarie: Well, I do not know if the Government announced it, Madam Deputy Speaker, through you. [*Crosstalk*]

Madam Deputy Speaker: Please, allow the Member to answer the question.

Sen. The Hon. Dr. B. Tewarie: I made a statement on a visit to east Port of Spain that we were considering the idea of cable cars. It made a story in the newspapers, it then generated discussion, and that is as much as I am aware of. I did not say whether the feasibility was done or not, it was something in concept.

Mr. Deyalsingh: Final supplemental. Is it that, Minister, you are saying that you took an idea of university students, announced it as policy, without a feasibility study?

Sen. The Hon. Dr. B. Tewarie: I will show you later when I speak how you all used to announce things. [*Crosstalk*]

Mrs. Gopee-Scoon: That is unacceptable.

Dr. Browne: Minister, supplemental. I hope you have calmed down now. Minister, you are responsible for planning in the Government, can you indicate a date by which you expect the results of the feasibility study on this project? And in your planning cycle, best-case scenario, when is the earliest, such project would be implemented?

Sen. The Hon. Dr. B. Tewarie: I responded to that already in my answer.

Dr. Browne: I heard no date. [*Crosstalk*]

Madam Deputy Speaker: Member. Member, please. [*Crosstalk*]

Sen. The Hon. Dr. B. Tewarie: Madam Deputy Speaker, I think I covered that in my answer.

Maloney Recreation Ground
(Details of)

170. **Miss Marlene Mc Donald** (*Port of Spain South*) on behalf of Miss Alicia Hospedales (Arouca/Maloney) asked the hon. Minister of Community Development:

With respect to works conducted at the Maloney Recreation Ground (also known as the Clayton Ince Recreation Ground) during the period 2012 to 2013 could the Minister state:

a) the type and scope of works done;

b) the start and end date for the project; and

c) the amount paid to the contractor for the work?

The Minister of Community Development (Hon. Winston Peters): Madam Deputy Speaker, I am afraid I have no question 170 here to answer. I think that we sent something saying that that question was not relevant to my Ministry at all.

Mr. Deyalsingh: It is on the Order Paper. [*Crosstalk*]

Miss Mc Donald: Madam Deputy Speaker, supplemental. The question said: With respect to works conducted at the Maloney Recreation Ground—[*Crosstalk*] Madam Deputy Speaker, are we not dealing with the same Government? That if a question comes in to a Minister, and it is not for the Minister, it then goes to relevant Minister?

Dr. Moonilal: Madam Deputy Speaker, the question 170 should be directed to the Minister of Local Government. We will give an undertaking that the Minister of Local Government, in one week, would have an answer prepared for the Parliament, but the Order Paper had it as the Minister of Community Development. But we will give the undertaking to answer the question.

Question, by leave, deferred.

Arouca Library
(Details of)

172. Miss Marlene Mc Donald (*Port of Spain South*) on behalf of Miss Alicia Hospedales (Arouca/Maloney) asked the hon. Minister of Education:

Could the Minister state:

a) the proposed location for the construction of the Arouca Library;

b) the commencement date for construction; and

c) the expected date of completion?

The Minister of Education (Hon. Dr. Tim Gopeesingh): Madam Deputy Speaker, the National Library and Information System Authority has been, over the period of a year—the presence of libraries in all areas of Trinidad and Tobago—and has been doing a rationalization of the old existing ones, and what is supposed to be new ones coming up on stream. At the moment there are four libraries being constructed: in Mayaro, Rio Claro, Couva and Chaguanas. Those four libraries are under construction—new libraries, two are almost completed, that is the Rio Claro and Couva. And imminently, construction work will possibly start after the tendering process for the Toco library and Siparia library.

In addition, there are a number of others, and the library for Arouca is one on the list to be tendered out pretty shortly. The site will be the corner of the Eastern Main Road and Market Street, Arouca. It is a government property, and it has been vested to the NALIS by the State. We expect that tenders will be out pretty shortly for the construction, and I believe, probably within two months maximum from now, construction should start. And with the rate of construction, we estimate it would take possibly less than nine months for the completed construction. And that is part of the construction of new libraries. Arouca is considered as one of many others.

2.15 p.m.

Madam Deputy Speaker: Hon. Members, it is 2.15 p.m. As regards to questions, Member for Port of Spain South, would you rather that the rest of the questions stand over or would you like them to be circulated?

Miss Mc Donald: I would like them to be placed on the Order Paper for next sitting, please.

Madam Deputy Speaker: The remainder of the questions will be placed on the Order Paper for the next sitting.

Miss Mc Donald: Madam Deputy Speaker, just one concern. On page 11, Questions for Written Answer, there is a question there, No. 150 to the Minister of Works and Infrastructure by the Member for Point Fortin. That question qualified since July 02, and nothing has been circulated to date. Could I ask the Minister here today, what is the status of this, the response to this question, please?

Hon. Dr. Rambachan: Madam Deputy Speaker, that question has been prepared and will be sent to the Parliament.

Miss Mc Donald: When?

Hon. Dr. Rambachan: Next week.

Miss Mc Donald: It is due, so could you tell me when could it be circulated?

Hon. Dr. Moonilal: Madam Deputy Speaker, as my colleague indicated, the question to the hon. Minister of Works and Infrastructure for Written Answer qualified on July 02. That is July 02 this year, a couple weeks ago, and we are working on finalizing the response. It calls for some detailed research and we expect a response in written form to be circulated to the House very soon.

EXPIRATION OF QUESTION TIME

The following questions stood on the Order Paper:

Diego Martin Health Centre
(Construction of)

174. With respect the construction of a new Diego Martin Health Centre, could the Minister of Health state:

a) the reasons for the delay;

b) the starting date for construction;

c) the projected cost; and

d) the proposed location? [*Dr. A. Browne*]

Children's Authority
(Details of)

175. Could the Minister of Gender, Youth and Child Development state:

a) what action was taken by the Children's Authority in each reported case of child neglect and endangerment that came to the public's attention in 2014;

b) the proposed date for the full proclamation of the Children Act, 2012? [*Dr. A. Browne*]

Number of Persons Arrested
(Import/Export of Cocaine)

176 Could the hon. Minister of National Security state:

For the period 2010 to date, how many persons were arrested and charged in Trinidad and Tobago with offences related to the importation, trafficking, distribution and/or export of cocaine? [*Dr. A. Browne*]

Homework Centres
(Construction of)

179. Could the Minister of Education state when Homework Centres will be constructed at:

a) Harpe Place, Teshea Terrace, East Dry River;

b) In the Blanca, Upper Cascade Main Road, Cascade;

c) McKai Lands, Belmont? [*Mrs. P. Mc Intosh*]

Community Centres
(Rehabilitation/Construction of)

180. Could the Minister of Community Development indicate when will the Community Centres in the Blanca, Upper Cascade Main Road and McKai Lands, Belmont be rehabilitated/constructed? [*Mrs. P. Mc Intosh*]

Port of Spain North/St. Ann's West
(Rehabilitation of)

181. Could the Minister of Works and Infrastructure state when will the following roads in the constituency of Port of Spain North/St. Ann's West be rehabilitated:

a) Augustine Lane, Belmont;

b) Albert Lane, Belmont; and

c) St. Francois Valley Road, Belmont? [*Mrs. P. Mc Intosh*]

Question time having expired, questions 174, 175, 176, 179, 180, 181 were not dealt with.

STATEMENTS BY MINISTERS

Government Campus Plaza

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Thank you very much, Madam Deputy Speaker. Madam Deputy Speaker, the Members of this House would be aware that the Urban Development Corporation of Trinidad and Tobago Limited is responsible for the construction and fit-out of 1.3 million square feet of office space at the Government Campus Plaza, Richmond Street, Port of Spain.

Madam Deputy Speaker, this is indeed an unprecedented feat in the Caribbean. I am pleased to confirm that UDeCOTT is now working to ensure completion of the Government Campus Plaza so that the much needed office space for our public officers can be finally handed over. I am pleased to announce that the entire Government Campus Plaza facility will be occupied by public

officers by next year 2015. [*Desk thumping*]

Madam Deputy Speaker, as you are aware, the progress of the project was delayed for many reasons, the most challenging of which was the ability of UDeCOTT to source the necessary funding to complete the project. This Government Campus Plaza has been the subject of several investigations and a major commission of enquiry in Trinidad and Tobago. There is a serious problem over the years concerning cost overruns and delays on these projects. This is the hurdle that UDeCOTT was able to overcome quite recently which has resulted in a recommencement of works.

Madam Deputy Speaker, you will be aware that upon entering office in May 2010, the Government of Trinidad and Tobago faced several challenges including the Clico matter, the HCU matter, for which almost TT $25 billion had to be found to bail out these agencies and satisfy the immediate needs of distressed citizens. Faced by that type of challenge, we had to look at alternative ways of sourcing finance to complete the outfitting of the Government Campus Plaza. The base building construction works were completed and remedial works were conducted on the sewer treatment plant. I would like to take this opportunity to announce the proposed delivery timelines for each of the buildings which comprise the Government Campus Plaza.

The Customs and Excise Headquarters Building: The Customs and Excise building contractor, NH International (Caribbean) Limited commenced construction on May 17, 2004. This building was scheduled for completion by March 16, 2006, but was plagued by delays. Construction works were eventually completed on December 22, 2010, more than four years after it was due. The original contract price was TT $99,530,699 VAT exclusive.

Due to delays and variations, a supplemental agreement between UDeCOTT and NH International was agreed to on March 03, 2008 with a new contract price of $113 million. After an open public tender was issued—Madam Deputy Speaker, on the Customs and Excise building, one would also remember, notwithstanding the delay, coming into office in 2010 the Government of Trinidad and Tobago faced the construction sector where there were several bills owing to the tune of over $7 billion. That also was a priority for us, at the time, to sort out those payments to contractors, particularly to UDeCOTT and HDC, and then settle down to outfit those buildings.

Madam Deputy Speaker, on the Customs and Excise building, after an open public tender was issued inviting proposals for the fit-out of the 10-storey building, a local contractor, Exeqtech, was awarded the contract for the fit-out of the building in the sum of $76,986,905.35 VAT exclusive. I am pleased to announce that the fit-out works commenced on April 02, 2014 and are scheduled for completion on October 18, 2014. [*Desk thumping*]

Madam Deputy Speaker, the Ministry of Legal Affairs/the Ministry of the Attorney General tower: this tower, the contractor was Sunway Construction Caribbean Limited. The contract for construction for this tower was $368,902,830.60 VAT exclusive. Construction commenced on May 23, 2005 with a scheduled completion date of August 23, 2007. However, there were significant delays and construction was eventually completed three years after it was originally due, on August 31, 2010.

Madam Deputy Speaker, pursuant to—I must say the former administration did proceed to issue or sought to issue a contract for the outfit of the Ministry of Legal Affairs tower, and that contract was also awarded, without any tendering process, to Sunway Construction. The UDeCOTT proceeded to award this contract for a sum of $313 million without any open tendering process, for $313 million.

On entering office, the UDeCOTT took steps to rescind that decision to award the contract to Sunway Construction Caribbean Limited. Today, I am pleased to announce that the Ministry of Legal Affairs/the Ministry of Attorney General tower, Madam Deputy Speaker, this contract for the tower which was built by Sunway Limited, pursuant to an open tender process, request for proposals was issued inviting proponents to bid for the fit-out of the Ministries' tower. A contract for the fit-out of this 23-storey tower in the sum of TT $260,815,170 VAT exclusive was awarded to another local firm NH International. These works commenced already on June 02, 2014 and are scheduled for completion on August 31, 2015.

Madam Deputy Speaker, I want to indicate that through our open tendering process a local contractor was awarded this contract for $53 million less than that contract that they proceeded to award to Sunway—$53 million less to a local contractor a couple years later, when you would think there would be escalating costs.

The Board of Inland Revenue tower: The contractor for this project, Carillion, started construction on December 03, 2004, and was scheduled to complete this

work by March 07, 2007. The contract price was TT $269,800,970.92 VAT exclusive. Again, due to significant delays, a supplemental agreement was made between UDeCOTT and Carillion for the completion of the work by March 31, 2008, with a new contract sum of TT $348 million VAT exclusive. So this contract moved from $270 million to $348 million, and the Member for Caroni East is very good at telling us—what is the difference there?

Dr. Gopeesingh: Sixty-eight million.

Hon. Dr. R. Moonilal: Sixty-eight million dollars in variation for the Board of Inland Revenue. It should be noted that this project was in abeyance for two years, between the periods of May 2010 to September 2012. Prior to the recommencement of works in September 2012 a revised contract sum was also awarded due to ongoing and extensive additional works. The base building work was approved and the base building construction works were completed at the end of March 2014, almost 10 years after the construction of this tower commenced. We have completed the building and the construction works, March 2014.

Madam Deputy Speaker, the advertisement of the notice inviting proposals for the fit-out of the Board of Inland Revenue tower commenced just today in the daily newspaper. There is indeed an advertisement published in today's *Newsday* and will be published in the *Guardian* and the *Express* next week. The UDeCOTT has informed that this tower which is expected to accommodate the BIR is scheduled to be completed by August 28, 2015.

Madam Deputy Speaker, we all know that these plans are never cast in stone and it is always prudent to make allowances for the unexpected. However, we are convinced that given the rigidity and the sternness of our internal processes at UDeCOTT and given the guidance we have received from external consultants, we expect that our timeline will be met.

I also draw to your attention that the buildings at the Government Campus Plaza, the building which was previously earmarked for the Ministry of National Security, you will be aware that the urgent need to identify appropriate and acceptable office space for the staff of the Immigration Department has become a matter of urgency. In that regard, the Cabinet has decided that such accommodation could be provided at the Government Campus Plaza and, indeed, the Immigration Department would be relocated to this building.

NH International (Caribbean) Limited started construction of this building on November 28, 2005 and was scheduled to become completed in 2007. The contract price was $186 million. From July 2010 to March 2012 UDeCOTT

undertook a massive reconciliation process with regards to duplication of claims and delays by several contractors. The new UDeCOTT had also done an analysis on the works done via independent consultants and quantity surveyors with intense negotiations with contractors subsequent to the findings. Analysis and the installation of new processes based on the UFF recommendations had also been undertaken and executed.

NH International resumed works on March 01, 2012 under a supplemental agreement and completed all the base built works by March 21, 2014 in accordance with the revised contract. The revised contract sum for these works under the supplemental agreement was $207 million. While the building was completed three years after it was due, NH International finalized the works at the final account figure of $205,429,704.56. I must say, TT $1,752,893 was saved due to the negotiations.

I am pleased to announce that UDeCOTT already commenced regular and intense meetings with the Chief Immigration Officer with a view to finalizing a user brief as soon as possible, so that in a matter of days it will be possible to publicly invite proposals for the fit-out of the building in accordance with the requirement of the Immigration Department. UDeCOTT has given a timeline for the completion of the immigration building, by which it is proposed that the fit-out of the building will be completed by March 20, 2015.

2.30 p.m.

So we are following due process. We are following an intense open tendering process for several of these buildings and we intend, when we contract with those persons due to undertake the outfitting, that work will commence and there will be no delays and no cost overrun or variation.

Madam Deputy Speaker, we did take some time to get the process right and to ensure that we protect the national interest and the taxpayers' dollar. It is not a matter that one can rush because we are reminded of several of the mistakes made before. May I remind all Members, particularly the Member for St. Joseph, that the One Alexandra building, the Government took possession of that building without statutory approvals in hand. The former administration of the People's National Movement took possession of that building without statutory approvals.

On another time I will also indicate that a former Minister of Government changed the Government policy by email to ensure that that building was eight floors and approvals from Town and Country Planning were had four days before

a general election. She did that. And that, I imagine, was to ensure that they satisfied the profit—p-r-o-f-i-t. [*Laughter*]

So we are well on our way to the delivery of much-needed, modern and comfortable office space at the Government Campus Plaza for the benefit of our hard-working public officers.

I thank you. [*Desk thumping*]

Madam Deputy Speaker: Minister of Planning and Sustainable Development.

Invader's Bay Project

The Minister of Planning and Sustainable Development (Sen. The Hon. Dr. Bhoendradath Tewarie): Madam Deputy Speaker, I beg to make the following statement to this honourable House in light of recent public statements following on the heels of the ruling of the High Court, made on Monday, July 14, 2014 in relation to the matter of CV 2012-04538, *The Joint Consultative Council for the Construction Industry v the Minister of Planning and Sustainable Development.*

The very first point that I wish to make with regard to the High Court ruling is that there is no issue of disclosure here. There is no issue of failing to disclose, or of wanting to withhold disclosures. The Government is not seeking to prevent disclosure of any matter, nor is the Government fearful of making any disclosure of fact.

The only issue we are contesting is whether the advice of an attorney to his or her client, which is generally regarded as privileged information, is subject to the jurisdiction of the Freedom of Information Act, or whether since it is privileged exchange of information between attorney and client, it is exempt from the Act.

The citizen, seeking to understand and appreciate this, needs to ask himself or herself if every legal advice given to Government were to become public information, whether Government will be able to function. The issue that the Government is contesting, therefore, is not a frivolous matter, nor is it being contested out of belligerence, nor is it because of disrespect of the citizens' right to know, it is being contested because of the considered view that if attorney/client privilege were not honoured by the court, it would create a precedent that would have far-reaching implications.

Permit me the opportunity to outline a few key developments in the history of the Invader's Bay project. Let me read from Request for Proposals (Design and Build) for Development of Invader's Bay, August 12, 2007, because I want to

bring this document to the notice of this honourable House.

Request for Proposals (Design and Build) for Development of Invader's Bay, August 12, 2007. I read the first two paragraphs:

> The Government of Trinidad and Tobago, through the Ministry of Planning and Development (MPD) is seeking interested developers for the development of the Invader's Bay area. This Request for Proposal has been assembled to provide potential developers (hereinafter referred to as the 'developer' with the information to prepare a competitive design and build proposal. This information has been developed by the MPD. The MPD will provide direction throughout the development process of the proposals.
>
> The proposal requirements are intended to solicit creative, high-quality design and build proposals for the proposed uses, site design, architectural, conceptual designs, financing and construction of the proposed project.

And later on it goes on to say:

> The proposed Developer will be chosen via this RFP and shall then enter into an MOU with the Government of Trinidad and Tobago (Ministry of Planning and Development). It is expected that this activity would be finalized within two (2) months of the submission of the said RFP.

Let me go on to read from a letter of 2007. It is under the letterhead of the University of Trinidad and Tobago, and the letter reads as follows:

> Dear Permanent Secretary,
>
> Reference to your letter of August 14, 2007 and the attached document, Request for Proposals for the Development of Invader's Bay, Port of Spain...

That is the document I just read from and drew to the attention of the House.

> The proposal, while very broad in its scope, very likely can meet the requirements of the Ministry of Planning and Development. I am suggesting that as a first step the Ministry undertakes a prequalification exercise whereby Appendix A will be required to be filled by potential proposals per a newspaper advertisement or whatever form is utilized by the Minister. The reason for this is that serious proposals cost a great deal of money to prepare and through the prequalification exercise, only those firms that have the confidence, competence and resources to present a meaningful financial plan

will be invited to do so.

I would also like to suggest that the two-envelope approach be used in this exercise whereby the technical information is submitted in one envelope and financial plans and related financial information in the other.

With this approach, the technical proposal will then be evaluated and the proposals that come within 5 per cent of each other, based on approved criteria and weighting, will be subject to further evaluation. These proposals will then be eligible for further consideration through examining the financial proposals.

And the letter goes on, and the letter is signed by K.S. Julien TC, Professor Emeritus.

Let me read from Cabinet Note of March 29, 2010. [*Pause*]

Miss Mc Donald: You could ad lib.

Sen. The Hon. Dr. B. Tewarie: It is important to read. I am just trying to find the right place. In the recommendation of the then Minister of Planning, Housing and the Environment, the following recommendations are made:

That Cabinet accept the structure plan.

And that is outlined:

That Cabinet note the expression of interest submitted by Columbus Towers Property Development LLC—and the appendix is added—for the establishment of…

And it then outlines what that is supposed to be. And what I was really looking for is the one which alerts Cabinet to the fact that—I have found it now, Madam Deputy Speaker:

Cabinet is asked to note further that in the light of the potential for development of Invader's Bay, several international developers have expressed interest in establishing commercial enterprises on this site. The most recent expression of interest is a proposal by Columbus Towers Property Development LLC, a division of M. Falcon Group Limited...

And it goes on to describe the project.

Madam Deputy Speaker, what we can see is that in 2007, by March of that year, there was a line-up of people for the projects at Invader's Bay, and there were interests involved in active pursuit and engagement of the Minister, and then brought to the attention of Cabinet, and as part of the process of involvement in Invader's Bay.

Let me read from another letter of November 05, 2010. It comes from a bank. I will not name the bank, but it is very important in the context of a question asked about how you announce things. So this one says:

> We have been in discussions with the M. Falcon Group over the past five months...

And so and so and so. And it is addressed to the hon. Prime Minister and the Minister responsible for Planning and Development. The person says, writing on behalf of the bank:

> We understand, hon. Prime Minister, that you wish to announce the project as part of the upcoming Commonwealth Heads of Government meeting to be held in Trinidad and Tobago.

Now, remember, there is no request for proposals for these projects. There are Cabinet Notes going to Cabinet; there are people lining up; there are letters passing back and forth as to how to do this through the Ministry of Planning and the bank manager says:

> Given our keen interest in this project, we would have no objection to a public statement to the effect that the initial discussions have been held with us on the financing arrangements.

And then he has a proviso clause at the end, which indicates, of course, that:

> This should not be deemed to be a commitment on the part of the bank to finance the project.

Now, the history of Invader's Bay as a project therefore predates the People's Partnership, and the only reason it has become so controversial in our time is because there were deals already in motion before we came. The history of Invader's Bay not only predates us, but involves a number of interested, and some may say, self-interested parties.

On Tuesday, February 28, 2012, at the sitting of the Senate, the Minister of Planning and Sustainable Development responded to certain questions that were posed by then Sen. Dr. James Armstrong in relation to the intended development

of Invader's Bay and the request for proposals that had been published by the Ministry of Planning and the Economy in August 2011.

2.45 p.m.

Mr. Speaker, in response to the question whether the publication of the RFPs conformed to the Tenders Board Act, I stated that the publication of the RFPs was not required to be in conformity with the Central Tenders Board Act. I further stated that the Ministry had sought and obtained legal advice on the matter.

Mr. Speaker, on the 28th day of February, 2012, I stated in the other place that the Invader's Bay Development Matrix and Criteria Description—[*Interruption*]

Miss Mc Donald: Minister, could I intervene just a second?

Sen. The Hon. Dr. B. Tewarie: I would like to complete my statement if you do not mind.

Madam Deputy Speaker: I think that you probably want to remind him that it is Madam Deputy Speaker and not—[*Interruption*]

Miss Mc Donald: It is a statement and not a debate.

Madam Deputy Speaker: You may continue, Member.

Dr. Rowley: Madam Deputy Speaker, I rise on a point of clarification if you will indulge me.

Madam Deputy Speaker: What is your clarification, Member?

Dr. Rowley: I rise on a point of clarification.

Sen. The Hon. Dr. B. Tewarie: I am on my legs, Deputy Speaker.

Dr. Rowley: Madam Deputy Speaker—[*Interruption*]

Madam Deputy Speaker: Have your seat. Member for Diego Martin West, the Member is under "Statements by Ministers", please allow him to make his statement. You may continue, Member.

Dr. Rowley: Madam Deputy Speaker, I rise to you as head of the Chair. I rise on a point of clarification. The House is conducting business, will you engage me in a point of clarification?

Madam Deputy Speaker: Yes, I will engage you on a point of clarification.

Dr. Rowley: In which case I am asking then: is the Member conducting the appeal of the Seepersad judgment here in this House? [*Desk thumping*]

Hon. Member: No!

Madam Deputy Speaker: Member, you may continue.

Sen. The Hon. Dr. B. Tewarie: Madam Deputy Speaker, on the 28th day of February, —Madam Deputy Speaker, sorry. On the 28th day of February, 2012, I stated in the other place that the Invader's Bay Development Matrix and Criteria Description consists of 31 specific questions, asked of each respondent to the RFP for the process of comparative evaluation. This matrix was utilized by the evaluation committee for the evaluation of the proposals received, and it is on the basis of that, that recommendations were made to the Cabinet. These criteria were publicly articulated at an awards dinner of the Contractors Association by the Minister of Planning and the Economy.

Madam Deputy Speaker, I announced these matters publicly then, because having gone to the Contractors Association dinner and with the issues having been raised about the criteria, there was a lot of talk and speculation surrounding the criteria as if they were determined in some secretive manner. I chose then to make these public utterances at this forum, to reiterate and put once again into the public domain, the published criteria in order to obviate any perception of lack of transparency, however ill-founded or untenable.

Madam Deputy Speaker, those facts were revealed at the forum and then again in the other place on February 28, 2012. Madam Deputy Speaker, I then stated to Members of the other place that there had been requests for reviews— [*Interruption*]

Miss Mc Donald: Madam Deputy Speaker, again, I rise on a point of clarification. This is not a debate, because then we need to respond. It is supposed to be a statement.

Madam Deputy Speaker: Have your seat, have your seat. Member, you may continue.

Sen. The Hon. Dr. B. Tewarie:—some of them in the public domain, and there was one request by the JCC. The records will reveal, Madam Deputy Speaker, that we had a consultative meeting with the whole range and spectrum of stakeholders. We explained our position and proceeded with the process.

Dr. Rowley: Madam Deputy Speaker, I rise on a point of clarification. Is this a Statement by the Minister or a Personal Explanation? Is the Minister speaking in the context of Personal Explanations or Statement by Minister? I state clarification because you returned to the matter.

Madam Deputy Speaker: Hon. Minister, I recognize that you have started to move away a little bit. I want to ask you to stay with your statement as it is. Thank you.

Sen. The Hon. Dr. B. Tewarie: Madam Deputy Speaker, my statement is on the Invader's Bay matter.

Madam Deputy Speaker, I revealed then, and I do so again, that members of the evaluation committee comprised the Chairman of the Economic Development Board, who was Chairman of the committee; the Chairman of the Tourism Development Company; the Chairman of the Trinidad and Tobago International Financial Centre management committee; the President of Evolving Technologies and Enterprise Development Company Limited; the Chief Executive Officer of the Environmental Management Authority (EMA); the Deputy Permanent Secretary of the Ministry of Planning and the Economy then; the Deputy Permanent Secretary of the Ministry of Food Production; the Senior Planning Officer of the Ministry of Planning and the Economy; and the Senior Legal Consultant at the Office of the Attorney General.

Madam Deputy Speaker, the evaluation of the process was undertaken by some of Trinidad and Tobago's finest minds, loyal to public service, well qualified and well poised to advise the Government on a sound project, which has the potential to bring tremendous economic benefits to the country. These include diversification of the economy, growth of the services sector, construction jobs, sustainable employment and a facelift to the City of Port of Spain. They recommended three proposals out of 10 submitted.

Madam Deputy Speaker, on the 20th of April, 2012, notwithstanding my very comprehensive, clear and cogent responses, the Joint Consultative Council for the construction industry, the JCC, filed a request for access to official documents in accordance with section 13 of the Freedom of Information Act, 1999. The documents requested, then, from the Ministry of Planning and the Economy were as follows:

A copy of the Invader's Bay Development Matrix and Criteria Description;

Pursuant to one above, it asked: what is the weight given to the Invader's Bay Development Matrix and Criteria Description—[*Interruption*]

Mr. Imbert: Madam Deputy Speaker, point of order.

Sen. The Hon. Dr. B. Tewarie:—to the conformity of the proposals—[*Interruption*]

Madam Deputy Speaker: Yes, your point of order?

Mr. Imbert: Point of order, Standing Order 36(2).

Madam Deputy Speaker: Member, I want to ask you to link your policy to your statement. Like I said, you have strayed a little bit. So I am asking you now, to link your policy to your statement. You may continue.

Mr. Imbert: But, Madam Deputy Speaker, could you rule on 36(2), please?

Madam Deputy Speaker: Members! Members! Members, please! Members, please! [*Crosstalk*] Member, I recognize that you have moved into what is called, like a Personal Explanation, and they know it is a ministerial statement. [*Desk thumping*] I want to ask you, like I say it is a ministerial statement, to link your policy within the statement.

Sen. The Hon. Dr. B. Tewarie: Madam Deputy Speaker, this is a statement about the Invader's Bay project which is under public discussion, and I am tracing the history and the evolution of how we got to this point. And, Madam Deputy Speaker, of course, I am guided by you and abide by your ruling. I was simply explaining what I was trying to do.

> The JCC asked for a copy of the Invader's Bay Development Matrix. They asked, pursuant to one above: What is the weight given in the Invader's Bay Development Matrix and Criteria Description to the conformity of proposals? [*Crosstalk*]
>
> They asked: What public consultation has the Ministry—[*Interruption*] [*Crosstalk*]

Madam Deputy Speaker: Continue. Continue, Member. Continue.

Sen. The Hon. Dr. B. Tewarie: What public consultation has the Ministry undertaken and, has the Ministry had any legal advice on the applicability of the Central Tenders Board Act to the RFP process? When did the Ministry request that legal advice and to which legal advisor did the Ministry make that request?

And they then requested copies of the advice.

Madam Deputy Speaker, on August 16, 2012, the Ministry of Planning and Sustainable Development responded to Mr. Afra Raymond, President of the JCC, acknowledging receipt of his earlier correspondence and the FOIA request. The Permanent Secretary in the Ministry informed the President of the JCC that legal

advice was sought by the Ministry on the applicability of the CTB Act in respect of the RFP, and I quote from the letter as follows:

The instructions of the provisions—[*Interruption*]

Dr. Browne: Madam Deputy Speaker, on a point of order. Point of order, Standing Order 20.

Madam Deputy Speaker: Member, like I say, I know you are on a ministerial statement, could you say like how long you have again to go with your statement?

Sen. The Hon. Dr. B. Tewarie: I probably have about five or six minutes more.

Madam Deputy Speaker: Five or six minutes more? But I want to ask you to link your policy to your statement again, please.

Sen. The Hon. Dr. B. Tewarie: Madam Deputy Speaker, I want to ask for your protection in this House from the Members on the other side. [*Crosstalk*]

Madam Deputy Speaker: I will give you protection, Member. You may continue.

Sen. The Hon. Dr. B. Tewarie: Okay. I want to state that this issue of Invader's Bay has been made to be controversial, and I have shown in the information—[*Crosstalk*] I have shown in the information prior to 2010 that there was nothing after 2010 that deviated from the practice before. [*Crosstalk*]

Madam Deputy Speaker: Member for Diego Martin West, allow the Member—[*Crosstalk*] Member for Diego Martin West! Member for Diego Martin West, I am asking you to allow the Minister to speak. Minister, you may continue. [*Crosstalk*]

Sen. The Hon. Dr. B. Tewarie: Madam Deputy Speaker, I will shorten my presentation in order to make the following salient points. First of all, there were certain things asked for by the JCC, which found their way in court. Of those, all have been satisfied, except the contentious issue of whether the Freedom of Information Act applies in the case of legal advice to a client, or whether such advice is in fact a privileged piece of information rather than a public piece of information.

So we have provided the matrix. We wrote a letter to the JCC indicating our answers on all of these issues and these are here. I am prepared to leave these in the Parliament for circulation so the public will be aware, and Members will be aware that we have been absolutely and totally transparent in all matters. [*Desk*

thumping] And the matter in which we are engaged in—[*Interruption*]

Dr. Browne: Madam Deputy Speaker, point of order. Point of order.

Hon. Member: What order?

Dr. Browne: Standing Order 36(10). I would like a ruling on that, please. He is calling the conduct of a—[*Interruption*] [*Crosstalk*]

Madam Deputy Speaker: It is overruled. Hon. Minister, you asked for five minutes. It is already four minutes, so you may wrap up, please.

3.00 p.m.

Sen. The Hon. Dr. B. Tewarie: Yes. Thank you very much, Madam Deputy Speaker.

Mr. Imbert: "He talking about half an hour."

Sen. The Hon. Dr. B. Tewarie: I want to emphasize the transparency of the entire process. I want to hold before this honourable House the due diligence reports that were done for all the companies involved.

Dr. Rowley: Show Justice Seepersad that.

Sen. The Hon. Dr. B. Tewarie: I want to say that the only contentious matter—[*Interruption*]

Dr. Rowley: Is your conduct. [*Laughter*]

Sen. The Hon. Dr. B. Tewarie:—that we are contesting is the issue of whether or not the advice of a lawyer to a client—in this case, the Government—falls under the Freedom of Information Act or whether that client/lawyer privilege is protected. So, I argue the case for the transparency of the process. [*Crosstalk*]

Dr. Rowley: That was argued in court.

Madam Deputy Speaker: Member for Diego Martin West.

Dr. Rowley: That was argued in the court.

Madam Deputy Speaker: Member for Diego Martin West.

Dr. Rowley: Do not argue it here.

Madam Deputy Speaker: Member for Diego Martin West, I want to ask you to have some respect for this Chair, please. Member, you may wrap up.

Sen. The Hon. Dr. B. Tewarie: Yes. I simply want to close, Madam Deputy Speaker. I thank you for your protection and I emphasize, again, the transparency of this entire process in this Government, and for this Invader's Bay matter and I indicate that based on—the lawyers are now looking at the judgment and on the basis of that and their advice, we will decide whether or not we should appeal. [*Desk thumping*]

Trinidad and Tobago Defence Force (Role and Function of)

The Minister of National Security (Sen. The Hon. Gary Griffith): Thank you, Madam Deputy Speaker. I beg to make the following statement in regards to the role and function of the Trinidad and Tobago Defence Force and the status and rationale for operations in Laventille and the environs.

Madam Deputy Speaker, the Trinidad and Tobago Defence Force has continued to prove their worth and loyalty to this country even in the line of fire, as was professionally and bravely executed during the attempted coup of 1990. [*Desk thumping*] The Trinidad and Tobago Defence Force was established in 1962 under the Defence Act, Chap. 14:01, of the laws of Trinidad and Tobago, and among other duties, was given the following responsibilities: to defend the sovereign good of the Republic of Trinidad and Tobago; to cooperate with and assist the civil power in maintaining law and order; to assist the civil authorities in times of crisis or disaster; to protect us from external aggression, and on ceremonial duties.

Madam Deputy Speaker, unfortunately, there is the perception that the role and function of the defence force only has to do with the—to protect us from external aggression, which is fighting wars. It is not just to fight wars. I could give you a perfect example to show that the defence force can also be fully successful in their role and function as an aid to civil power, whereas they acted as a part of the peace-keeping operations in the United Nations Mission in Haiti and they were very successful. The reason I could emphasize that is because I was the first officer from the Trinidad and Tobago Defence Force, in this country, to return with a United Nations medal. [*Desk thumping*]

The present duties of the defence force in Laventille and the environs are but one such dedicated effort. The presence and high visibility of the defence force is above board and within all legal boundaries. The Commissioner of Police has indicated that the Trinidad and Tobago Police Service is in full support of the efforts of the defence force and patrols conducted by the soldiers of the defence

force. This type of support given to the Trinidad and Tobago Police Service by the Trinidad and Tobago Defence Force is an ongoing effort, and the combined operations of these law enforcement agencies will only serve to the betterment of the nation, and via this joint approach, there have been significant success that we can see in numerous operations far and wide across the national landscape.

One must be mindful of the variance between operations and patrols. Operation: that has to do with the specific mission with implied and essential tasks that are planned, structured and executed, and that will involve a series of activities and events. One such component would be patrols, either mobile patrol or foot patrol. Patrols are carried out during an operation.

What is presently being conducted in Laventille and environs is a planned, approved operation that involves patrols and other mechanisms of law enforcement action, and that involves the Trinidad and Tobago Police Service. It does not mean that every police officer must be next to a soldier and hold their hand in the operation, and we could all recall from years gone by, you will see soldiers in pairs walking the streets of Port of Spain during the Christmas period. So there is a difference with operations and patrol. So the defence force, they work in tandem with the police in the operation but they can be on patrols without a police officer being next to them.

Clearly, the detractors and complainers, regarding the presence of the defence force in Laventille and environs, are those who may appear to be involved in some aspect of illegal activity or those who are associated with criminal elements, as the majority of comments we have received have been in the positive with respect to the presence of the defence force personnel in the area. In fact, I have received reports that due to the success of and the effort by these soldiers and their patrols that they have disrupted the illegal activities in these areas and in an effort to tarnish the image of the defence force and cause the public to question and doubt the reason for their presence, they have commenced a form of mind games, or, as we say in the military, a level of psychological warfare, in that neither the Chief of Defence Staff nor the Commissioner of Police has received any official reports on wrongdoing of the soldiers.

But, as I have heard, newspaper headlines which can affect us internationally and if you read the newspaper headlines based on allegation, based on perception, based on what?—on old talk and not facts. The Commissioner of Police and the Chief of Defence Staff have reaffirmed that they will support all legal and approved operations and events involving the defence force and the police. They caution members of both units that any individual, or group of individuals, found

to be involved in any unauthorized activity, would be treated with the full brunt of the laws that govern both units. The Chief of Defence Staff reiterates that it is not illegal for members of the defence force to conduct patrols without a member of the police service being present, as the area of operation for the Trinidad and Tobago Regiment is the geographical confines of Trinidad and Tobago. [*Desk thumping*]

He, however, has stated that it is not the role and function of the defence force, as we have heard, to conduct roadblocks on their own, to kick down doors, to stop vehicles or enter the residence of premises without a police officer present, and especially without the duly signed warrant, and these are not operations that he would give consent to unless there is the cooperation of the police service. His formation commanders, and by extension, his soldiers, sailors and air crewmen, have been reminded that they are to act within the laws of the Republic of Trinidad and Tobago at all times, and to do so with the safety and respect of the public utmost in their minds. The Chief of Defence Staff and the Commissioner of Police are both recommitting their support and dedication to continue working together and utilize the strong bonds of joint operations to treat with and address all level of criminality and threat to the beloved nation of Trinidad and Tobago.

On another important matter, Madam Deputy Speaker: My job entails ensuring that there is never a repeat of what caused the problem that we had with SAUTT and with all the good intentions, and through SAUTT, we had the turf wars, because SAUTT, at that time was seen as being competitive and encroaching on the role and function of the police. No communication, no mutual respect. When we have situations like this, it gives the perception that there is some sort of conflict between the Trinidad and Tobago Police Service and the defence force. So, it is critical that these two major arms of law enforcement, the police and the army, work hand in hand, they support each other, they trust each other and they work together, and they do not encroach on each other's area of responsibility.

At times, it is, indeed, a very thin line, but what I would not do is to bridge that gap of that line to such an extent that the criminals would use that gap to slip through and to ply their trade. That is what they want. Using propaganda machinery to give the impression that the soldiers are breaking the law left, right and centre, to put pressure, to pull them back, and by the police not being able to fill that void, these criminals can then continue to ply the trade of terrorizing people, selling drugs and gang warfare activity. It is not happening. I have read that play a very long time.

Let us not be lured into that clandestine plan of propaganda. Not one report made to the police or defence force of such allegation and that is what it is. What is interesting is that the same detractors, they do not complain or, we do not see the headlines, when gangsters are patrolling the streets using heavy semi-automatic rifles as if they own it, and killing persons, intimidating individuals and claiming taxes of innocent persons. A handful of persons making an allegation, that is put on the front page. They are not putting on the front page that crime has been at its lowest in years in Laventille over the last few days, not that those citizens are feeling safe. No, that would not be sensational. So, instead, we take the word of a handful of persons, some maybe being persons of interest with unfounded accusations and with allegations.

But, by doing that, should we disregard the 50,000-odd law-abiding citizens in Laventille and the environs where their needs and safety and security must be removed based on a handful calling the media to work the propaganda machinery? First time in years, children are playing on courts late at night in these areas, mothers are walking the streets in peace with their children, not fearing a stray bullet entering their homes. But, a few persons, most probably with their own agenda, run to the media to have pressure put on the army.

Madam Deputy Speaker, just before I close, I wish to state that the soldiers will remain there until the area is brought under control. It might be intensified but with the support of the Trinidad and Tobago Police Service. [*Desk thumping*]

Madam Deputy Speaker, it is unfortunate that soldiers continue to take a beating by our very own. In 1990, they saved democracy when many were under their beds, praying and hiding. How much credit we really gave them? Very little. Then, they do patrols daily to peg back the enemy of the State. We say that they are only trained to kill because of lack of knowledge in understanding the training of a soldier. Then, we ask them to patrol streets and restore law and order, but not give them powers of arrest. So they patrol like a citizen with no powers of arrest, but an untrained security guard with a few hours of basic training is precepted, and has powers of arrest. So, we are trying to say that a security guard should have powers of arrest and not a soldier, but we put them out in the streets to protect us.

Then, soldiers are being targeted. One is killed. And why he is killed? Because “he put his hand on ah Bible to guard and defend our country”. No other reason. His comrades have rallied to the call to ensure that this is unacceptable just like anywhere else in the world. In New York, you shoot a police officer in

New York, they do not go and hold hands and sing "kumbaya" with the criminals. They make it known and they make their presence felt and they stay within the law. We intend to do the same thing.

The soldiers go out to work every day. They go on the streets. They are asked to put their lives on the line. Their families do not know if they would return. They are there to protect us and now they are getting a slap in the face, and we are telling them to use citizen's arrest. And now, because of a few persons with a smear campaign, we are trying to discredit the defence force. The audacity that they have been telling soldiers that they take their weapons and return it to camp, when they, the criminals, do not come off duty and they could keep their weapons. That is what the soldiers have to work with.

Madam Deputy Speaker, this can affect morale. How much more can they take, that they take? I am asking that we work with them, we support them, they are there to help us, to protect us. They defend the State by offending the enemy of the State. A little again, if they decide to take their marbles and go home, or go back to camp and say, "Let us wait for a war", what do you think will happen to us? Let us start respecting and recognizing and commending them and let us stop demonizing them. This is what the criminals want. Do not be influenced by the gang members. I am here to defend the rights of—not the rights of criminals, but to defend the rights of the citizens. The criminals lost the opportunity for those rights when they started depriving the rights of the law-abiding citizens of this country.

Madam Deputy Speaker, I am here to fight the evil forces in this country that want to commit crime. They depend on crime. Let us not let the propaganda of wild, unsubstantiated claims of soldiers, left, right and centre, attacking citizens and breaking down doors. But, at the same time, as I close, rest assured that if one police officer, one soldier, breaks the law and acts outside of what he is authorized to do, he would face the full brunt of the law. There has even been one soldier who, in fact, has actually abused his authority, and as I have mentioned in the military, you are found guilty first and then you have to prove you are innocent. I think he is probably in jail right now in Teteron Barracks.

Again, if one police officer is abusive to a citizen, would you shut down the operation, would you shut down the police service? No, that individual will be disciplined. The army has brought stability to Laventille and the environs and they should remain. We need to support them. The gangs are suffering, their business is hurting. Do not let them win that propaganda war. If they do that, we all lose. We guarantee the citizenry that their actions will be lawful. We assure the

Republic that the innocent have nothing to fear. Those who need to fear know themselves. There will be an end to this and justice will prevail. I thank you, Madam Deputy Speaker. [*Desk thumping*]

ARRANGEMENT OF BUSINESS

Madam Deputy Speaker: Hon. Members, I have received communication from the hon. Prime Minister and Member of Parliament for Siparia who also wishes to make a statement to this honourable House, with your leave, at 4.00 p.m.

Assent indicated.

Madam Deputy Speaker: This item will be taken later, at 4.00 p.m., in the proceedings.

3.15 p.m.

SECURITIES (AMDT.) BILL, 2013

Order for second reading read.

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

That a Bill to amend the Securities Act, 2012, be now read a second time.

Before I start, I want to note and acknowledge the presence of the Member for San Fernando East. It is the first time, in my own addressing this House, that the hon. Member has been present. [*Desk thumping*] I would like to extend my best wishes to him.

Madam Deputy Speaker, if I may recap the process of getting to this point, with respect to the Securities (Amdt.) Bill that we have here. In 2012, the Bill was passed—the Bill that had been prepared at the time—with a three-fifths majority of both Houses and was proclaimed on the 28th of December 2012, and became operational on December 31, 2012.

The work of getting to this point has actually had the benefit of two select committees: one joint select committee, which dealt with the Bill which became the 2012 Act and a select committee of the other place, which produced the amendments which we now seek to incorporate into the 2012 Act. In reviewing this particular Act, we have streamlined a number of areas. We have identified a number of areas where there is need for us to tighten certain loopholes, and we have increased a number of penalties. For example, insider trading: we have increased the penalty from $5 million and seven years imprisonment to $10 million and 10 years imprisonment in the amendment that we are bringing

forward today.

Madam Deputy Speaker, the passage of the 2012 Act has helped the country to become a full signatory of the IOSCO, the International Organization of Securities Commissions, Multilateral Memorandum of Understanding in June 2013. Our Trinidad and Tobago Securities and Exchange Commission is now a member of IOSCO's Growth and Emerging Market Committee and actually sits on the steering committee of that particular body. Being on the A list of IOSCO signals and positions Trinidad and Tobago as a country which is serious about ensuring sound securities legislation.

Madam Deputy Speaker, participation and recognition of Trinidad and Tobago in this forum is something of which we should all be proud. We are now one of five commissions in the Caribbean. The others are Bahamas, Bermuda, Cayman Islands and El Salvador that form part of IOSCO.

The benefits of being a member include the sharing of information with foreign regulators, an enhancement of our international reputation and credibility and increased investor confidence in our securities markets. Today, our Trinidad and Tobago Securities and Exchange Commission can collaborate with securities regulators from the US to Australia and can consult, cooperate and exchange information for regulatory purposes and, as well, signatories share with each other essential investigative material such as beneficial ownership of particular securities, details of securities and derivatives transactions and records and bank and brokerage information.

Within Trinidad and Tobago, over the past year and a half—close to two years that we have passed the legislation—the Trinidad and Tobago Securities and Exchange Commission has signed two MOUs, one with the Central Bank in January of 2014, and the other with the FIU and the Central Bank in June of 2014, pursuant to section 19 of the Securities Act, 2012. What this does is certainly enhance the extent of cooperation and coordination that can take place among these regulatory bodies.

The Act, as it stands now, enhances disclosure obligations, strengthens the regulatory framework, fosters transparency, and facilitates an increase in the SEC's enforcement powers. It places greater emphasis on prosecuting market misconduct and manipulation in activities such as Ponzi schemes. So, the Act that we are amending already forms part of a wide-ranging and comprehensive framework of measures which Government has undertaken to upgrade, reform and modernize our regulatory environment.

In turning to the amendment Bill which we have before us, this comes out of a number of initiatives. First of all, when the Act was passed in the other place, there were a number of areas which—the Members on the other side, at the time, had identified—perhaps need a bit of strengthening and a bit of tightening. Government, at the time, undertook to bring back new legislation which would have dealt with some of the issues which had been raised at that time. But we also took the opportunity to consult with the market and to see the Act actually in operation, so that we could identify what are some of the things that we needed to coordinate and tighten as we move forward with the changes that we wanted to make to the legislation.

Before actually going into the specifics of the amendments which we are seeking to make, I just want to give somewhat of a background of the marketplace and how it has grown and why it is so important that we ensure that this piece of legislation is robust, is rigorous and certainly contributes to the full enforcement of a better regulatory environment within Trinidad and Tobago.

Madam Deputy Speaker, the financial services sector is a major contributor to the economy and is in fact the second largest sector after the energy sector. The financial services sector contributes approximately 14 per cent of total GDP on an annual basis. As such, Government's vision for the sector is to make it an even larger contributor and to use it to leverage the further growth and diversification of the economy. We have identified financial services as one of the sectors on which emphasis will be placed as we seek to diversify our economy. We want to see it become a larger contributor. We want to expand the role of the TTIFC. We already have in place four planning teams which are currently working on initiatives to help develop and expand our capital market. We see Trinidad and Tobago as becoming more and more a regional marketspace and, therefore, somewhere where there could be even greater volume of transactions and an even more robust capital market.

And as we continue the search for considering the niches in the capital markets, to which we might be able to respond and on which we might be able to base our growth, we see Trinidad and Tobago potentially becoming a centre for dispute resolution, as far as capital market transactions are concerned and we have already started some work in that particular area to try and develop that particular niche somewhat. But to do this, we need to ensure that the market is very well regulated and it has a very robust framework of legislation and certainly very active regulators.

Madam Deputy Speaker, apart from the potential for crisis, this sector has become very large in the past few years, which further emphasizes the need for this legislation to be robust, while continuing to facilitate growth of the sector. Some of the data that we have would point to the growth that we have been experiencing and which we can expect to experience in the coming years. Trinidad and Tobago is one of five countries within the Caribbean, with stock markets with publicly-listed companies. The others are Barbados, Bahamas, Bermuda, Cayman Islands and Jamaica. Trinidad and Tobago is by far the largest and most active, in terms of the number of trades when compared to both Barbados and Jamaica. While the Trinidad and Tobago market has shown consistent growth over the past two or three years, both Jamaica and Barbados have declined. Our stock market capitalization is now over three times that of Barbados and Jamaica.

Over the last five years, if we take the period 2008—2013, we are seeing tremendous growth in the market. If I were to take, for example, the debt securities market, this has grown from $4.9 billion at the end of 2008, early 2009, to $15.6 billion by the end of 2013. That is a growth of 318 per cent. The market cap of the Trinidad and Tobago Stock Exchange has grown from $71 billion in 2009 to $110 billion at the end of September 2013. The market for securitized instruments, such as asset-backed securities, has also grown over the period from $2 billion—a relatively small sector of the market—to over $3 billion, or a growth of 50 per cent. The number of registrants now stands at 328 registrants or active market participants here in Trinidad and Tobago, a number that needs to be properly regulated.

If we measure growth from the baseline year of 1997, when the Securities and Exchange was first established, at that time the regulated capital market stood at $23 billion. This represented 65 per cent of GDP at the time. As at the middle of last year, the value of the regulated market was TT $281 billion, representing 169 per cent of nominal GDP. In 1997, funds under management such as mutual funds, which was the largest element, amounted to $3.3 billion. By the middle of last year, this figure had grown to $43.8 billion, an almost 15-fold increase over the period of time.

Moreover, Madam Deputy Speaker, there were only three mutual funds established in 1997. Today, there are 64 funds registered. With respect to the stock exchange, the composite index at that time was 213 in ‘97. As at the end of August last year, it was 1,123, or an increase of 426 per cent. Market capitalization of the stock exchange, as I said, stands at $110 billion today. At that

time, it was less than $20 billion.

So, Madam Deputy Speaker, I do not need to go into all of the numbers. I think what I have said here clearly demonstrates that both the level of trades and the size of the market have increased exponentially over the past 15 years or so, and, in fact, that rate of growth in the market has continued over the last five years. If we look at the last five years, notwithstanding some of the challenges, both locally as well as in the global economic space, what we are seeing is that there has been quite a significant growth in the market. And, therefore, it speaks to the need for us to continue to build on and continue to develop our regulatory infrastructure to ensure that we have the type of environment that will contribute to the continued growth.

But more than just continued growth, we need an environment that will contribute to the increase in confidence that individuals will have, so that we do not only see locals being active in the marketplace, but also that we see international investors being comfortable that they could participate in this market, starting, of course, with our colleagues in the regional marketspace.

3.30 p.m.

Currently, we have a number of regulators. We have five authorized regulators in this sector. The most prominent, and the foremost of which, is the Central Bank of Trinidad and Tobago, but we also have the Securities and Exchange Commission, the Stock Exchange, which performs—which is a self-regulatory organization that performs a certain amount of regulation. Of course, we have the Financial Intelligence Unit, and we have the FIB, which is the arm of the Government which actually deals with the investigation of white-collar crime.

So, Madam Deputy Speaker, we have in place, the basic building blocks on which we can continue to see this market grow. Our goal here now is to put together legislation that is well thought out, that is very practical, and which incorporates insights into how this market operates, and how best we should be able—how best we can use this piece of legislation to properly market—to properly regulate the market in a way that is practical, that is fair, and that is equitable.

During the past year, since the legislation has come into being, we have had three trading enquiries which went to the Securities and Stock Exchange. The first relates to possible trading in bonds by persons who were not registered in that capacity with the commission, and the second related to—the other two related to suspicious trading activity in listed companies' shares. Of these three enquiries,

two were closed without further action, and one has led to the initiation of a formal investigation. So currently, Madam Deputy Speaker, there is—we do, in fact, have one ongoing investigation which occupies the attention of the SEC.

In turning to the amendments, Madam Deputy Speaker, before I deal with them, I just wanted to say that these amendments are based on a fairly broad-based consultation and review with all of the market participants. As I indicated at the start, when we decided that we had to come back to this honourable House with amendments to the legislation, we thought that we should, prior to doing so, consult with all of the market participants in order to ensure that whatever changes we were making were comprehensive and would allow this particular piece of legislation to adequately meet the needs of the marketplace.

So, Madam Deputy Speaker, we consulted with a number of stakeholders which included the Trinidad and Tobago Stock Exchange, the Home Mortgage Bank, the Bankers' Association, the American Chamber of Industry and Commerce, the Trinidad and Tobago Chamber of Commerce, listed companies, and we have consulted with a number of listed companies. I do not need to go into all of the listed companies that we have consulted with. I would want to certainly thank all of those persons who contributed to the legislation, for the inputs which they have made, which have been invaluable both at the initial stage, as well as the committee stage in the other place.

In turning to the amendments before this honourable House, there is both, first an amendment Bill which was tabled initially in the other place, and it went to a Select Committee of that House. The Select Committee considered the Bill, and made a number of amendments to what was actually placed on the agenda. In total, the unofficial count was somewhere around 63 amendments made in the other place, in order to tighten up a number of areas, and to come to some kind of mutual agreement between both sides of that honourable House on what would constitute good legislation for us to implement.

Coming out of the deliberations of that Select Committee, we had a number of reports which included—both the reports of the committee, as well as the amendment Bill itself, the amendments which were made in committee. We produced also a Bill with the amendments—we took the amended Bill and incorporated the amendments into it, so that Members could easily identify what changes were made in committee. We also took the Act and amended the Act with all of the changes, so that one could see the full piece of legislation, with all of the changes that were required—that had been agreed to be made.

I have to say that I was very pleased with the fact that, you know, both the amended piece of legislation received the unanimous support of both or all three sides, if I may say that, in the other place. In particular, the Select Committee focused on the extent of information disclosure, and we have tightened up a number of areas relating to information disclosure. We focused also on the constitutionality of civil and criminal liability provisions, and we focused also on the disciplinary procedures utilized by the commission.

Coming out of that, there were a few areas that were significantly tightened, especially the introduction of a particular caveat relating to breaches or offences created, probably even administrative offences, I should say, committed under that legislation. We have introduced certain wording such as to ensure that if we are going to include penalties, and severe penalties, that these are brought to bear where the breaches are knowingly and recklessly committed particularly. So we wanted to be sure that we provided the kinds of safeguards that were necessary for someone who may have breached innocently, but that we had very stiff and strong penalties, where there was a significant breach and a knowing breach, and especially if there was a reckless breach of the regulations.

One of the very important things that the committee in the other place did, Madam Deputy Speaker, was that the committee considered the entire matrix of all the fines and penalties, criminal as well as administrative, that are included in this Bill and sought to streamline them as far as possible. One of the things we did was to make them—certainly make the criminal offences, offences that would be dealt with on a summary basis. We also looked at what was happening with respect to the administrative fines, and in this matrix, compared this piece of legislation with other similar pieces of legislation, so we could see the types of penalties that are levied against the various types of offences in this legislation, and how that compared with similar types of breaches in other legislation, to ensure that there was some consistency throughout. So we spent some time dealing with those.

In dealing with the specific amendments, Madam Deputy Speaker, one of the first changes we made in section 4(1) related to the definition of an "approved foreign issuer", and the fact that we would not require them to produce new disclosure documents if they are an approved issuer, and they have used those disclosure documents in other jurisdictions—in their home jurisdictions, sorry—if that home jurisdiction, in our view, is of an equivalent or higher standard of regulation than ourselves. So that was very important. We are not saying any and anybody, as a foreign issuer, can issue in our market with prospectuses or

information memoranda that they would have used in another market, unless—or may have used in their home jurisdiction, unless that home jurisdiction is at the same level or equivalent standard of regulation as ourselves.

What this does is, it helps us to increase the number of issuers that can operate in this market and, therefore, allows us the opportunity to broaden the market, and reduces the restrictions that would restrict the number of persons who could come into our market to issue paper. It allows us, therefore, to expand the marketplace a little bit more.

Another definition which we changed related to branch offices. Over the past year and a half, what we have done is, we have started to push into backward linkages in the financial services sector, and we have started to introduce back-office processing, basically where people are outsourcing some of their back-office processing from other countries into Trinidad and Tobago. We wanted to make sure that in identifying which branches of a particular office that needed to be registered, that we did not necessarily include other branches which were not taking part in customer interface activities and so on, so that we were not unduly placing a burden on some of these back-office processing centres, that are starting to develop here in Trinidad and Tobago.

As we have said on a previous occasion, both Royal Bank and Scotiabank have started to put back-office processing operations here. In the case of Royal Bank, they now process 22 countries in the region—the work of 22 countries in the region—here in Trinidad and Tobago. In the case of Scotiabank, they process the work of 12 countries in the region here in Trinidad and Tobago, but that is just an administrative centre. It does not interact with customers here in Trinidad and Tobago or in general. Therefore, there is no need for either of those two institutions to have to license, and to get licences for those operations to operate here in Trinidad and Tobago, as if they were a branch that was issuing or interfacing with the customers and selling securities and so on. So what we did is, we tightened up that particular definition somewhat.

We also tightened up the definition relating to government entities being able to offer—do a limited offering of securities, or what we call private offerings in the market. The previous definition, in fact, while it exempted certain private issuers, did not exempt government entities if they were going to make an issue of particular securities to less than 35 persons, and there is no reason why we should restrict government entities, so we sought to amend the definition to ensure that government entities themselves, also, could actually issue in this local market as a private issuer.

We have also sought to build in appropriate restrictions, to ensure that these securities are not inadvertently transferred or assigned to more than 35 persons. So we have tightened up that particular part of the legislation, and we also tightened up the information requirements, so that they are made aware that they cannot offer the security to the general public. So we made sure that we emphasized that in this definition of limited offerings. So the "limited offerings" now is broader, in that it allows government entities to participate, which is something that perhaps was an oversight in the original draft of the legislation, but we have also tightened up to ensure that not more than—that it is restricted to the 35 persons as contemplated in the legislation.

We have also, Madam Deputy Speaker, expanded the definition of "market actor" to persons who provide vital services to market participants, in order to access information that is in their possession, in the event that we need it for an investigation. So what had happened, Madam Deputy Speaker, is that in certain cases, there were certain persons who did not need to be registered, and who do not need to be registered, and we do not wish to impose an undue fetter on their operations, but at the same time, we wanted to ensure that if they had information which was vital to an investigation, that the SEC would be able to have access to this information.

In clauses 4(5) and 4(6), we thought that the definitions were too broad and what we sought to do was to narrow down the definitions. What was happening here, for example, and I could perhaps best explain it by example. If someone happened to be here in Trinidad and Tobago on vacation, and they are normally resident in the United States, and they are here on vacation and their broker called them and said to them, "well, listen, I think you should buy stock in BP, and sell some of your stock in Macy's", that would have constituted a breach of the Act as it stood, which was not really intended. It is not intended that someone who, simply is on vacation, speaking to their broker by phone, would be in breach of the legislation.

3.45 p.m.

We thought that what we needed to do was to tighten up that piece of the legislation so that we do not capture people who, inadvertently, would perhaps be considered to be in breach of the legislation. We also sought, Madam Deputy Speaker, in Part II, section 6 of the legislation, to amend the language to clarify that the commission can conduct reviews of its registrants or self-regulatory organizations. This was intended to add some clarity to a piece of wording which had a bit of ambiguity, which we thought needed to be reduced.

Madam Deputy Speaker, with respect to section 10, we made some amendments in section 10, based on the request in the other House—in the other place—where they thought that there needed to be tighter criteria for the selection of Commissioners, as well as the appointment of the Deputy Chairman of the commission. So the section has been amended to ensure that it is not just simply an officer of the Ministry of Finance who will be a member of the commission, where we have stated such, but, really, that it is a senior officer. So we have been very specific about saying that it should be a senior officer of the Ministry.

We also included an amendment that the President—the President is responsible for appointing the Deputy Chairman of the commission. So while the Cabinet will approve, it will go—both the positions of the Chairman and Deputy Chairman will be appointed by the President.

We have also added some additional changes to that particular section, Madam Deputy Speaker, which are fairly simple and self-evident. With respect to section 12, the criteria for who qualifies to be appointed as a Commissioner, we have broadened the prerequisites to ensure that a relatively high standard of person with talent could become a Commissioner, and also to be clear regarding how we avoid any conflicts of interest, as far as persons who are placed on the board of the commission are concerned.

We have also, Madam Deputy Speaker, made changes to what constitutes an interest by a Commissioner; what constitutes a material pecuniary interest; and we have defined that as 10 per cent of the equity of voting securities of the registrant, or 5 per cent where you are a reporting issuer.

The reason for the difference is that the reporting issuers tend to have a larger capital base than the registrants. Reporting issuers will be, for example, like a Scotiabank; and, therefore, 5 per cent would be a much more significant number than it would be in the case of, say, a smaller registrant who may be operating in the market.

With respect to—we made, also, a change to section 18; and this related to where a Commissioner had a conflict of interest. What happened is that we had identified clearly that where you have a conflict of interest in the Act, we identified that where that occurs, the Commissioner, of course, needs to declare such a conflict.

However, we had not picked up what happens if the person discovers that they have a conflict during the deliberations on a matter, assuming the matter ran for a few days; or after the deliberation of a matter. For example, it could come to their

attention that someone had bequeathed them certain shares in a company, which did not come to their attention—which may have been done before the matter was considered by them, but did not come to their attention until after the decision had been made.

So, what we sought to do is to try to incorporate, or encompass the possible range of occurrences that could take place, and to provide for these. We have also included in there, that in a case like that, for example, where a matter—innocently, the particular Commissioner was in breach, and it came to their attention after the fact that they could either vary, rescind or confirm the decision of the commission, based on their own evaluation by the Commissioner, subsequent to the event.

There is also a change which we made, which related to the laying of the annual report of the commission in Parliament. We did say that it needed to be laid, but we did not say when; and we thought that we should tidy that up, and we did indicate that it needed to be placed within three months—laid in the Parliament within three months after the report comes into the hands of the Minister.

With respect to the availability of documents for public inspection, we have made some changes; and, of course, the commission remains under the purview of the Freedom of Information Act, but we simply shifted where that particular section occurs and moved it into the back where there is a generic section which allows for the public documents which can be provided without breaching certain types of confidence, which is required in the financial sector, and is required for financial transactions; so that it will cover the broad range of all types of disclosures that are required in the Act.

We have also put something in which, should the commission need to delete or prevent documents from going into the public domain, which it thinks warrants such action, that it can seek redress through the courts or through a judge in chambers to ensure that it is done. There are also some changes in terms of—administrative changes in terms of things like forms to be issued by the commission, and so on, which, you know, we have also sought to tidy up.

We have also made some changes to section 49, since the reference to "market actor" was too broad and captured persons who were not required to be registered by the legislation; and we have changed it to persons who are required to be registered under this particular Act. We have also allowed for foreign investment brokers to be able to operate in the market for an aggregate of 90 days within any

single calendar year.

We have also made a change with respect to the substantial shareholding and we sought to bring this in line with the FIA, and we have established a 5 per cent benchmark, Madam Deputy Speaker, as far as persons who are considered to be substantial shareholders, as far as this particular legislation is concerned.

We have also made some changes as far as ESOPs are concerned, because you can have limited offerings in the marketplace for persons who are insiders; and, therefore, there needed to be—they will have, in the course of the normal business that they undertake, access to information that the normal public would not have access to; but because they are part of an ESOP, they have to have the ability to be able to acquire shares issued by the company, under the arrangements for the ESOP.

So, what we have sought to do is to amend and clarify to whom this limited offering exemption relates and we have tied it in directly to a business or an associate or a relative of the shareholder, as well as a senior officer or partner, or someone who is directly involved in the business. We sought to tighten up that particular part of the legislation to deal with the fact that we understand that you will have ESOPs, which will be in operation.

We have also made a change with respect to what is considered a material change. And the change is that where someone wishes to clarify the operation—or where someone wishes to make a material change to a particular prospectus or information memorandum that could potentially affect the market value of the security, they have to report it to the commission, and the commission will only allow it where the issuer can convince the commission that such disclosure would be in the public interest.

We have also made a change for auditors to be included, who are operating and who are the equivalent of ICATT in a foreign jurisdiction. So if you are an accredited auditor in a recognized jurisdiction, a foreign jurisdiction, we will be prepared to accept statements which come from such auditors, and not just from members of ICATT in good standing.

Mr. Deyalsingh: ICATT, you say?

Sen. The Hon. L. Howai: Yes. Institute of Chartered Accountants; as auditors. With respect to the definition of "financial assets", we have clarified that

to include certificates from financial institutions, credit unions and insurance companies. We have also made an exemption—a prospectus exemption—as far as trading in asset-backed securities is concerned; and this could only occur where the institution has an approved rating, and as you could see, in the legislation an approved rating will be one that is an investment grade status.

There is something in the industry called a "market read". Before you actually go into the market with a particular prospectus or information memorandum, sometimes the underwriters will do a market read. They will go into the marketplace and seek to, perhaps, get an understanding from the marketplace as to what is the extent of demand for a particular security.

Now, we needed to make the distinction that this is not a solicitation, and that it is simply a part of what one would normally do in this type of business to understand the extent of—to get a better reading of the demand for the particular stock, and to gauge the appetite for the potential issue. So we thought it was very important to, specifically in section 74, deal with the question of how we go about soliciting expressions of interest for securities and to ensure that we could allow these to occur without compromising the controls we have around solicitation in the marketplace.

We have also, Madam Deputy Speaker, sought to be clear on compliance reviews in section 89, which are basically administrative-type amendments which have been made. Also, very importantly, we thought it was important to protect the unsophisticated investor. And so, what we have introduced into the legislation, via the amendments to the Act, is that the relevant investment experience of the client is to be taken into account by the person who is selling the shares.

So, we do not just want a situation where people can just sell securities to investors and they seek to exploit investors by selling these securities to them, knowing that their level of investment understanding, experience, and so on, is not —will perhaps make them vulnerable. We have now required that—of course we control this to ensure that it is only bona fide investments that are being sold—but that the level of risk of the particular investment matches the risk appetite of the purchaser. And we have put in a control into the legislation, now, that requires these registrants to take into account the relevant investment experience of the client, prior to actually selling the particular security to the client.

You know, of course, Madam Deputy Speaker, a lot of these registrants make their living by selling these particular securities, or selling securities and, of course, they get commissions or greater incentives depending on—

Madam Deputy Speaker: Hon. Members, the speaking time of the hon. Minister of Finance and the Economy has expired.

Motion made: That the hon. Member's speaking time be extended by 30 minutes. [*Hon. Dr. T. Gopeesingh*]

Question put and agreed to.

Sen. The Hon. L. Howai: Madam Deputy Speaker, we have sought to put in controls that would protect the unsophisticated investor. As I said, we have also made some very significant changes to some of the penalties—some relating to several of the offences; and what we have done, particularly as far as with things like insider trading, we have increased the penalty to 10 years and $10 million.

In section 136, the Act recognizes market manipulation offences, such as false trading and artificial pricing; price rigging; dissemination of information containing a misrepresentation; securities market manipulation; use of fraudulent and deceptive devices; excessive trading and restrictions on recommendations.

However, what we have sought to do is, certainly, to not unduly restrict the market by making this particular section too heavy-handed, and what we have sought to do is to clearly state in the legislation who is required to file connected party reports. And we require that this must be done within five business days from the day the change occurs. This is something that has come up recently in the recent IPO, and we want to tighten up that particular area and, again, to ensure that we eliminate and we do put the appropriate fines and penalties in place for these offences.

With respect to liability for misrepresentation, Madam Deputy Speaker, which we have in section 139, we amended subsection (6), particularly to reflect the liability specific to an underwriter's share. Now, what tends to happen is that when you underwrite a security, sometimes you may have more than one underwriter. You may have two or three underwriters who are underwriting a particular security.

The intention was to ensure that, in a sense, there was a pro rata responsibility for the security that is being underwritten, and for the representations that are being made; and what we did in section 139(6) is to reflect liability specific to the underwriter's share or portion of the total distribution of those securities.

We have also, Madam Deputy Speaker, put a section in place with respect to publication of by-laws, and we have allowed for the posting of this document on the website, and for publishing a notice indicating that the document is available.

So that information that needs to be given to shareholders of particular securities—for example, shares in the market—can be done by way of publication on the website.

We have also indicated that if a person has contravened—the Commission has the power to determine whether a person has contravened, is contravening, or is about to contravene the Act, and to take appropriate action, as may be necessary. What we thought, though, is that this type of hearing—the type of hearings that would arise from this would be hearings that should be held in camera, and we have made this particular change to the legislation.

Now, one of the things that we have seen coming out of, for example, the Enron and WorldCom type of fiascos that occurred more than 10 years ago is that there have been—you know, you saw significant shredding of documents which could lead to potential incrimination of individuals and their eventual sentencing, and so on.

We recognize the fact that persons can subvert justice and prevent a person from being convicted of any wrongdoing by simply shredding, concealing, destroying documents in one form or the other. So, we have put a very stiff penalty, and we have treated this particular offence almost as if it is an offence relating to the worst possible crime of insider trading, which you have under the legislation.

What we have done is we have actually matched the penalty for this type of offence with the penalty that relates to—or it could be as high as the penalty that relates to insider trading; and we thought that this was important if we are going to ensure that persons do not use the opportunity to, you know, say that, "Look, it's better to shred the documents and take a smaller fine or jail term, than to have the documents available"; so that they could get away from something like this.

So, Madam Deputy Speaker, we have made a change in that particular area. With respect to administrative fines, the Bill introduces a regime for the imposition of administrative fines in respect of certain offences. These offences are listed in the proposed schedule. This provision follows the administrative fine regime under other similar types of legislation.

The arrangement also replicates what existed in the 1996 Act, where the fines were up to $50,000, and the existing arrangement in the existing Securities Act, 2012, where the fine is $500,000. I should point out that section 161 allows for appeals to the High Court from adverse decisions or findings or orders of the

commission.

Those were some of the major changes which we have made, Madam Deputy Speaker. As I said, one of the big areas that we focused on was the whole area of the fines and penalties particularly, and to ensure that we could streamline these and deal with it in a way that, you know, we felt comfortable. And I think this was concurred within the other place.

So, Madam Deputy Speaker, in closing, I want to say that the securities market is a very dynamic, inventive and innovative place, but it requires robust, thoughtful, and regularly reviewed legislation to ensure that we have a marketplace that is responsive—that protects the rights of individuals but is responsive to the ever varying needs of the marketplace.

As a signatory of IOSCO, it is our commitment to continuously review and strengthen gaps as they appear. We have a fairly robust piece of legislation in the making here. It is, perhaps, a single piece of legislation that has come under more review than any other piece of legislation, to the extent that not only was it passed less than two years ago, but it has also been the subject of two select committees; one Joint Select of the both Houses: and a Special Select in the other place.

The reason we have done this, Madam Deputy Speaker, is that if left unguarded, the marketplace allowed to run unrestrained, or with legislation that does not keep pace with the development of the market, this could spell economic ruin for these markets and, by extension, threaten the foundation of our entire economy. We have to learn from the lessons which occurred from the global financial collapse in 2008, as well as the challenges that we faced locally here with the Clico debacle, which occurred in early 2009.

The Securities Act, 2012 is one of the most important pieces of legislation in any country because it allows the ability to create or destroy wealth and, if not handled properly, could affect a wide cross-section of our population. On the contrary, if it is done right, it can lead to the further development and growth of our marketplace.

It is our purpose to ensure that this legislation is fair, transparent, simple and inclusive for all. Furthermore, it is our intention that there be no conundrums, no grey areas to exploit for the benefit of the few who have access to privilege and entitlement, and are therefore able to subvert the course of justice.

Madam Deputy Speaker, of course, no piece of legislation will prevent malfeasance, or the scourge of white-collar crime. We are not going to prevent it.

You know, Madam Deputy Speaker, when you look at other countries—the United States, for example—their marketplace is much more developed; perhaps, better regulated; much better policed; have a longer history of intervention and regulation and oversight by the SEC; but there are continuing events of malfeasance; continuing events where persons try to get around the legislation; continuing instances where persons seek to subvert the course of justice. And it is, therefore, understood that no matter how tightly you build the legislation, there will always be people who will try to subvert the legislation.

Because there are such persons, it does not mean that we should give up on the marketplace. Right? But what it means is that we have to strengthen the enforcement capability within the marketplace so that we can see the continuing growth and development, and we put the sanctions in place, so that if persons were to breach the legislation, we would be in a position to take serious action against them.

Madam Deputy Speaker, these amendments will sharpen the teeth further of the Securities Act. It will bring clarity to areas of the Act. It will assist with enforcement and compliance, and it will make it even more relevant to our securities marketplace. In passing these amendments to empower the Securities Act, 2012 further, we will ensure that our evolving securities market has the level of confidence of all the market actors, and this level of confidence we expect to result in continuing growth and development of our capital markets.

Madam Deputy Speaker, with these words, I beg to move.

Question proposed.

Mr. Terrence Deyalsingh (*St. Joseph*): Thank you, Madam Deputy Speaker. I was waiting to hear the magic words, "Those now wishing to enter the debate may do so"; but that is all right. I did not hear that, Madam Deputy Speaker.

Dr. Moonilal: But you will enter anyway.

Mr. T. Deyalsingh: But I will enter anyhow. Madam Deputy Speaker, we are here to debate the Securities (Amdt.) Bill, 2013 as amended in the Senate. And just to give a short history: in 2012, we agreed—the PNM agreed to the passing of the 2012 legislation so that we could confirm with the IOSCO regulations; the International Organization of Securities Commissions.

I think we were then put on the Appendix B, but now, with the amendments, we can go onto the A list. So, we had absolutely no problems in supporting the

Bill back then. We could not debate the amendments back then because, as the Minister said, we just did not have the time. We had to comply with IOSCO regulations, and we were happy to do that.

We are here today, Madam Deputy Speaker, to debate the amendments, 68 amendments—which are amending a parent Act, of great volume. I think the parent Act has 171 sections. And, basically, what we are here to do today is try to get a piece of legislation that will ensure the effective, efficient, and equitable allocation of capital and resources, possibly in the pursuit of individual objectives and country objectives. I think that is what we are here to do.

So that when capital is allocated, not only individuals benefit, as they must—and by individuals, I mean, individuals as persons, and individuals as corporations; because under the law, a corporation has the same rights as an individual—but also, to pursue country objectives; national objectives. And one of those objectives we must pursue is that of competitiveness, because competitiveness—we must become much more competitive.

If this Act is to achieve that goal, one of the things we have to do is to understand where we stand in the world of competitiveness. I refer to the flight of fancy, as I call it; *Innovation for Lasting Prosperity, Medium-Term Policy Framework, 2011—2014*. Madam Deputy Speaker, I turn your attention to page 57 of that document, under Economic Growth—that is what we are here about today—Job Creation, Competitiveness and Innovation. The fourth item:

"Improve Ranking on the Global Competitiveness Index by 20 points by 2014."

This is a short-term to medium-term objective—stated objective of this Government—to improve our competitive ranking by 20 points.

Madam Deputy Speaker, do you know what our competitive ranking is now? We have actually declined. Do you know that? We have declined. We were, I believe, 81. We are now down to 92. We are going in the wrong direction. We are not going in the right direction.

So, after four years of policy, we are less competitive; after four years of this administration's policy directives.

Dr. Browne: They have to put that on their list of achievements.

Mr. T. Deyalsingh: We were supposed to be going up, but we are going down. How do we square that with the legislation in front of us? How do we square that? Why are we going in the wrong direction?

Dr. Browne: Two words: Larry Howai.

Mr. T. Deyalsingh: Madam Deputy Speaker, before I get into why we are going in the wrong direction, let us see what this legislation is supposed to be doing; and part of it is predicated by some directions from the G-20, and I think the hon. Minister of Finance and the Economy will agree. I quote from an article in the *Trinidad Guardian*: "Reform of securities law necessary":

> "To this end, they have mandated"—they being the G-20—"the International Organization of Securities Commission (IOSCO) and the Financial Stability Board (FSB) to develop guidance and standards for their member countries, that inter alia:"—provide improved—"market transparency, efficiency and integrity;"

Madam Deputy Speaker, one would agree that this Government's attempt at an IPO offering has nothing to do with transparency, efficiency, nor integrity. It was the most opaque IPO. It had absolutely no integrity in it. And the only efficiency was the efficiency to enrich two individuals.

The article speaks about improving investor protection; it speaks about the commodity markets; and it speaks about shadow banking. And I had to ask myself: what is shadow banking? Shadow banking—and some countries are famous for it, which we shall not go into that here—has to do with unregulated banking, unlisted derivatives, for example, some hedge funds.

Madam Deputy Speaker, coming from the country, the only example I could find to describe what shadow banking is, is sou sou—sou sou hand. I do not know if the population is familiar with what a sou sou hand is, but that is where a group of people get together and every week, you throw up some money. That is not regulated. But what we are supposed to be doing is make sure these things do not happen—that these things do not happen on a large scale.

So, Madam Deputy Speaker, as far as our competitiveness is going, we are declining. We have declined. We have declined badly under the term of this Government. We have not increased by 20 spaces, as predicated in the Medium-*Term Policy Framework*. We have actually declined.

Madam Deputy Speaker, a debate of this type cannot go without mentioning the role of regulators, and I think that is a concern that the hon. Minister had in piloting. And who are the two major regulators we are speaking about in this Bill? One, the Securities and Exchange Commission, which speaks directly to these amendments; and two, the other major regulator we have to look at, and its role, and its integrity, is the Central Bank.

STATEMENTS BY MINISTERS

Madam Deputy Speaker: Hon. Members, you may recall, by agreement, that leave was sought to revert to item number seven on the agenda, which is Statements by Ministers, to allow for the hon. Prime Minister and Member for Siparia to make a statement. I now call upon the hon. Prime Minister and Member of Parliament for Siparia. [*Desk thumping*]

Hindu Credit Union
(Commission of Enquiry Report)

The Prime Minister (Hon. Kamla Persad-Bissessar SC): Thank you very much, Madam Deputy Speaker. When my Government assumed office, May 24, 2010, we inherited the collapse of two major financial institutions, which had grave repercussions for our economy and society. I refer, of course, Madam Deputy Speaker, to the fall of the financial behemoth, the CL Financial Group of Companies, and the Hindu Credit Union Cooperative Society Limited.

The effects of the Clico fiasco transcended our shores and posed a threat to the local and regional economy, with implications for several of our Caribbean neighbours. The former administration misdiagnosed the problems in Clico and treated what was a solvency issue as though it was a simple liquidity problem.

The temporary liquidity financial support they provided, therefore, failed. It was as if money was being poured into a dark bottomless well. The HCU was financially compromised, and although the impact was not the same on the economy, the distress experienced by innocent citizens who had, in good faith, invested in the HCU, was no different.

I adopted a two-pronged strategy to address this crisis. We immediately set about the task of cauterizing the crippling financial effect and consequences by devising an innovative plan to stabilize Clico. To date, the resolution of this fiasco has burned a hole in the Treasury of over $22 billion. The HCU was, of course, deemed to be insolvent and a liquidator was appointed.

We then turned to the thousands of grieving citizens who had been left broken-hearted, and left empty-handed, as they stood silently and witnessed their financial Rome burned to the ground. The Government's offer of relief to the aggrieved Clico and Hindu Credit Union depositors saw the full payment to all depositors and shareholders with balances under $75,000, with a deferred payment option in zero-coupon Government bonds in $1,000 denominations, with varying maturities over 20 years.

Whilst we nursed and tended to our inherited financial wounds so that the body of our economy could heal, I remained firm in my conviction and belief that there should be a comprehensive investigation into the facts and circumstances which led to the collapse of these two institutions to determine if there was any culpability.

I could not, Madam Deputy Speaker, in all good conscience, turn a blind eye to the pain, the suffering, the humiliation and distress that had been inflicted upon our innocent citizens. I was determined to pursue justice on behalf of those who had been disenfranchised and pauperized by the alleged mismanagement, greed and corruption of those who were in charge of these two institutions. The voices that cried for justice to be done did not fall on deaf ears.

To this end, a commission of enquiry was appointed on the 4th of November, 2010, to enquire into inter alia the circumstances, the factors, the causes and reasons for the collapse of the CL Financial Group of Companies and the Hindu Credit Union Cooperative Society Limited. The terms of reference were wide-ranging and read as follows:

"To enquire into:

(i) the circumstances, factors, causes and reasons leading to the January 2009 intervention by the Government of the Republic of Trinidad and Tobago for the rehabilitation of Colonial Life Insurance Company (Trinidad) Limited, CLICO Investment Bank Limited, British American Insurance Company (Trinidad) Limited, and Caribbean Money Market Brokers Limited (CMMB);

(ii) the legal and fiscal bases which informed the decision of the Government of the Republic of Trinidad and Tobago in January 2009 to inject capital or funding into Colonial Life Insurance Company (Trinidad) Limited, CLICO Investment Bank Limited, British American Insurance Company (Trinidad) Limited, and Caribbean Money Market Brokers Limited (CMMB); how that injection of capital was structured; and what policies, procedures and processes were used in the distribution of this capital or funding;

(iii) the causes, reasons and circumstances leading to the deterioration of the financial conditions of CL Financial Limited, Colonial Life Insurance Company (Trinidad) Limited, CLICO Investment Bank Limited, British American Insurance Company (Trinidad) Limited, Caribbean Money

Market Brokers Limited (CMMB) and the Hindu Credit Union Cooperative Society Limited (hereinafter referred to as 'the said companies') which threatened the interest of depositors, investors, policyholders, creditors and shareholders of the said companies;

(iv) the effectiveness or suitability of the accounting and auditing firms, the institutional regulatory and statutory bodies with oversight responsibilities (including but not limited to the Central Bank of Trinidad and Tobago and the Trinidad and Tobago Securities and Exchange Commission)…"

And some amendments are being debated—piloted here in the Bill by the hon. Minister of Finance and the Economy:

"…governing the business and affairs of the said companies; the weaknesses, shortcomings, failures, deficiencies, breaches and omissions (if any) of the accounting and auditing firms, the institutional, regulatory and statutory bodies with oversight responsibilities (including but not limited to the Central Bank of Trinidad and Tobago and the Trinidad and Tobago Securities and Exchange Commission) governing the said companies in respect of their obligations to fulfil or comply with the responsibilities and duties imposed upon them by best practices and such other institutional regulatory and statutory framework; and the extent to which the failure or omission to fulfil or comply with such responsibilities and duties contributed to or facilitated the creation of circumstances which threatened or compromised the interests of depositors, investors, policyholders, creditors and shareholders of the said companies.

(v) the extent to which the existing accounting and auditing firms, institutional, regulatory and statutory bodies charged with the responsibility for regulating the business or conduct of the said companies fulfilled or complied with the responsibilities and duties imposed upon them—

(a) by law; and

(b) by good corporate governance and practice;

(vi) the assets and liabilities of the said companies and the extent to which the existing assets of the said companies are capable of meeting the financial demands of depositors, investors, policyholders, creditors and shareholders of the said companies;

(vii) the identity of any accounting and auditing firm, person, entity or institution, whether local, regional, or international, corporate or otherwise, who or which directed, conspired towards, participated in, aided or abetted, knew or ought to have known of, or could be implicated or otherwise involved in any act or omission, deed or thing leading to the circumstances whereby the interests of depositors, investors, policyholders, creditors and shareholders of the said companies became threatened; and the extent to which these accounting and auditing firms, persons, entities or institutions acted, omitted to act, knew or ought to have known of, or was implicated or otherwise involved in any of the circumstances that led to insolvency of the said companies;

(viii) the extent to which it may have been possible to prevent the interests of depositors, investors, policyholders and creditors of the said companies becoming compromised or threatened, and whether the accounting and auditing firms, the institutional, regulatory and statutory bodies with oversight responsibilities (including but not limited to the Central Bank of Trinidad and Tobago and the Trinidad and Tobago Securities and Exchange Commission) governing the said companies acted in accordance with best practices, their respective mandates, and in the best interests of the depositors, investors, policyholders, creditors and shareholders of the said companies; and

(ix) whether any third party acted in a manner that misled the depositors, investors, policyholders, creditors and shareholders of the said companies by negligently or fraudulently misrepresenting the true financial status of the said companies."

Secondly:

"To make such findings, observations and recommendations arising out of its deliberations, as may be deemed appropriate, in relation to:

(i) whether there are any grounds for criminal and civil proceedings against any person or entity; whether criminal proceedings should therefore be recommended to the Director of Public Prosecutions for his consideration; and whether civil proceedings should be recommended to the Attorney General for his consideration;

(ii) the policies, measures, mechanisms and systems that should be implemented to detect, counteract and prevent the recurrence of

circumstances where the depositors, investors, policyholders, creditors and shareholders of the said companies and other institutions or companies in the financial, banking and insurance sectors became threatened and compromised;

(iii) the implementation, modernization and harmonization with international best practices of the institutional, regulatory and statutory framework, governing and regulating the said companies and other institutions and companies in the accounting, auditing, financial, banking and insurance sectors;

(iv) the establishment of a standard, coordinated and effective system of responses to be implemented by institutional, regulatory and statutory bodies charged with the responsibility for regulating the said companies and other institutions or companies in the accounting, auditing, financial, banking and insurance sectors consequent upon any circumstances which may arise to threaten the interests of the depositors, investors, policyholders, creditors and shareholders and which may necessitate the rehabilitation of such institutions or companies in the interest of and for the protection of such depositors, investors, policyholders, creditors and shareholders."

With those terms of reference, a sole Commissioner was appointed in the person of Sir Anthony Colman, who is the Deputy Chief Justice of the Commercial Law Court in Dubai, and an eminent and internationally respected jurist. The commission sat for 85 days and received voluminous written and oral evidence and submissions.

I have today, Madam Deputy Speaker, received a copy of the report delivered to His Excellency, the President of the Republic of Trinidad and Tobago, Mr. Anthony Carmona, by Sir Anthony Colman, on the Hindu Credit Union aspect of this enquiry. So this report is the report of Sir Anthony Colman, the Commission of Enquiry into the Failure of CL Financial Limited, Colonial Life Insurance Company Limited, CLICO Investment Bank Limited, British American Insurance Company (Trinidad) Limited, Caribbean Money Market Brokers Limited (CMMB), and the Hindu Credit Union Cooperative Society Limited.

This report, Madam Deputy Speaker, is the first of two reports, and this first one is with respect to the failure of the Hindu Credit Union, which I seek to lay in the Parliament today. Madam Deputy Speaker, I am advised that the commission has already started working on the second report; the report for the Clico aspect of the enquiry.

Today, consistent with my promise for justice to be done, I have the honour to table the Commission of Enquiry Report into the collapse of the Hindu Credit Union. With respect to recommendations, I would like to report on those recommendations made for the civil and criminal action to be taken against alleged wrongdoers who are involved in the executive management of the Hindu Credit Union.

Section M of this report, Madam Deputy Speaker, carries the recommendations to the Director of Public Prosecutions, under paragraph 2(i) of the terms of reference. M1 contained in the report, in Section M, Mr. Harnarine. This is to refer to the Director of Public Prosecutions:

"M1 The conduct of Mr. Harry Harnarine was such that the Director of Public Prosecutions ('DPP') should take immediate steps to test the sustainability of criminal proceedings against him. The following aspects of his conduct could be found upon further investigation to give rise to or evidence criminal liability in respect of the following criminal offences.

`M1(a) Conspiring during the period from 1 January 2002 to 23 July 2008 with the principal officers and members of the BOD and/or the managers of HCU, namely, Gayndlal Ramnath, Yadwanath Lalchan, Jameel Ali and Ravindra Bachan (referred to collectively as the 'Co-conspirators') to defraud members of HCU and their depositors in HCU by agreeing dishonestly to put at risk the value and recoverability of the members' investments and/or deposits by members and others as evidenced by some or all of the following conduct more fully described in Section F of the report.

(i) The commercial relationship between Mr. Harnarine and the Co-conspirators, which was dominated by Mr. Harnarine, supported particularly by Mr. Ramnath.

(ii) Recklessly pursuing an improvident investment policy by causing HCU to purchase tangible assets at an over-value, without the prior approval of the BOD and without the prior valuation of such property by independent valuers and without obtaining prior adequate advice on title, for example causing HCU USA to purchase in 2003—4 the Miramar Property in Florida, the property of Seepersad Harnarine in Pembroke Pines, Florida, and the property at Macaya Trace, Florida.

(iii) Recklessly causing HCU to form and/or acquire subsidiaries and to manage them without prior permission from the CCD and without exercising prior due diligence, and without any or sufficient business plan, which subsidiaries were incapable of producing sufficient revenue to finance their day to day operations, and which could only survive with loans from HCU and recklessly failing to procure adequate monitoring of the deteriorating financial condition of those subsidiaries.

(iv) Knowingly or recklessly causing HCU to solicit deposits at a time (2005—2008) when it could not meet its immediate liabilities.

(v) Causing HCU's reckless and excessive expenditure on items which were not in the interests of HCU or its members, specifically payments for personal purposes to Mr. Harnarine (amounting, according to the liquidator, to $5,994,953 million) and to HCU's directors and managers and to related parties.

(vi) Knowingly or recklessly causing HCU to use moneys derived by HCU from members' deposits or other payments to support, by the means of loans, the operating expenses of loss-making subsidiaries.

(vii) Knowingly or recklessly causing the misappropriation of HCU funds deposited by members and others for the personal benefit of other directors and managers, in particular, the purchase of property later transferred to directors and related persons, for example, the Macaya Trace transaction, more fully described in Sections F and G of the report.

(viii) Recklessly causing HCU to diminish liquidity without regard to the risk of the repayment requirements of depositors and in particular to solicit funds from members in order to pay moneys due from HCU to other members.

(ix) Knowingly or recklessly causing HCU to make loans to non-members, such as subsidiaries, in breach of the CS Act 1971 and in breach of HCU's Bye-laws.

(x) Knowingly or recklessly causing HCU to make loans to members of the BOD and senior management in excessive amounts and without security or the completion of the normally required application forms and even when the borrower was already in default on previous loans

in respect of repayment of the principal due or the payment of accrued interest.

(xi) Knowingly or recklessly causing HCU to fail to acquire and maintain sufficient liquid assets to enable it to meet its liabilities to its members.

(xii) Knowingly or recklessly causing HCU and its subsidiaries and the subsidiaries of the HCU Financial to trade whilst insolvent.

(xiii) Knowingly causing HCU to fail to comply with its statutory duties to provide accurate financial statements to the CCD.

(xiv) Knowingly or recklessly causing inaccurate and misleading financial statements to be issued to members of HCU.

(xv) Knowingly or recklessly inducing members of HCU to retain deposits in HCU by issuing to them misleading letters of comfort and assurances that HCU was solvent.

(xvi) Knowingly or recklessly causing HCU to acquire illiquid assets without regard to the risk of the repayment requirements of HCU members and other depositors.

(xvii) Knowingly or recklessly causing HCU to make imprudent loans to subsidiaries which were unlawful and irrecoverable, those loans having been made without the prior consent of the CCD to non-members of the credit union.

(xviii) Recklessly causing HCU to diminish its liquidity without regard to the risk of the repayment requirements of depositors by failing to make any or any sufficient provision for defaults on unsecured loans."

Madam Deputy Speaker, those 18 possible criminal offences will be referred, on the recommendation from the report, to the DPP for his consideration. In addition, M1(b) of the recommendations states:

"M1(b) Contrary to Section 34 of the Larceny Act causing HCU to obtain deposits of money from members and others by falsely representing that HCU was solvent by misrepresenting in management financial statements the value of assets and other accounting information.

M1(c) Contrary to Section 34(2)(b) of the Larceny Act causing HCU to cause or induce by false pretences other persons to accept a valuable security by knowingly or recklessly drawing or causing to be drawn cheques in settlement of depositors' withdrawal claims.

M1(d) Contrary to Section 3 of the Larceny Act causing HCU to transfer property (vehicle PBN 2827) to"—the spouse of—"Mr. Harnarine.

M1(e) Contrary to Section 3 of the Larceny Act causing HCU to make payments to Mr. Harnarine in 2003, 2004 and 2005 in response to his claims for foreign travel expenses which were not established by vouchers or other contemporary or other evidence to have been incurred for the purposes of the HCU.

M2 There were also facts which would have justified further investigation by the DPP in the possibility of the commission of numerous summary offences had it not been for the fact that such offences are now all-time barred."

—statute-barred, Madam Deputy Speaker.

"(i) Causing HCU to be in breach of Regulation 14 by its failure to obtain prior consent of the CCD for increases in its Maximum Liability.

(ii) Causing HCU to obstruct inspection by the CCD as explained in the evidence of Mr. Maharaj.

(iii) Causing HCU to fail to provide timely financial statements to the CCD.

(iv) Causing HCU to make investments in and from subsidiary companies without the prior approval of the CCD.

(v) Causing HCU to make loans to non-members without the prior approval of the CCD.

(vi) Causing HCU to make *ultra vires* payments of fees and stipends to directors."

These would have been summary offences, Madam Deputy Speaker, but are now statute-barred under the Summary Offences Act. So those were recommendations to be forwarded to the DPP for his consideration.

Section N of the report deals with recommendations to the Attorney General, under paragraph 2(i) of the terms of reference. That is with respect to civil remedies which may be available to the State, as against the HCU.

"N1 Civil remedies that upon further investigations may be available to the Attorney General, as follows:—

N2 Those depositors who are owners of investment deposits in HCU and who have been determined to be eligible to receive grant relief up to

> $75,000 from GORTT under the Grant Relief Payment Scheme are to assign or have already assigned to GORTT all benefits, entitlements, interests in and under their respective investment deposits. Those benefits, entitlements and interests include the right to apply to the CCD under Section 65 of the CS Act 1971 to inquire into the contract of any director and officer of HCU and whose conduct may, upon investigation, involve that he or she has misapplied or retained or became liable or accountable for money or property of HCU, or may involve that he or she has misapplied or retained or become liable or accountable for money or property of HCU or may render him or her guilty of misfeasance, or breach of trust in relation to the HCU.
>
> That right to apply to the CCD has been assigned to GORTT and is exercisable by the Attorney General on behalf of the Government. If the CCD decides to accede to any such application, the Attorney General, on behalf of the Government, may make an order requiring that person to repay or restore such money or property with interest to the assets of HCU or to contribute to assets of HCU by way of compensation in regard to any such misapplication, retainer, dishonesty or breach of trust as the CCD may find to be established, such sum as the CCD thinks just."

Madam Deputy Speaker, I have instructed the hon. Attorney General to deliver copies of this report to the Director of Public Prosecutions and the Commissioner of Police, so that an immediate criminal investigation can be launched. I have further instructed the hon. Attorney General to pursue civil action, as per the recommendations, for the recovery of moneys and damages in accordance with the recommendations of the Colman Report.

I have also instructed the hon. Minister of Finance and the Economy to examine Section L of the report, which deals with attempts to reform the regulation of credit unions, so this can inform the drafting of a new law, for the proper and effective monitoring and supervision of credit unions to prevent a recurrence of this fiasco.

I wish, also, to take the opportunity to apologize on behalf of the Government to the thousands of our citizens for the pain and suffering, the distress and inconvenience they have been forced to undergo as a result of the shortcomings and failures on the part of so many, including the regulatory mechanisms of the State.

I wish to end by giving them the reassurance that those responsible for their hurt and pain will feel the full brunt and weight of the law. The chips will fall

where they must. No stone shall remain unturned in this quest for social justice on behalf of the people of Trinidad and Tobago.

Madam Deputy Speaker, in closing, I wish to lay this report on the table of this honourable House. Copies are available for Members via the rotunda app, electronically, as the report is nearly 400 pages long. Arrangements will be made for electronic copies to be provided to the media.

Madam Deputy Speaker, I thank you very much for this opportunity to lay this report and make this statement.

Crash of Malaysia Airlines MH17

The Prime Minister (Hon. Kamla Persad-Bissessar SC): Madam Deputy Speaker, if I may, with your leave, just make a very short statement with respect to the crash of the Malaysia Airlines Flight, MH17, on July 17, 2014.

It is with great sadness that we learned of the tragedy of Malaysia Airlines flight MH17, on July 17, 2014, in which 289 persons lost their lives; amongst which, 189 are reported to be Dutch nationals; 44 citizens of Malaysia; 27 from Australia; and others from Indonesia, United Kingdom, Germany, Belgium, the Philippines, Canada and New Zealand.

On behalf of the Government and people of the Republic of Trinidad and Tobago, I extend deep condolences to the governments and peoples of these countries on the loss of their loved ones, family members, friends and colleagues. I enjoin our prayers to theirs and trust that our expression of solidarity will strengthen their spirit at this very challenging moment.

Madam Deputy Speaker, I thank you.

[*Desk thumping*]

Madam Deputy Speaker: Hon. Members, it is an appropriate time to have some tea. This House is now suspended to 5.20 p.m.

4.50 p.m.: *Sitting suspended.*

5.20 p.m.: *Sitting resumed*.

SECURITIES (AMDT.) BILL, 2013

Mr. T. Deyalsingh: Thank you, Madam Deputy Speaker. Before the tea break, I was on the topic of the role of regulators, and I was alerting you, Madam Deputy Speaker, to the regulatory role of two bodies: one, the SEC, the Securities and Exchange Commission; and, two, the Central Bank.

Madam Deputy Speaker, to put the role of the regulators in context, I just want to read into the *Hansard* the long title of the Securities Act, so people could understand what we are about today.

The Securities Act, Chap. 83:02, it is:

> "An Act to provide protection to investors from"—what?—"unfair, improper or fraudulent practices; foster fair and efficient securities markets and confidence in the securities industry in Trinidad and Tobago; to reduce systemic risk, to repeal and replace the Securities Industry Act, Chap. 83:02 and for other related matters."

Now, Madam Deputy Speaker, when one takes that explanation of what the Act is about, and we go to see what are the four main functions of the Act, what are the four main functions of the Securities and Exchange Commission? One, the registration of market actors and securities, and that is what part of the amendment is speaking to about today; two, ensuring orderly, fair and equitable trading in the securities market—and we have seen in recent times that has not been happening; three, the enforcement of the legislation which governs the functioning of the industry; and four, ensuring investor protection and instilling investor confidence.

And it is no secret, Madam Deputy Speaker, that under this administration these four pillars, on which any good functioning securities legislation is to be founded upon, has not happened, especially with regard to the FCB IPO. Madam Deputy Speaker, what then now is the role of the other regulator who has a major function to play, the Central Bank of Trinidad and Tobago? The Central Bank is there to look after and regulate the banking sector, the insurance sector, the pension sector, the credit union sector, Bureau de Change, the Home Mortgage Bank and UTC.

And, Madam Deputy Speaker, just as last week we debated the planning Bill and we made the point on this side, you can have all the legislation in the world, but if the supporting agencies and bodies are not robust—as we pointed out with the environmental commission then as an analogy—if we do not have robust institutions manned and—I think man is a generic term, but let us be on the safe side—"womanned" by people of competence, people with institutional knowledge, we would not reap the benefits of some of these pieces of legislation. [*Desk thumping*]

I want to speak a bit on how we are not building robust institutions, and I want to address this big elephant in the room, that we, as a society over the years, have

not come to terms with. The hon. Minister, through you Madam Deputy Speaker, would have sat opposite excellent persons from the SEC giving contributions during the committee stage. He would agree with that. And one of those persons—I would not call her name, her name is not relevant. What is relevant is the principle to which I speak on robust institutions.

We, and I say we as a society, we are going to lose one or two of those persons to the private sector because the terms and conditions at the SEC cannot keep and attract that person, and we have to be saddened by that. And the elephant in the room to which I refer, again, is terms and conditions of persons willing to do public service. We need to really address that issue.

When we lose that person—through you Madam Deputy Speaker, to the hon. Minister of Finance and the Economy—we are losing institutional knowledge. We are losing that. We are losing high-calibre persons, whose talents would now go to the private sector because the commission cannot retain them—and the loss of institutional memory. But, Madam Deputy Speaker, what this country has done over the years, under all administrations, is that you would pay a consultant $10,000 a day to sit down with you. But we cannot pay our locals, who are just as good or even better, a decent wage, and we lose them.

So, I want to make a plug that this elephant in the room that we are grappling with, affects all strata of society, because unless our institutions are robust, not only by law, but by the personnel, we would not achieve our goals and objectives. I am sure in a non-partisan way, the hon. Minister of Finance and the Economy knows exactly to whom I refer, and he would agree with that.

Madam Deputy Speaker, the same way the SEC may be losing good people, it is also incumbent upon us to reflect on the Central Bank of Trinidad and Tobago. It is no secret that companies listed on the Stock Exchange—this Bill is about companies on the Stock Exchange—again, cannot get foreign currency. It was touted it was not a crisis, it was solved, but I have to hear today that companies listed on the Stock Exchange cannot get foreign currency. And one has to ask, the same way we are losing people from the SEC, I ask the question, what did Dr. Shelton Nichols do to this country? What did Dr. Shelton Nichols, former deputy of the Central Bank, do to us that we rejected him and he is now plying his trade in Barbados?

We have lost a son of the soil with a BSc in Economics from UWI, with a PhD in Economics from the University of London, and we have lost him. And the same way the SEC is going to lose good people, we have lost an excellent person

in the form of Dr. Shelton Nichols. And I wonder, if somebody of the undoubted calibre of Dr. Shelton Nichols was with us today, whether companies listed on the Stock Exchange would still be crying for foreign currency. I have a feeling not. So, that is what I mean by, we could have all the laws in the world, but if we do not have strong institutions manned by good, competent people, we are whistling in the rain, whistling in the wind. So, Madam Deputy Speaker, that is a very serious issue, a very, very serious issue.

Madam Deputy Speaker, this Bill, if one reads this amendment Bill and the parent Act, it speaks a lot about IPOs, how we take a company public. I am not going to personalize the FCB IPO—that has been done, but I do want to draw attention to the hon. Minister, through you, Madam Deputy Speaker, how an IPO could have been done, even with the current legislation and done better than the FCB IPO.

It is not everything that requires law and to threaten to put people in jail. The FCB IPO is probably what we could call the section 34 of IPOs. It is the Resmi Ramnarine of IPOs. We took an indigenous bank, formed out of the bowels of the working class—Workers' Bank, down in the constituency of Port of Spain South, corner of Independence Square and—what street is that, the up street from Independence Square? Anyhow, Workers' Bank, I remember the building.

Miss Mc Donald: Duncan Street.

Mr. T. Deyalsingh: Workers' Bank, Duncan Street. I remember the bank. We took an indigenous bank—meant for the man in the street—the Trinidad and Tobago Co-operative Bank and the NCB and merged them into one entity, the FCB.

And FCB became, Madam Deputy Speaker, the most technological bank in Trinidad and Tobago. It surpassed the technological capabilities of Republic Bank, Scotiabank, Royal Bank. People had total confidence in FCB, and I hope they have total confidence in the bank today. But that was our patrimony, that was the patrimony of poor people in Trinidad and Tobago, those three indigenous banks. And we took them and merged them into FCB, and what happened with the IPO is now legend. You had the nuclear bomb one, the Rahaman share issue; and nuclear bomb two, the Seeterram share issue.

Madam Deputy Speaker, I want to alert the Government, to look into their own past in 1997 with the NFM share issue. Under this Government, many Members who sit in this Chamber today would have been under the administration of former Prime Minister, the hon. Basdeo Panday, and they would

have floated NFM in 1997. Let me say here now that, unlike the FCB—and I am going to choose my words carefully—the NFM share issue, although it was not totally free of corruption, because there was some trading that went on there that we are familiar with, but that is beside the point. The level of corruption that went on in NFM was severely curtailed, and why?

So, we have a road map from 1997, that this Act that we are seeking to look at today, the old Securities Act of—I think it was—1995, Minister, that—

Sen. Howai: It was 1996.

Mr. T. Deyalsingh:—it was1996—would have been enforced, and the NFM share issue did not have the level of corruption that the FCB share issue had, and do you know why?

I want the Minister to really pay attention to what I am about to say because we have to look at strong regulations to accompany this Bill. There are three major reasons why the NFM share issue, under the administration of former Prime Minister, the hon. Basdeo Panday, did not have the level of corruption. One, there was rigorous oversight by the then Ministry of Finance—rigorous. They did not take this hands-off approach that the Ministry of Finance and the Economy took with the FCB IPO; two, there were proper allocation principles, proper allocation of the shares, and I would speak to that; and, three, crucial, there was sound pricing of the shares. So, it was not a free-for-all. There was sound pricing.

What those three things did, they deterred something—and I borrow a term from the biography of one of the GE executives who wrote a book called the *Barbarians at the Gate*, which chronicled the attempted takeover of GE way back when. So, the title of the book is the *Barbarians at the Gate*, but we did not keep the barbarians out of FCB, the gate was wide open and the barbarians were free to go in and steal our patrimony.

5.35 p.m.

Madam Deputy Speaker, I have a copy of the NFM prospectus and in that prospectus I want to show what I am speaking about. Looking at share allocation: employees were allocated 15 per cent of the shares; UTC and NIB, 10 per cent; credit unions, pension funds, 15 per cent; other investors, 10 per cent; and—Madam Deputy Speaker, pay attention to this one—nationals of Trinidad and Tobago, 50 per cent. So nationals were able to access, if they so wished, 50 per cent of the share capital of NFM.

When one looks at the FCB IPO prospectus, listen to this one, just like NFM: employees, 15 per cent; UTC, 25 per cent; NIB, 10 per cent; corporate and others, for example, Caribbean Development Fund, 10 per cent; registered mutual funds, 25 per cent; but this is where the problem starts. Under the FCB IPO, unlike the NFM IPO where individuals, that is the man in the street—the doubles vendor, the taxi driver, the civil servant—in NFM, remember I said they had 50 per cent, individuals. In the FCB prospectus, individual investors, only 15 per cent.

So we do not need laws to tell us; we have the NFM model—and this is your model under the Basdeo Panday administration where individuals, the man in the street could have accessed 50 per cent of the share capital—but this administration chose to only give individuals 15 per cent. That is why I say we can have the best Act in the world, but if people are not willing to behave ethically and morally, we are going to find ourselves in trouble.

This is what the FCB IPO said again. On page 99 of the FCB IPO:

> "Each employee will be given the right to buy a specified minimum allocation of shares in the amount of 500…"

So you start at 500, any employee;

> "but each employee could purchase additional shares up 5,000"—not a problem—"and the shares purchased would be subject to a discount of 10% of the offer price.
>
> Thereafter"—and this is what is irking the population; this is what has the population angry—"employees can purchase shares in excess of 5,000 at the offer price."

The question is—and it goes on to say no multiple allocations. Therefore, how could one man amass 644,000 shares? How? What was his source of funds? A total of 644,000 shares at $22 a share; how much money is that? Plenty, plenty money, gazillions, even though the prospectus says no multiple allocations.

So we can have the best laws in the world, unless people are willing to act ethically and morally, they will find a way; but the prospectus and how you allocate the shares as per the NFM model, which gave 50 per cent to individuals, is one that needs to be followed.

We on this side say that because we have other IPOs to come—Phoenix Park, Home Mortgage Bank—and similarly, we have not learnt from section 34. Would we learn a lesson from FCB IPO? How?

You know what is sad about this FCB IPO as envisaged, as we try to pass regulations to look at this? What is sad, what is unforgivable and what is detrimental to the country is that because of the actions of two persons, national policy, as far as divestment, is now stymied. Because two persons, two greedy individuals, took advantage of a bad prospectus, bad allocation, bad oversight, do you realize now—forget that we are PNM and that is UNC; it is the Government's policy to divest.

Do you realize, Madam Deputy Speaker, because of that, Government's policy has been stopped in its track? And if Government's policy is stopped in its track, what does that tell us? That we are being held to ransom; the development of this country is being held to ransom by two individuals, Minister? That is what we are saying; that two individuals are holding the Government to ransom and two individuals, their action means that the Government of the day—whether it is PNM or UNC, it does not matter; that is a legitimate Government. The legitimate Government of the day cannot execute its stated policy on divestment, and the wealth that should redound to the benefit of individual investors cannot happen. It stays with the Government, which was not Government's policy. That is what is sad.

I do not think—that is why I said I am not personalizing the FCB IPO with names, neither do I want to personalize the NFM IPO with names. The names are irrelevant. What we have to understand are the principles that govern both; why one worked better than the other and why one had much less corruption than the other.

Madam Deputy Speaker, the Minister mentioned ICATT in passing. ICATT is an organization that we on this side have called for to make a statement on some burning issues. I have always said, it is well and good to hold parliamentarians to account, but when an organization, a non-governmental organization like ICATT refuses to tell the public, after repeated questioning, what is the status of the investigations into three accounting firms—because you cannot have this legislation with weak infrastructure.

I am making the point and, again, we understand due process. All we are asking on this side of ICATT, tell us, is the investigation into three accounting firms ongoing? Has it stopped? In the public interest, can you tell us? But I have no control over ICATT.

Madam Deputy Speaker, coming back to the FCB IPO, we spoke about the allocation issue, the pricing issue and the oversight by the Ministry of Finance and the Economy. On the allocation issue, we need to have—especially for employees

of banks and employees of organizations that are going to be divested—stricter enforcement of source of funds regulations. I do not think the hon. Minister can disagree with that.

Why is this important? Any organization will know the income and salary of its employees, any organization. Could Mr. Rahaman tell me that his purchase of 644,000 shares at $22 a share fits in with his salary at FCB? Were no red flags raised that one man can purchase 644,000 shares at $22 a share and nobody enquired as to source of funds? Nobody? And the report is private; we cannot see the report because we will ask a question in Parliament.

Again, the scrutiny of not only the Ministry of Finance and the Economy, the scrutiny of FCB is called into question. There was absolutely no scrutiny. I want the Minister of Finance and the Economy to tell us if he thinks, under regulations, it is a good idea—now that we have had the FCB experience—that maybe it is time, in the application form for shares, that we now start to include a little section called "Occupation", so we could know who is applying for how many shares and whether their salaries and their occupations could fund those shares. There are so many lessons to be learnt. There have been so many lessons.

When we were discussing matters of securities exchange recently, I raised the question that it is time for our Securities Act, either in the parent legislation or in the regulations, to include something called a "circuit breaker" and I was told *sotto voce* by the Minister of Finance and the Economy then that there is already a circuit breaker in it.

But if there was a circuit breaker as we are suggesting, how did 644,000 shares, nuclear bomb one, the Rahaman share issue; and nuclear bomb two, the Seeterram share issue, how did that go through? Where was the circuit breaker?

I think we now have to really look at where does this circuit breaker lie. Does it work? Did it fall down? So let me just spend a few minutes, under this Act, to talk about what a circuit breaker is, what it should be doing and maybe, in regulations, he could put it in.

Just as your house—you have a house I assume; very often your microwave will just click off or your lights will click off and the first thing you do is run to your panel box to see if your breaker tripped. What that electrical breaker does, it regulates the electricity coming into your house so if it spikes, it goes too high, it trips off, protects your appliances. If it drops too low, it trips off, it protects. So a circuit breaker is a protective instrument.

The same concept to protect your microwave at home—and I am sure you have a nice fridge at home too, with all the goodies, especially as Christmas is coming up, and I am sure the Member for Oropouche East also now has a fridge full of baby milk. The Member for Oropouche East's fridge is only full of baby milk these days, but that is good.

Mr. Cadiz: The Deputy Speaker is fasting for Eid.

Mr. T. Deyalsingh: Oh, Madam Deputy Speaker, you are fasting. Sorry. But you do break your fast on evenings. So, the same concept. Many stock exchanges throughout the world are instituting these circuit breakers, as a matter of course, and there are two types of circuit breakers.

One, for sheer volume, for trading volume, so that if one person, like Mr. Rahaman buys or tries to sell an abnormally large number of shares, which, when you look at the dates preceding January 14, 2014, which is the date that Mr. Rahaman sold his shares, when you look at the dates preceding and say, "Okay, what was the volume traded for the past week, the past two weeks? Was it 100,000, 50,000?" But all of a sudden, one man is offloading 644,000 shares. The breaker should have tripped. Alarm bells should have gone off.

What the circuit breaker does, it puts a temporary halt to trading for 10 or 15 minutes to investigate it or, at the end of the day, when the stock exchange is tallying up all its business, it will say something is wrong. So even though the hon. Minister would have told me *sotto voce* that there is a circuit breaker, if there is, it needs replacing; just as how you will replace your circuit breaker in the panel if it is not working.

The second type of circuit breaker is not based on volume, but based on price, so that, if all of a sudden a share price increases dramatically or decreases dramatically—again, same principle. What happened in the days and weeks preceding? Is this a legal—is this transaction coloured by rigging, by insider information? All those things we need to consider.

5.50 p.m.

So, once again, we have put on the table squarely for the Government to consider, squarely for the SEC to consider, if it is you have a circuit breaker, we respectfully suggest it is not working, it needs replacing. If it is you do not have a circuit breaker, you need to put in circuit breakers for either volume of shares or price fluctuation. So, Madam Deputy Speaker, we are silent in these amendments on this issue, but we have to learn from our errors, we have to learn from past experience.

Madam Deputy Speaker, I just have one or two issues to go into. Clause 3(iv) of this Bill talks about the level of control one has of a company, whether you have 50 per cent, 51 per cent, moving it from 50 per cent to 51 per cent. Madam Deputy Speaker, I want to alert the country to the following facts. At what point in time does a private company, 100 per cent owned by an individual or a group of individuals, suddenly become too big and causes some public discomfort?

Madam Deputy Speaker, there is a company in the public domain called COSL office furniture limited based in south—COSL Office Supplies Limited. Madam Deputy Speaker, under this Bill we are talking about assets, both financial and non-financial. Under this Bill, how is it that a private company, 100 per cent owned by individuals, gets a contract of $36 million to outfit a building—of that they are advanced $22 million with a $6 million mobilization fee—but then the contract goes up to $71 million?

Madam Deputy Speaker, this Bill when you read it, it talks about assets, financial assets, non-financial assets; it talks about ownership. A contract was awarded to COSL to outfit One Alexandra Place under this Government after they renewed the lease. The contract was to COSL, of which one Andy Balgobin is affiliated with. The contract was awarded under a Minister of Local Government of this Government, and we have had three or four Ministers of Local Government. Which Minister of Government is going to take ownership of this contract to COSL, affiliated to one Andy Balgobin, for $71 million to outfit a building after the Government renewed the lease? And you know what? The current Minister of Local Government stops the contract.

So again, Madam Deputy Speaker, if you do not have robust institutions, what is happening to taxpayers' money?—$71 million to outfit a building to COSL affiliated to one Andy Balgobin. And one of the Ministers of Local Government has to make a statement to say under whose tenure was the award given to COSL and Mr. Andy Balgobin. Because, Madam Deputy Speaker, that is also holding up the Chaguanas Borough Council building. They cannot outfit the Chaguanas Borough Council building because Mr. Andy Balgobin and COSL are also involved in that.

So, Madam Deputy Speaker, we are in a sorry place. Our competitive ranking has been coming down as I have said, even though the Government's *Medium-Term Policy Framework* spoke about an increase in 20 places by 2014. It has been coming down. Our place on the Corruption Index under this Government, Madam Deputy Speaker, is also going in the wrong direction. So as far as we are seeing

outside there, from 2010 to now, and remember they came in on a wave of squandermania corruption—we are viewed four years later of being more corrupt and less competitive. It is really a sad state of affairs.

Madam Deputy Speaker, there is one little item I want to close with which has serious implications for this country, and it is an issue that has been prosecuted in this House consistently by the Member for Diego Martin North/East, and I know he does not need my help to prosecute it, but I will just mention it.

Mr. Imbert: "Wha you say 'bout me?"

Mr. T. Deyalsingh: A particular issue you have been prosecuting, and that is the sale of Clico assets; the sale of the Clico assets. Madam Deputy Speaker, there is a company called Methanol (Trinidad) Holdings Limited subject to a three-year arbitration process, which they lost.

Mr. Imbert: Methanol win.

Mr. T. Deyalsingh: Methanol win—sorry. When this issue is finally settled we do not want the shares of Valpark Limited, and the shares of Atlantic Plaza to be sold at "fire sale" prices.

Hon. Member: They were sold.

Mr. T. Deyalsingh: Well they were sold already, but we are on to you. The public is on to you. The same two connected parties. The same fate must not befall Methanol (Trinidad) Holdings Limited. The same way we are advocating for wider public participation, those Methanol shares should be going to the wider public. We will see what the arbitration comes up with, whether the minority shareholders can put in their first offer and so on.

But the question is, just like the FCB IPO was managed—mismanaged—to be corrupted to benefit two persons, totally mismanaged to benefit two persons that we know of, we are putting the Government on notice that we will be watching eagle-eyed with what happens to the shares of Methanol, and all other assets of the Clico Group, CL Financial, CMMB, because it must redound to the benefit of the taxpayers of this country. They must not be shut out like FCB. The barbarians of the day must be shut out of Phoenix Park, they must be shut out of Methanol. And this Government has a poor track record in keeping out the barbarians at the gate. Madam Deputy Speaker, with those very few words, I thank you. [*Desk thumping*]

The Minister of State in the Ministry of Finance and the Economy (Hon. Rudranath Indarsingh): Thank you very much, Madam Deputy Speaker, and at this stage, I am very pleased to join this debate on the Bill to amend the Securities Act, 2012. And this piece of legislation that has been piloted by the Minister of Finance and the Economy must be seen in the context of a continuation of the progressive initiatives that this Government has pursued over the last four and a half years which have transformed the economy of Trinidad and Tobago from one of negative growth to positive growth.

Madam Deputy Speaker, I will spend some of my contribution focusing on some of the issues which were raised by the Member for St. Joseph because he started off by saying that—and he traced the history of this piece of legislation, and he said that the PNM was very pleased to be part of the—or to give its initial support to the legislation when it was first piloted in 2012. And then he went on to address the issue of Trinidad and Tobago's ranking in the Competitive Index from a global perspective. And if one listened to the Member for St. Joseph, you would think that the economy of this country is in shambles, it is in a state of disarray, nothing is happening in the economy of this country. And this is in keeping with the Member's trend of contributions since he has come to this particular place, where he attempts to create a sense of confusion, a sense of trying to tell the population—or create in the minds of the population, to create what we would call panic as it relates to the economy—[*Interruption*]

Dr. Browne: Madam Deputy Speaker, point of order; Standing Order 36(5). He is accusing the Member of working to create panic in the population. That is imputing improper motives.

Madam Deputy Speaker: Member, stay focused on the Bill. Continue.

Hon. R. Indarsingh: Madam Deputy Speaker, I am guided, but I have the responsibility to talk, Member for Diego Martin West.

Hon. Member: You have been bullying everybody today.

Hon. R. Indarsingh: If you feel you will bully me, that is the last thing on your mind, you know. [*Crosstalk*] Madam Deputy Speaker, let me tell the Member for Diego Martin West, the last thing you could do is bully me, you know, [*Laughter*] or attempt to. [*Crosstalk*]

Madam Deputy Speaker: Member, continue, please.

Hon. R. Indarsingh: As I was saying, Madam Deputy Speaker, the Member for St. Joseph touched on Trinidad and Tobago's competitive ranking, and if one followed his line of thought during his contribution, one would have felt that the

economy of this country was in a state of shambles. And it is important for me, Madam Deputy Speaker, to reassure the national community, and reassure the population of Trinidad and Tobago that there is no need to fall victim to the propaganda of the People's National Movement. Because what he will not do—the Member for St. Joseph—is not to present the total picture and the state of the economy of Trinidad and Tobago under the leadership of the PP Government over the last four-and-a-half years from an economic point of view. Because, Madam Deputy Speaker, the statistics are there to show that there is a positive momentum projected for growth of 2.9 per cent for 2014, and this is projected to continue in 2015 to 3.2 per cent.

In addition, Madam Deputy Speaker, what he did not tell the national community during his contribution is that Trinidad and Tobago is now placed 66th out of 189 countries in the World Bank Ease of Doing Business Report of 2014.

So, Madam Deputy Speaker, in addition to that, I must tell the Member for St. Joseph that in looking at the performance of this administration, there is no doubt that in terms of the delivery of infrastructure, as well as the management of the economy, the current administration has done exceedingly well.

6.05 p.m.

And we must never forget that whatever positive growth which is occurring in the society today has been done against a backdrop of dealing with the Clico/HCU debacle, which the hon. Prime Minister laid part of what we would call the report into the operations of the Hindu Credit Union today, laid it in this honourable House, and she reminded the national population that this cost the taxpayers of this country approximately $22 billion.

And I just want to ask the Member for St. Joseph, who focused on the issue of robust institution and the implication or the cost to taxpayers, what was their focus in terms of when they presided as a Government over HCU and the Clico/CL Financial debacle? What were they thinking about in terms of robust institution and the cost to the taxpayers of Trinidad and Tobago?

Madam Deputy Speaker, just to highlight what I am saying or what I referred to, because the FCB IPO was beaten to a frazzle by the Member for St. Joseph. And the Member for St. Joseph apparently wants to tell the national community or wants the national community to think that some Member of this Government has benefited from this FCB/IPO in some tangible way. I do not know.

Mr. Deyalsingh: "You hear me say that?"

Hon. R. Indarsingh: But, this is the direction—

Mr. Deyalsingh: Madam Deputy Speaker, Standing Order 36(1), I never imputed any improper motive to any Member of this Government. [*Interruption*] Standing Order 36(5), sorry.

Madam Deputy Speaker: Member for Couva South, the Member for St. Joseph said that he did not impute any improper motives, so you may continue.

Hon. R. Indarsingh: Madam Deputy Speaker, I am guided, but the Member for St. Joseph spent an extensive period of time on the FCB IPO, and I am sure that the work that is being done by the SEC and also the report—

Mr. Deyalsingh: That is your assistant?

Hon. R. Indarsingh: Member for St. Joseph, you have had your time, and if you feel that you would want to disrespect me in terms of my role and function, you have your role and function, but it seems to be you all have some consistency in attempting to discredit people and their roles and responsibilities in places of office. [*Laughter*]

Because, Madam Deputy Speaker, the Member for St. Joseph seems to have an obsession also with the office of the Governor of the Central Bank, because those on that side seem to have one consistent trend of thought to attack the current Governor of the Central Bank in terms of his role and function and to constantly refer to him as an OJT.

Dr. Rowley: He is running a parlour.

Hon. R. Indarsingh: Well, Member for St. Joseph, you have consistently, and all of you on that side have consistently sought to attack the Governor of the Central Bank, and you must declare what is the real reason for wanting to attack the Governor of the Central Bank as he continues to perform his duties.

Mr. Deyalsingh: You are calling the man an OJT. [*Crosstalk*]

Hon. R. Indarsingh: I have never.

Mr. Deyalsingh: "Look what you doing now."

Hon. R. Indarsingh: And I would never. [*Interruption*] It is you all during your contributions, the Member for St. Joseph. [*Crosstalk*]

Madam Deputy Speaker: Members! Members, please! In my earlier statement—have your seat, Member!—I did ask for some respect. I want to ask Members on both sides, to allow the Member for Couva South to speak in silence.

I want to hear him, if you do not want to hear him. You may continue, Member.

Dr. Rowley: He is talking about OJT. He is an expert in that. His term is about to end.

Hon. R. Indarsingh: Madam Deputy Speaker, the point I am making is that they, on the other side, have an obsession since Mr. Jwala Rambarran has occupied the position or been elevated to the position of Governor of the Central Bank. There seems to be an obsession to focus an attack on this office holder—

Miss Mc Donald: Madam Deputy Speaker, 36(5), imputing improper motives. We do not have any obsession with Mr. Rambarran. [*Interruption*] No, we do not. [*Silence*]

Madam Deputy Speaker: That is how this House should be, in a quiet mode when someone is speaking. Overruled. You may continue, Member.

Hon. R. Indarsingh: Yes, Madam Deputy Speaker. I would take the opportunity to remind them of their line of attack and one day their real reason or modus operandi, as it relates to the current office holder, the Governor of the Central Bank, would be revealed.

And, as I said, the Member for St. Joseph focused on the issue of the need for robust institution and the cost to the taxpayers of Trinidad and Tobago. In this regard, I want to read from an article written by a gentleman by the name of Mr. Clarence Rambharat [*Interruption*] dated November 12, 2012, under the headline "Scrutinise Securities Bill", and I quote:

> "In November 2008 then minister of finance, Karen Nunez-Tesheira, led the second reading of the Financial Institutions Bill. For over one hour Ms. Nunez-Tesheira spoke of the inadequacy of financial industry legislation, lumping financial institutions with credit unions, and the insurance and securities industries. Despite several references to credit unions, she never considered it appropriate to declare a potential conflict of interest, the Hindu Credit Union (HCU) having financed her election campaign, a fact we now know."

This was written by Mr. Clarence Rambharat, and Mr. Rambharat, I would have more to say on him at some point in time, because he writes under the—[*Interruption*]—or tries to espouse what we would call an independent viewpoint as a columnist in one of the newspapers and so on, but I am told he has some kind of aspiration to be a candidate for those on the other side in the constituency of Mayaro. [*Interruption*]

Hon. Member: He is a good friend of the Member for St. Joseph.

Hon. R. Indarsingh: I am also told, he is a close friend of the Member for St. Joseph. In fact, his entrances and exits into Caroni (1975) Limited—

Miss Mc Donald: Madam Deputy Speaker, 36(1), relevance. [*Interruption*] No, he went beyond the article.

Dr. Khan. What?

Miss Mc Donald: He went beyond that.

Madam Deputy Speaker: Member, connect to the Bill that is before hand, please. You may continue.

Hon. R. Indarsingh: Madam Deputy Speaker, I was merely quoting from an article written by Mr. Clarence Rambharat, under the headline, "Scrutinise Securities Bill".

So, from where I sit, it is important to look at this legislation in the context of what it means to ensuring the continued economic growth and development of Trinidad and Tobago. Because, as I said, the state of the economy today is as a result of what has been achieved, based on the policies and strategies of this Government over the last four and a half years. And we must see that this piece of legislation did not arrive in this House by "vaps". In fact, it must be clearly linked to the manifesto of this administration.

In this regard, Madam Deputy Speaker, we must look at it in the context of what we have achieved or what we have focused on from a manifesto's point of view over the last four and a half years. Because, in this regard, we indicated and we said that we would pursue an enabling environment for growth and expansion of locally-owned businesses, and to ensure that there is a sense of belonging and ownership by everyone in the society.

This is based also on the overall thrust of the Ministry of Finance and the Economy to ensure that there is a wider participation of the wider community as it relates to the IPOs and so on, and the overall policy of divestment that is being pursued or which is being pursued. And to say that two citizens of Trinidad and Tobago are holding the Ministry of Finance and the Economy to ransom is the furthest thing from the truth. I am sure that Minister Howai would have much more to say on this during his wind-up as it relates to the FCB IPO

Madam Deputy Speaker, we also indicated that we would focus or ensure that local and international firms are listed on the Stock Exchange and also create and nurture a competitive business environment. And, this Government has delivered,

and this is why, as I said, I focus on the economic data to show where we are as a country from an economic point of view, taking into consideration the economic growth that we have seen within the economy of Trinidad and Tobago.

This continued economic growth would have its basis in the securities market because the securities market is vital to the growth and development of a market economy such as Trinidad and Tobago. They support what we would call corporate initiatives and finance the exploitation of new ideas and facilitate the management of risk.

Madam Deputy Speaker, since retail investors place an increasing proportion of their money in mutual funds and other collective instruments, securities markets have become central to individual wealth and retirement planning, and therefore, it has been underscored that there is the need for sound and effective regulation and, in turn, this must be linked to and must have its core and focus in relation to the confidence it brings, and this must also be buffered by what we would call integrity, growth and development of the securities market.

Madam Deputy Speaker, it is important that there is the appropriate or relevant legislative mechanism as it relates to the operation of the securities markets, taking into consideration the importance of this sector to the gross domestic product of the economy of Trinidad and Tobago; taking into consideration from a statistical point of view, it is in the vicinity of approximately 14 per cent. And, Madam Deputy Speaker, we must ensure—because it is outside of the energy sector, it is the second largest contributor to the GDP and, as I said, it is contributing to the generation of what we would call employment or job creation in Trinidad and Tobago, with the creation of what we would call back office operation, which has created approximately 1,000—

Madam Deputy Speaker: Hon, Members, you may all recognize that this is the holy month of Ramadan which goes with a month of fasting. At this time I must prepare to break the fast. This House is now suspended until 6.50 p.m.

6.21 p.m.: *Sitting suspended.*

6.50 p.m. *Sitting resumed.*

Hon. R. Indarsingh: Thank you Madam Deputy Speaker, and I hope that the breaking of the fast would have been a very spiritual and enlightening period for you today. When we took the break, I was on the point of the importance of the back office operations and what it would have created from the point of view of

employment generation in Trinidad and Tobago, and therefore, I was making the point that it is important to ensure that the expansion of the securities market in Trinidad and Tobago be done in such a way that its expansion will help to create additional employment in this country.

Madam Deputy Speaker, as I said, from the time we came into office and when the initial piece of legislation came to this House in 2012, the overall focus or the thrust of this Government was to ensure that we bring the securities regulatory regime to the level of what we would call international best practice, because of the fact that securities markets are in a state of what we would call constant change and evolution. And it is vital that the regulation of the securities market evolve taking into consideration the issue of change.

This Government has recognized the importance of building the regulatory capacity and enforcement mechanisms, and that is why we have looked at the importance of expanding supervision into what we would call, previously, unregulated territory, strengthening the prudential regulation for financial institutions especially if the importance of systemic—or concentrating on the importance of systemic risk and also enhancing disclosure and reporting regimes, and improving regulatory cooperation, coordination from a local point of view, regional and international points of view. And, the Government is concerned with the protection of the investor and ensuring that markets are fair, efficient and transparent. It is important that we focus on the investor because the citizen is the one who is in search of financial services and the citizen or the investor must be protected at all cost.

Madam Deputy Speaker, it must be a governance system which will ensure that we protect the citizens because, from the point of view of a financial crisis or what we would call a systemic problem within the financial institution, when a financial system collapses and even from the point of view of if Government collapses and so on, it is the ordinary woman or man who possesses the savings and it is the people who have the jobs and lose them; it is the people who have the homes and also lose them. It is against that, we must understand that when we protect and regulate the system we are protecting a system so that our citizens can have peace, they can have justice, they can have the opportunity for making a livelihood and investing and making a living, and as such creating the conditions for their own economic prosperity and success.

Trinidad and Tobago has had a history of situations that have caused what we would call pain, trauma and so on, from the point of view of investments and

schemes. And one has to go back to, if you go back in history we could recollect what transpired at Summit Finance, ITL, the Workers' Bank and the Cooperative Bank. We must also take into consideration and even within recent times what prevailed at Clico, CL Financial and Hindu Credit Union, the cost of these bailouts to the taxpayers of Trinidad and Tobago. And when these costs are focused on bailout, it is the citizens of the country who could have had access to better health care, better education, better infrastructural development and so on. They are shortchanged and it is in this context we must see what is transpiring with this piece of legislation here today.

This Government, with this piece of legislation, will certainly transform the securities market in relation to what has happened since 1995. It is the most progressive piece of legislation and we must look at how this Government has approached this issue as opposed to when those on the opposite side held the reins of what we would call political power. Because the Member for St. Joseph concentrated extensively on the FCB IPO, and I want to say without fear of contradiction, when the issue at FCB reared its head this Government moved aggressively and swiftly to ensure that we pursued or put in place the necessary investigative mechanisms through the institutions that were established in accordance with the rule of law and which have been established in the society.

We did not take a laid-back approach. We did not take a hands-off approach. And those on the opposite side who would attempt to pummel this Government today must reflect on how they approached issues of schemes and investments and so on, when they were in the Government of Trinidad and Tobago. One only has to reflect on and recollect the issue of the Home Mortgage Bank shares, Vivica and Stone Street Capital. One only has to reflect and recollect the history and what did they do at that point in time—and the individual who was at the centre of this controversy was a senior operative in their political party—a senior operative and he was the treasurer.

So someone who has had a tremendous amount of experience in terms of the accumulation of funds and money, and the Member for St. Joseph could have spent some time, in relation to telling us what they did about the issue of how it impacted upon the taxpayers. And if my memory serves me right, Madam Deputy Speaker, when that—the whole issue of the HMB shares, Vivica and Stone Street Capital reared its head, the only thing that was done is that they facilitated a transaction which resulted in the individual making a profit of about $30 million. And here they want to focus on what this Government has done as it relates to the FCB IPO. I want to say that the Minister of Finance and the Economy, in his

capacity as Corporation Sole, has been very aggressive on this matter from day one, like all other issues which have come to his fore, and he has ensured, in keeping with the rule of law and acting within the parameters under his jurisdiction, he has made it very clear that the appropriate mechanisms will go to the very end, and if any transgression has been done or anybody who has been caught in any wrongdoing they will feel the brunt of the law.

Of course, the Minister of Finance and the Economy and no Minister of Government can interfere or attempt to manipulate or manoeuver the rule of law in Trinidad and Tobago. The investigative powers are at the level of what we would call the SEC and so on and, of course, the office of the DPP. They will do their work in terms of who would face the law and what wrongdoing has been done, if so, by any in the society.

So, Madam Deputy Speaker, we must see this Government and this piece of legislation focusing on this very important sector within the economy of Trinidad and Tobago. It has been reiterated that it contributes significantly outside of the energy sector to the GDP of Trinidad and Tobago, and when you examine this administration's track record in dealing with the issue of securities and the markets and the fallout of what we have seen, evaluating the historic evolution of this sector of our financial system, we can say without contradicting ourselves that the PP administration, the People's Partnership administration, has outstripped the People's National Movement by leaps and bounds in ensuring that we focus on the investor, we focus on the institution and we focus on the overall transparency and accountability of the financial system in Trinidad and Tobago. Madam Deputy Speaker, I thank you. [*Desk thumping*]

Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Madam Deputy Speaker. I will not harass the previous speaker too much because I know—I will be kind to him, because I know he is simply warming a seat for someone else. That is a fact. Either the hon. Minister Devant Maharaj or the hon. Attorney General will be the next candidate for the UNC in the constituency.

Mr. Cadiz: "What going on with Diego north?"

Mr. C. Imbert: So I understand the Minister, as I said, poor fella, he is just warming a seat for somebody else. I would not harass him too much. But, Madam Deputy Speaker, in the tail end of the contribution of the last speaker he spoke about Clico, he spoke about Home Mortgage Bank and so on. But he failed to link his statements to the Bill. And if he had or if he had attempted to link what he was trying to say to the legislation, and he had done a little bit of research he would have realized that Colonial Life is not a listed security.

7.05 p.m.

It is not a reporting issuer; it is not mentioned in the Securities Act, No. 17 of 2012. In other words, it is not listed on the Stock Exchange. If they issue bonds and so on, then they come within the purview of the Securities Commission, but in terms of being a listed security, Clico is not on the Stock Exchange, neither is the Home Mortgage Bank.

Mr. Deyalsingh: And that is a Minister, eh.

Mr. C. Imbert: "What ah go do"? He is a junior Minister in the Ministry of Finance and the Economy too. What we are dealing with today, Mr. Speaker—

Madam Deputy Speaker: Madam Deputy Speaker.

Mr. C. Imbert: Sorry, Madam. I do not mind promoting you, Madam.

Madam Deputy Speaker: I do not need a promotion.

Mr. C. Imbert: I am aware. [*Desk thumping*] I am well aware, Madam, but I do not mind promoting you.

Madam Deputy Speaker: I hear you. [*Laughter*]

Mr. C. Imbert: Madam Deputy Speaker, it is just that we tend to forget, you know.

FCB is a listed security and, therefore, the FCB IPO which is covered by the Securities Act, 17 of 2012 which, clearly the Member did not read, the distribution of shares, the whole question of connected parties, the whole question of insider trading, is all extremely relevant to First Citizens Bank because First Citizens Bank comes within the purview of the Securities and Exchange Commission, which we are seeking to amend the Securities Act today with this Securities (Amdt.) Bill. And according to the last speaker, we have done such a marvellous job that, from now on, investors in Trinidad and Tobago will be protected with some kind of ironclad protection.

Mr. Speaker—

Mr. Deyalsingh: Madam Deputy Speaker.

Mr. C. Imbert: Madam Deputy Speaker, I am so sorry. I have looked at the amendments, and so far I have found one amendment that addresses the FCB fiasco, and that is the amendment to section 136 which is clause 39 of this Bill, I believe—actually it is part of section 51A. The Bill amends section 136 by deleting the words "in the prescribed form" and substituting the words, "in such

form as the Commission may determine". And perhaps the Minister can tell us why. Because when you look at section 136, which is very, very relevant, section 136 tells us:

> "Reporting by persons connected with issuers.
>
> A person who is connected to a reporting issuer"—like FCB and not like Clico—"as a result of section 4(3)(a) or (c) shall, within five business days of the day that he becomes connected to the reporting issuer, file a report in the prescribed form with the Commission disclosing any direct or indirect beneficial ownership of, or control or direction over, securities of the reporting issuer by him."

The Minister would like us to delete the words "in the prescribed form". Now, the prescribed form means it must be published somewhere; it must be prescribed by regulations or by ministerial order; it will be a fixed document; the public will know what it is, but when you substitute that with "in such form as the Commission may determine", you now go into the realm of secrecy.

So, could the Minister tell us why are you removing the transparency of "the prescribed form" for connected parties and replacing it with a form that, whatever the Commission dreams up? Because this is what this is saying: "in such form as the Commission may determine". So perhaps you could tell us that because that is not an improvement, an innovation, a radical advance in the legislation, as the last speaker would like us to believe.

The second change to 136 is that you are repealing subsection (2) and substituting it with the following subsection:

> "A person who—
>
> (a) is connected to a reporting issuer…
>
> (b) whose direct or indirect beneficial ownership of, or control or direction over, securities of the reporting issuer by him changes,
>
> shall within five business days from the day on which the change takes place, file in such form as the Commission may determine a report of direct or indirect beneficial ownership of, or control or direction over, securities of the reporting issuer by him as of the day on which the change took place."

What is the difference? In the parent Act, it says:

> "A person…

(a) who has filed or is required to file a report; and

(b) whose direct or indirect beneficial ownership of, or control…over securities…changes"—shall file a report.

So why did you take out the part that says: "A person…who has filed or is required to file a report"? Why? Again, could the Minister kindly explain? Since this is some radical advance that is supposed to deal with all of these problems that we have, why did you do that? Why did you change it from "a prescribed form" to a form that the commission could decide what would be in the form? Why did you take out this section?

I think it is necessary, for the benefit of the listening public, the wider audience, to explain the implications of all of this because this particular Minister has acquired for himself the title of "duck and run". There is a particular parliamentarian who was given that sobriquet by the former Leader of the United National Congress, Mr. Panday. He referred to the Member for St. Augustine as "Mr. Duck and Run", a play on words. But the current Minister, I think, has earned the title of "Mr. Duck and Run" because today in this Parliament, the Prime Minister came into the House, read into the record the findings of the Commission of Enquiry into the HCU matter and then read extracts of that report, including all of the alleged transgressions of Mr. Harnarine and his colleagues at the Hindu Credit Union, all of the alleged or suspected offences committed by Mr. Harnarine and Co.—read it all into the record, and then told us it is posted in the rotunda, it is available for public scrutiny and so on.

How come it is okay, in that situation, to read into the record for the public consumption, all of the alleged crimes committed by those people at the Hindu Credit Union? And while I am on that, you know, that Bill that was brought to this Parliament with respect to the $500 million payout to depositors and shareholders of the Hindu Credit Union, that would have passed through here if Members of the Opposition did not point out that persons responsible for the rape of that institution would be beneficiaries of that $500 million payout. It was the Opposition that had to point that out, and that is why that debate was suspended and an amendment had to be made to make sure that the persons who raped and pillaged the Hindu Credit Union would not benefit from $500 million of taxpayers' money.

Mr. Indarsingh: They had some friends in Balisier House.

Mr. C. Imbert: It is I who pointed it out. You know, it is amazing, before I pointed it out, not a word, and then the Government ran quick and made the

amendment and made statements saying, oh no, it was never their intention to benefit the shareholders and depositors.

With all the legal advice available to you, million-dollar attorneys, Chief State Solicitor, Treasury Solicitor, all the fancy lawyers available to you, you could not see that you were bringing a Bill to spend $500 million of taxpayers' money that would go into the hands of persons who had plundered the Hindu Credit Union? But notwithstanding all of that, now we come a month later, the Prime Minister reads into the record all of the alleged transgressions and criminal offences, et cetera, of these people at the Hindu Credit Union, not a care in the world about prejudicing the trial, about confidentiality, about pre-trial publicity, about due process, about what the DPP will have to say. Not a care in the world; in fact, setting the stage for somebody to mount a legal challenge that their rights have been prejudiced because all of their alleged transgressions have been published in the Parliament.

Mr. Deyalsingh: Correct.

Mr. C. Imbert: But that could be done with the Hindu Credit Union, but it "cyar" be done with the FCB audit. [*Desk thumping*] You see the contradiction in this Government?

When the Minister of Finance and the Economy was asked: would you make available to the Parliament the findings of the Pricewaterhouse audit, he hid behind the cloak of confidentiality and pre-trial prejudicial actions and said, "No! I have been advised not to talk about this and I can't disclose anything. It has gone to the Director of Public Prosecutions and if we disclose anything, you know, it will prejudice the outcome of the trial", but not so in the Hindu Credit Union matter.

I heard the Prime Minister talk about the Clico report, that "go" be published too. And, again, I have to ask, if the HCU findings could be published and if the Clico findings could be published and there is not a care in the world on the part of the Government with respect to how that might prejudice the prosecutions that may come in the future, or are going on right now—not a care in the world about that, but when the Minister is cornered with respect to the FCB audit, he claims confidentiality, it will prejudice the matter and so on.

This Government speaks out of both sides of its mouth. What is your policy? How come it is okay for HCU and Clico to lay bare everything that is going on and who is guilty of which criminal offence, but it is not okay in FCB? The inconsistency of this Government is shocking.

But be that as it may, Mr. Speaker—

Mr. Deyalsingh: Madam Deputy Speaker.

Mr. C. Imbert: Madam Deputy Speaker. I am so sorry, Madam Deputy Speaker, you will have to forgive me for this. Be that as it may, Mr. Speaker—

Hon. Member: Madam.

Mr. C. Imbert: Madam Deputy Speaker. [*Laughter*] This is getting ridiculous. But the fact of the matter is, let us educate the public now on what the facts are with respect to the Securities Act, the Securities (Amdt.)—[*Interruption*]

Hon. Member: She bears no resemblance to Wade Mark.

Mr. C. Imbert: Yes, she does not. It is really not fair.

Dr. Browne: No resemblance whatsoever.

Mr. C. Imbert: It is really not fair, I agree with you. Nice lady. I am sorry, Madam Deputy Speaker, I will talk to you.

Madam Deputy Speaker, let us expose what the facts are with respect to the actions of the Securities Commission, the actions of the Ministry of Finance and the Economy and the Government with respect to that IPO scandal because it is integral to this Bill and the parent Act that we are amending. And I have not seen anything in here—I have not seen anything—that strengthens the capability of the Securities and Exchange Commission to deal with an IPO, to deal with a prospectus and mandates the Securities Commission after a prospectus is published—the SEC should be mandated to monitor the allocation of shares when a prospectus is published.

That is not in here and I would like the Minister to tell me why, in all these copious amendments—you are amending section 4, section 6, section 7, section 10, sections 18, 33, 45. I mean, you are amending 68 sections in the Securities Act. How come the Minister did not think it appropriate to mandate the Securities Commission that whenever an IPO is published and shares are offered to the public, that it is the duty of the Securities Commission to monitor the distribution and allocation of shares? Because, Madam Deputy Speaker, this is not private information.

I will refer now to some newspaper reports on public hearings held by the Public Accounts Committee. In May of this year the Public Accounts Committee examined the Securities and Exchange Commission and the matters were published; they are in the public domain so I am not breaching any rule.

7.20 p.m.

I read from the *Express* of May 10, 2014. The headline is: "After 18 years, no one prosecuted by SEC"—the Securities Commission.

> In its 18 years of existence the Trinidad and Tobago Securities and Exchange Commission has never successfully prosecuted anyone for insider trading or market manipulation although it"—has carried—"out"—some—"investigations."

Eighteen years.

> "This was revealed at Tuesday's Public Accounts Committee meeting at the Parliament..."

And, Madam Deputy Speaker, we asked the Securities Commission how many people they have dealing with the investigation of market manipulation, insider trading and other breaches of the securities legislation.

Now, Madam Deputy Speaker, when you look at the securities legislation—[*Interruption*] Madam Deputy Speaker, could you ask the Member for Caroni East not to disturb me? Could you talk to him, please? I do not know what is his problem. You know, the problem with the Government, they do not want people to know what is going on in this country. That is why there was a court decision with respect to the Minister of Planning and Sustainable Development, who came in this Parliament today and tried to appeal the decision—[*Interruption*]

Madam Deputy Speaker: Focus on the Bill.

Mr. C. Imbert: No, no, it is relevant. We are talking about disclosure, Madam Deputy Speaker, and I will come to a clause that deals with disclosure and I will show you the attitude of this Government to disclosure. That is why the Minister had to come today, because he got caught not disclosing legal opinions which might have revealed that the Minister had received legal advice, that the Invader's Bay project was ultra vires and illegal and in breach of the Central Tenders Board Act. That is what that is all about.

The JCC asked for the legal opinions. He said, "I am not giving you", and one of those opinions may very well be an opinion that the Invaders Bay project is ultra vires the Central Tenders Board Act. So we will see how that goes. But, Madam Deputy Speaker, what I notice with one of these amendments—because it tells you what this Government is all about—in one of the amendments they have amended the disclosure provisions of the Securities Commission, and they have now left it up to the commission to decide whether disclosure of information of

filings of matters that are deposited at the Securities Commission—they are leaving it up to the commission to decide—whether this information should the available to the public.

So they are amending the Act to give the Securities Commission the power to decide what information it will disclose to the public and what information is will not disclose to the public, Madam Deputy Speaker, and perhaps the Minister could explain that as well. Because when I read the Bill, I could not quite understand how giving the commission the power to conceal information or to withhold information, to use a softer term, is a radical improvement, a radical transformation of our system, and perhaps the Minister will tell us when he is responding, he is doing that. Why are you amending the disclosure provisions to give the commission the discretion that they cannot disclose information, because in their opinion it is not in the public interest? It is very curious how they have done it, you know. The commission will decide whether something is in the public interest or not. The commission will decide whether it is private information and whether the information should be withheld, Madam Deputy Speaker.

You know, I will just read from the Bill essentials document that is published by the Parliament, and it provides that if:

"(a) the commission determines that the disclosure of information would not be in the public interest;"

It can withhold the information.

If—"(c) the Commission determines that—

(i) a person, whose information appears in the document…would be unduly prejudiced by disclosure;… and

"(ii) the"—person's—"privacy interest…outweighs the public interest…"— they can hold back the information.

Now why are you making this change? Is it to protect people in the FCB scandal? Is it to protect Rahaman and protect Seeterram? Is that what you are doing?

In the legislation, all the filings are supposed to be made public. That is the thing as it now stands. You are changing that to say that if the commission is of the view that documents filed with the commission are not in the public interest. Well, I do not understand what that means. How could a document that somebody files with the Securities Commission not be in the public interest? But they could

decide that. Or if they think it should be private and not public, they could decide that. Let the Minister explain to me because you are telling us that this is radical, fundamental, modernistic, transparent, far-reaching, revolutionary legislation.

So far, what I am seeing is you are changing the clause with respect to connected parties, you are changing the disclosure clause, and when I looked at it, it does not appear to me that what you are doing is in the public interest. Because if you are now telling the commission they could hold back information, they do not have to declare it if they feel. All you are doing is setting up a judicial review application, you know. Because, what are the criteria that the Securities Commission would use to decide whether a person's privacy rights outweigh the public interest? What criteria would the commission use to decide whether if they disclose information with respect to a security, with respect to a listed company or with respect to a purchase or disposal of shares, what criteria would they use to decide that disclosing that information—who buys which shares and who sells which shares—is not in the public interest? How on earth could that not be in the—that could never be not in the public interest. The public has a right to know what documents are being filed with the Securities Commission. So maybe the Minister can tell us, is this a surreptitious attempt to protect persons involved in the FCB scandal?

But let us move on. So after 18 years, no one prosecuted by the Securities Commission and when we asked, we asked the commission: how many people you have dealing with investigation? Seven! When we asked them if that is enough, they said, "Well, we think we might need a couple more bodies." Very laid-back, *blasé*, the French word. We think we might need some more people. But when you look at the FCB investigation, Madam Deputy Speaker, how long has that been going on? The FCB investigation has been going on since February. We are now in July and every time anybody tries to find out what went on—what are the findings of the Securities Commission—we are told they need more time, or we are told it is based on a need-to-know basis, or it is going to prejudice any future prosecutions. So you are not getting any information. All you are getting is ducking and running.

And really, I would have thought that the Minister, coming with reform of the securities legislation, would not only have empowered the Securities Commission in terms of investigations of market manipulation and insider trading and various other breaches of the Act, not only empower them, but make it mandatory that they do certain things. And I would like the Minister to tell me, also, because when you go through this legislation, as you start with—I will start with clause

8A which is on page 13 of the Securities (Amdt.) Bill. And on page 13, clause 8A, after (d):

> "Section 14…of the Act is amended by deleting the words 'on conviction on indictment to a fine of five hundred thousand dollars' and substituting the words 'on summary conviction to a fine of six hundred thousand dollars'".

I have discovered quite by accident that in the other place, the Minister decided to change the offences and the penalties from trial on indictment to summary conviction, everyone. So they have taken out all of the penalties that lead to a trial on indictment and replaced them with summary conviction. Now, there are two problems with that and I would advise the Minister, lawyers have clients and we have lawyers in the other place who have clients, and be careful' taking advice from lawyers because their interest quite often is their clients.

Madam Deputy Speaker, in the summary court the maximum sentence is 10 years. So by taking out trial on indictment, which is what they have done throughout this, all the offences are now summary offences and all will be tried in the Magistrates' Court. By removing the reference to trial on indictment, the maximum jail sentence now for the most heinous offence—a man could plunder a company to the tune of $2 million, a billion dollars, commit the most heinous crime and the maximum jail term that he will serve is 10 years now, whereas previously, with the trial on indictment, you could go beyond the 10 years. But in our country, in our judicial system, the maximum sentence in the summary court is 10 years. So you automatically have limited the maximum jail sentence for, as I said, the most heinous crime to 10 years, and I would like the Minister to tell me why you did that.

The other thing you have done—perhaps you do not know, but I will educate the Minister with respect to section 42 of the Summary Offences Act. Section 42 of the Summary Offences Act is a limitation section and it reads as follows:

"All cases punishable under this Act of—

(a) larceny or stealing;

(b) attempting to commit larceny, or"—stealing;

"(c) aiding or abetting"—in the crime—"of larceny or…stealing;

(d) receiving any…money or valuable security knowing it to have been stolen or otherwise unlawfully come by or obtained;

(e) fraudulent conversion;

(f) embezzling…or attempting to obtain under false pretences any chattel or money or valuable security with intent to defraud,"

Those are the matters that are in this section.

"may be prosecuted at any time within twelve months after the commission of the offence."

So you know what you have done? Embezzlement, intent to defraud, obtaining money or valuable security under false pretences, you now have a limitation period of one year. So you have done two things with the change from indictment to summary court. You have limited the jail sentence to 10 years, and you are giving the police and the authorities only 12 months to start a prosecution with respect to embezzlement or fraudulent conversion of securities and so on, Minister of Finance and the Economy. Could you tell us why you did that? Because that benefits only the lawyers and it benefits only the accused.

It does not benefit the State, it does not benefit the wider public interest, and I know what the legal argument is, you know. That when you have a trial on indictment you have to have indictable proceedings, you have to have a preliminary enquiry, and it is now going to committal proceedings and that ties up the people in court and so on, it takes a long time, but in the summary court you go straight to trial. Yeah, you go straight to trial as long as you start the matter within 12 months of the offence being committed. How many months you have left to go in the FCB enquiry? You have already run out six months. Are you going to get to the starting line within the 12-month period that is in the Summary Courts Act? I doubt it.

So, Madam Deputy Speaker, perhaps the Minister can explain why he has now introduced a limitation period for criminal offences, such as fraudulent conversion and obtaining securities by fraud,of 12 months, when on a trial on indictment there is no limitation period and persons can be prosecuted 10 years, 20 years after they have committed the offence?

7.35 p.m.

Madam Deputy Speaker, you know, the Minister, as I said, he speaks out of two sides of his mouth because the reason why "he ducking" the FCB investigation is because he needs time. "Yuh listen to him, 'These things take a long time'." I have read the statements made by the Minister with respect to the delay in letting the country know what is the outcome of that investigation into the FCB IPO, and what the Minister has told the country is that these things take a

long time, and—*Trinidad Guardian,* April 01, 2014, he said that:

"…there is…'some way to go in this…process'."

So what does this mean, Minister, through you, Madam Deputy Speaker? Does it mean you will run out the 12 months and therefore the people will not be prosecuted because there is a limitation period that runs out in one year?

Madam Deputy Speaker, I am totally opposed to this concept of introducing summary offences and replacing indictable offences for major white-collar crimes because it does take time to do the investigations. It takes a long time to determine whether persons are guilty of insider trading. These things are very complicated and very technical. It takes a long time to establish whether persons are guilty of market manipulation. And you have now introduced a one-year limitation period before you commence the matter in the court and your investigations would hardly be at the state where charges could be laid within a 12-month period. This is 10 times worse than section 34 because, at least, that had a 10-year limitation. This is one year, so perhaps the Minister can explain. And do not tell me you took advice from lawyers because, Madam Deputy Speaker, I do not want to hear that. I want the Minister to explain why you are introducing a 12-month limitation period for these major crimes like embezzlement and so on.

But, let us go back to what is happening here because I would have thought—I mean I am shocked to see that you are bringing in—making all the offences summary offences and with all the implications of that, because there are some matters that must go to the High Court, that must not be limited by statute, that must attract penalties of more than 10 years, and I will give some examples. I do not know if the Minister has ever heard of a fella called "Bernie" Madoff. Madoff was sentenced for 150 years for multiple offences, 150 years. He is not going to come out of prison. He will die in prison. Madoff committed a terrible scam on citizens of North America and others, a Ponzi scheme. [*Crosstalk*] Yeah, Madoff, 150 years, that was his sentence.

You have the situation—and I think I need to read this into the record. You have the situation of a high-flyer in the United States, Raj Rajaratnam, and I think I need to read this into the record:

> "Raj Rajaratnam's remarkable journey from Sri Lanka to the heights of the hedge-fund world to felon ended on Thursday when he was sentenced to 11 years in prison, the longest-ever term imposed in an insider-trading case.
>
> In a defining moment for the government's campaign to stamp out what it describes as rampant illegal trading on Wall Street, U.S. District Judge Richard

> Holwell in New York said during sentencing that the billionaire investor's crimes 'reflect a virus in our business culture that needs to be eradicated.'"

And I could not have put it better when coming to what has happened with FCB.

> "The judge also ordered Mr. Raj Rajaratnam, who was convicted of securities fraud…in May, to pay a $10 million fine and forfeit"—$53—"million."

But, let us take a little read about Mr. Rajaratnam. They have asked that he go to the same prison, the Butner Federal Correctional Complex, where convicted Ponzi scheme operator Bernard Madoff is serving a 150-year sentence.

> "'It is a sad conclusion to what once seemed to be a glittering story,…the U.S. Attorney in Manhattan, said…'Privileged professionals do not get a free pass to pursue profits through corrupt means.'"

Well, it seems by this legislation, through a lack of due diligence on the part of the Government and the Minister that you may very well be giving privileged professionals a free pass to pursue profits through corrupt means.

> "The son of a sewing-machine factory manager, Mr. Rajaratnam told people his name meant 'king of kings'. He regaled friends with stories of his upbringing…"

[*Crosstalk*] I knew you would say that.

> "…including how his family had to dodge bullets during Sri Lanka's civil war. He attended college in England and later got a master's degree at the…Wharton School."

in Pennsylvania.

> "He set up the Galleon hedge fund in 1997…
>
> The firm became known for a bawdy culture. Employees got massages at the office on Thursdays. On Super Bowl weekend in 2007, Galleon rented a mansion on exclusive Star Island in Miami Beach for $250,000 a week and technology executives hobnobbed with rent-a-dates around the pool, according to people familiar with the situation.
>
> Others visited a large shower for an all-female sex show, said people familiar with the matter.
>
> Mr. Rajaratnam also had a fondness for highjinks. He…offered $5,000 to any employee who would agree to be shocked by a Taser stun-gun…A female trader took him up on the offer and employees gathered around as the stun gun

was applied, her legs buckling under…"

Rajaratnam's "…insider-trading troubles took root in 2007, after he provided documents to the Securities…Commission"—in the US—"in connection with an investigation of a younger brother that never resulted in charges."

Tucked away in…"

the documents that he supplied—and this is why it is very important that we cannot leave it up to the securities commission to decide what documents should be disclosed and what documents should not be disclosed.

"Tucked away in…"—the documents—"was a text message that launched what would…become the largest insider trading investigation ever: Don't buy Polycom's…stock 'till I get guidance;…' wrote Roomy Khan, a former Intel Corp.…employee who had long been suspected by the authorities of providing inside information to sources.

In November 2007, confronted with the text, Ms. Khan agreed to work with authorities, becoming the first in a series of cooperating witnesses who would help the government convict Mr. Rajaratnam.

Mr. Rajaratnam's case was full of colorful characters. Danielle Chiesi—a former beauty queen…who swapped insider tips…allegedly slept with some of the individuals with whom she alleged to have swapped inside information, according to court filings…"

The bottom line is this man who amassed a fortune of $1 billion by insider trading on the stock exchange in the United States was eventually sentenced to 11 years in prison and made to pay restitution of some $60 million.

I would have thought that those were the changes that the Minister would be making to this legislation, not prohibiting disclosure of information, not reducing the sentence to 10 years, not putting in a limitation period of 12 months on embezzlement and fraudulent conversion. I would have thought that this is the kind of thing that we would be seeing, that we would be seeing strengthening of the legislation to give the securities commission the kind of teeth, and also mandate them to do these investigations as a matter of urgency, because this FCB thing could go on for 18 years because that is the record of the Securities Commission of Trinidad and Tobago. In 18 years, they have not come with a single conviction, a single prosecution.

Let me go now to the breaches of the Securities Act which I do not see being cured by this legislation. In fact, I see them being weakened and perhaps the Minister can explain to me why he is weakening the legislation to allow persons to get off. We have all heard about the Rahaman transaction, but I think it is necessary to repeat for the public record exactly what happened in the Rahaman case.

It seems on the face of it that a plethora of transgressions were committed. It appears on the face of it that Mr. Rahaman bought shares using his privileged position as Chief Risk Officer of FCB. What an irony I must say. He bought those shares for his family because what was discovered was that he never received any money. So, he got a loan from family and he used the loan that his family gave him to buy the shares, $14 million. In fact, the Attorney General is on record as saying that when you match the loan money and the purchase of the shares, the difference between the money he borrowed and the share purchase is $58 out of $14 million. So he borrowed $14 million from his family and used that to buy the shares.

He then sold back the shares to the same family and he made a paper profit of $12 million or whatever it is, more or less, but no money changed hands. So that it was what was called a share swap and that is not permitted under the securities laws of Trinidad and Tobago. You are not permitted to do that. So, the family lend him money and then the shares went up in value, he gave back the family the shares. No money pass hands. So the $42 million that was supposed to be paid for the shares, or the $24 million, whatever the figure is, he never received that money. There is no evidence that Mr. Rahaman ever received payment for those 650,000 shares at the $42 that he sold them at. So, he was part, to me, of an elaborate conspiracy where he was not the beneficial owner of the shares. He bought them on behalf of his family, he used his position as an employee of FCB to acquire the shares and then when the shares rose in value, he sold them back to his family, but there was no money transaction, because it was just on paper.

Now, you know, all sorts of people who should know better rendered statements and opinions on this matter. The Chairman of FCB said, "Nothing wrong with it". But I will go to the law and I will show you what is wrong with it.

Madam Deputy Speaker: Hon. Members, the speaking of the hon. Member has expired.

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

Question put and agreed to.

PROCEDURAL MOTION

The Minister of Transport (Hon. Stephen Cadiz): Madam Deputy Speaker, in accordance with Standing Order 10(11), I beg to move that the House continue to sit to continue this debate on the Securities (Amdt.) Bill and to consider the amendments to the Nurses and Midwives Bill.

Question put and agreed to.

SECURITIES (AMDT.) BILL, 2013

Mr. C. Imbert: Thank you, Madam Deputy Speaker. It is an offence to be the named/holder of securities listed on the stock exchange but not the beneficial owner. So, because if you do not own the shares because you borrowed money from somebody else who has entered into an agreement with you—whether it is a written agreement or an oral agreement—that you will simply purchase the shares on their behalf, in your name, and then give them back the shares and you do not disclose that you are not the beneficial owner, that is an offence.

7.50 p.m.

And, I would have thought somebody as distinguished an attorney as the former Chairman of FCB would know that. It seems not, because the former chairman was saying "nothing wrong with the transaction". So it is an offence to hold shares in your name and you are not the beneficial owner. You have to disclose that.

It is also an offence, Madam Deputy Speaker, that when you sell shares you do not provide the required information, in terms of the source of funds. And when you go through the documentation in this matter, the gentleman who, as I said was the Chief Risk Officer—let me explain what that means. The Chief Risk Officer of a bank is the man whose responsibility it is to look for skulduggery. That is the irony of this whole thing. That is what the Chief Risk Officer does. "Yuh looking fuh racket." So they are hiring you to make sure no illegality, no shenanigans to use words—no risk officer, no shenanigans, to use a word that the—you hired this man to make sure there is no skulduggery, no shenanigans, no corruption. That was his job and this is the man who, the shares—he was not the beneficial owner, at least on the face of it. He did not disclose the source of funds even when asked to do so by the Chief Executive Officer.

Mr. Nath asked him to disclose his source of funds. First, he said he will do it and then he said he will not lift the veil of privacy. That again, was a breach of procedure.

The bank is required—whenever there is a change in ownership of shares by one of their senior officers—to disclose that matter to the Securities Commission. They did not do that. And when the bank was confronted they said it was an oversight, it was inadvertent. The amount of inadvertence, with respect to this matter, when you are seeing clear in front of you, you are seeing clear breaches of the Securities Act.

One of the points I would ask the Minister is: Why is this thing taking so long? There are not many people involved, about four or five people. The breaches are obvious. What are you doing? Why are you taking five or six months to find out whether the man disclosed his source of funds? He did not. You can find that out in five minutes. I mean, he has to disclose the source of funds to the broker. He has to disclose the source of funds to the lead broker—and I would come to that in a little while. He did not! So why are you taking five months to find out whether he did that or not? Why are you taking five months to find out whether he received money when he sold the shares, or whether it was a paper transaction and a share swap? You could find that out in five minutes.

So I do not understand why the Minister is taking so long with this matter and I certainly hope it is not to run out the 12 months in the Summary Offences Act, which you are now making all the offences here summary offences. I certainly hope that is not your intention, that now you have to start a matter within 12 months of discovery. I hope you are not waiting until January or whatever, of 2015, to allow the investigation to peter out to allow this man to escape because of the limitation period and all the other persons who have committed offences. I certainly hope so and that is why I object strenuously to the conversion of indictable offences to summary offences.

But Rahaman and Co. and all the co-conspirators or alleged co-conspirators in that matter, that is not all. What I find scandalous about this FCB matter, Madam Deputy Speaker, is after they finally agreed that something was wrong, although "it staring dem in dey face," the Minister put a gentleman by the name of Anil Seeterram as Deputy Chairman of FCB. So, after they get rid of Miss Alfonso, Miss Jacelon and the other two—[*Interruption*]

Dr. Rowley: Did the Minister know that he was in skull too?

Mr. C. Imbert: "Well ah coming tuh dat." So after they removed these four people, because their terms had come up for expiry at the general meeting, the

Minister decided that the best person to chair this bank was the Deputy Chairman, Anil Seeterram. Now, let us talk about Anil Seeterram. Anil Seeterram is the son of a fella called Chanka Seetaram and—[*Interruption*]

Dr. Rowley: Of HCU enquiry.

Mr. C. Imbert: Yes, of HCU enquiry fame, and I am wondering whether, in that report, we will see whether the enquiry, has recommended that Mr. Seeterram be prosecuted for falsifying the audit of the HCU. He admitted to that under oath eh. He admitted to that under oath, the father. But let us deal with the father and the son.

Chanka Seeterram, the father of First Citizens Deputy Chairman, Anil Seeterram, who the Minister made the chairman, after the bacchanal, now acting chairman, this is on June 14, purchased 458,742 shares during the bank's initial IPO at the end of July. Medical Associates, at the institution at which he is corporate secretary, also acquired 155,000 shares. Chanka Seeterram paid $9.6 million for his shares, while Medical Associates would have paid $3 million.

Now, Mr. Seeterram did not benefit from the employee bucket. He bought these on the open market, which means he would have had to pay FCB investment brokerage, about $100 million, because people got about 15 per cent of what they—[*Interruption*]

Mr. Deyalsingh: How much?

Mr. C. Imbert: About $90 million/$100 million. He would have to write a cheque for about $90 million.

Dr. Rowley: To get that amount.

Mr. C. Imbert: In order to get this amount of shares, 458,000 shares, he would have to write a cheque for about $90 million. Now you are going to tell me, this is a bank, the Chairman is a distinguished attorney and I think it is time for me to read the qualifications of the directors of FCB at the time, because they put their qualifications into their annual—"yeah, dey real talk up deyself man", about the directors and senior officers:

> "Nyree…Alfonso…an attorney-at-law for—"more than 20 years—"has been in private practice specializing in commercial litigation…admitted to practice in Trinidad…and the Eastern Caribbean, Bachelor of Laws Degree…Master of Laws Degree from University of London in commercial and corporate"—law.

and cÔté ci cÔté la. That is Nyree Alfonso.

> "Anil Seeterram…15 years' international, regional and local experience as a forensic accountant…"

You see the irony? He is a forensic accountant.

> "auditor, management consultant and banker…Managing Partner of The Phi Group, a highly specialized consulting practice…clients in the energy, financial services, manufacturing…and retail sectors.
>
> …Canadian-qualified Chartered Accountant."—with—"an MBA…from the University of Western Ontario…"—cÔté ci cÔté la—"Bachelor of Commerce from McGill University."—and so it goes on.
>
> "Mr. Baddaloo…Director of The Office…Limited, which is the amalgamated holding company…"—He has—"a BSc from The University of the West Indies"—and—"an MBA from Vanderbilt University…a former national scholar, Fulbright scholar and Richard S Weinberg scholar."
>
> **Miss Mc Donald:** Who is that?
>
> **Mr. C. Imbert:** Rishi Baddaloo, that is another board member.
>
> "Cindy Bhagwandeen…BSc from UWI,…LLB from the University of London…"

and so on, and so on, and so on.

> "Shobee Jacelon…Honours Degree in Geography, Masters Degree in Information Science…"

and so on and so on. It is not to say these people did not have academic qualifications and experience, Madam Deputy Speaker, but these people would have been aware that somebody paid a cheque in the amount of about $90 million.

Dr. Rowley: If they did.

Mr. C. Imbert: They would have been aware of it.

Dr. Rowley: If they did.

Mr. C. Imbert: Because you know there is a lot of talk about how they are not aware and the Attorney General held a press conference and said the board is not responsible. They did not know. Well, let me explain why I am of the view that the Attorney General has not been properly advised, because I have to assume that he did not advise himself and that he paid a lot of money to a lot of expensive

lawyers to get that advice as to whether the board of FCB was liable, whether they knew about the transaction. The problem is, Madam Deputy Speaker, that the same people, more or less, who were directors of the parent board of FCB, were also directors of First Citizens Investment Services and First Citizens Brokerage and Advisory Services.

Madam Deputy Speaker, when I go to the corporate information and I go to the listing of persons involved in the issue, the lead stockbroker in this IPO was First Citizens Brokerage and Advisory Services. And who were the directors of First Citizens Advisory Services? The same people, First Citizens Investment Services and First Citizens Brokerage and Advisory. Let me read out the board: First Citizens Investment, Nyree Alfonso, Anil Seeterram and the rest of the board; First Citizens Brokerage, Nyree Alfonso, Anil Seeterram. So the lead broker in the transaction, where all of the applications for shares have to be sent to. There were several other brokers but they had to send everything to First Citizens Brokerage who would do the distribution.

So all of the applications, the 12,000 or however more applications for shares in FCB, would have been sent through various brokerage houses in Trinidad and Tobago and then all of them would have to be sent to First Citizens Brokerage and First Citizens Investment for distribution and allocation, and Nyree Alfonso and Anil Seeterram *et al* were members of the boards of all those companies.

So, you are going to tell me that First Citizens Brokerage, First Citizens Investment, who were empowered to do the distribution and allocation of shares in FCB, the same board of directors, the same Nyree Alfonso, the same Anil Seeterram, when they sit down in the board and they look at the board papers and they get a report on applications for shares and recommendations for distribution and allocation, they—but they had blindfolds on? You know, they could pretend that, as members of the board of FCB, they did not know what was going on but they cannot pretend, as members of First Citizens Investment and members of First Citizens Brokerage, that they did not know what was going on.

Mr. Howai: That is why they are no longer there.

Mr. C. Imbert: Yeah, but I mean, that should have been obvious, Madam Deputy Speaker. I hear the Minister talking about it, but it should have been obvious.

Dr. Rowley: After he made him chairman.

Mr. C. Imbert: Yes, and the same Anil Seeterram after they fired Nyree Alfonso, he put Anil Seeterram to—[*Interruption*]

Dr. Rowley: Pretending that he did not know.

Mr. C. Imbert: Now, Madam Deputy Speaker, let us see what Anil Seeterram—what happened with him. Chanka Seeterram, father of Anil Seeterram, under the law, was a connected party. Because when you go to the Securities Act—and this is not being changed by this amendment Bill—a relative of an officer of the bank or a member of the board is a connected party, and a relative is mother, father, daughter, son, wife, husband, and so on.

Dr. Rowley: Brother, sister.

Mr. C. Imbert: Brother, sister. So this is father/son. You cannot get a more connected party than that. It is not cousin, you know.

Mr. Howai: They are not living together.

Mr. C. Imbert: Madam Deputy Speaker.

Mr. Howai: He is not a dependant.

Mr. C. Imbert: I am talking about the father. The father is a connected party and under the Securities Act, the father was required to file a report with the Securities Commission when he purchased the shares and when he "sell" the shares. The fact that they do not live together is irrelevant. Unfortunately, under the law, once it is your son or your father, you are a connected party and connected parties must file reports with the Securities Commission. I am talking about the filing of reports. Did the father file the report when he acquired? Did he file the report when he sold? And what is so curious is that they sold the shares a few days before the closing of the accounts for fiscal 2013.

8.05 p.m.

So the financial year of FCB ended on August 30, 2013 and Mr. Seeterram bought the shares in August or July, whenever the IPO was launched, and sold them in September, Madam Deputy Speaker, for a profit, I believe, of about $6 million. And by selling them before the closing of the financial year, they did not show up in the annual report. Because in the annual report for the year ended September 30, 2013, the following persons were listed shareholders and senior officers: Larry Nath, H. Phillip Rahaman, and you have to put in shares for connected parties. When you go to Anil Seeterram, there were just a small

number of shares, 12,000 shares showing up as shares owned by connected parties, but one week before that, his father owned 450,000 shares.

So they sold the shares before the end of the year, so they did not have to show up in the report, but you know what happened, they decided they wanted to penalize three members of the management. So Anil Seeterram chaired a committee and recommended disciplinary action against three members of FCB's management. They decided the management was at fault; they must be disciplined. So the same Anil Seeterram chaired a committee, recommending disciplinary action against three members of the management of FCB, and that they must be fired or whatever. I do not know what the recommendations were. The same Anil Seeterram whose father bought 450,000 shares and sold them before September 30. The same Anil Seeterram—unless he was blind or ill or did not attend any meetings of First Citizens Brokerage or First Citizens Investment or FCB for six months, must have seen that his father bought 450,000 shares. So the employees, of course, feel—"dey vex, dey say well, how you could be wanting" to discipline me, when your father bought 450,000 shares? And there are questions about reporting source of funds and things like that.

So, Madam Deputy Speaker, I want the Minister to tell me what amendments are you making in here that will prevent all of this?

Dr. Rowley: Did he know that?

Mr. C. Imbert: I do not know. I mean, Madam Deputy Speaker, I am being asked to ask the Minister if he knew all of these things? Did he know that Anil Seeterram's father was involved in a very suspicious transaction? Did he know that Anil Seeterram had recommended disciplinary action or was part of a group that recommended disciplinary action against three members of the management, while this huge transaction took place with his father, a connected party? Did he know all of that? Did he sit—did the Minister know that Seeterram and Alfonso who were on the board of First Citizens Brokerage and First Citizens Investments, who oversaw the distribution of shares, and would have seen the money coming in, and the applications made, and decided the allocation policy? Did he know? Did the Minister know all of this? And if he did not know, then the Minister is not fit to be the Minister of Finance and the Economy.

Dr. Rowley: He has somebody monitoring him.

Mr. C. Imbert: Yes.

Dr. Rowley: What were they doing?

Mr. C. Imbert: I do not know.

Dr. Rowley: Ask him.

Mr. C. Imbert: I do not know, and the other question I want to ask the Minister. I understand that this IPO was modelled off of the NEL IPO. How could it be? How many employees does NEL have, Madam Deputy Speaker, to the Minister? How many employees does NEL have? I am just asking, Madam Deputy Speaker, because the IPO was floated with respect to NEL, and they said they modelled this after that. How many employees does NEL have? I want to know. So why it is no limit was put on the number of shares that any person could acquire? Why is it that 15 per cent of the shares were allocated to employees?

I mean, the employees in FCB are earning small salaries, $5,000, $10,000 a month. How could the Minister conceptualize that these employees, earning small money—I happen to know members of this place who invested small money in the IPO, because that was all they could afford. How could the Minister imagine that employees of FCB could have access to $800 million or $80 million; $80 million actually? How—"whey dey getting dis money from?" Where is an ordinary FCB employee going to get money to buy shares?

In fact, in my discussions with some of them, they said they could not take advantage of the offer; they just could not afford it. Even though they knew or they suspected that the share price would increase, they were already maxed out in terms of their loans, in terms of their credit cards, in terms of their obligations, they did not have cash available, they could not borrow money, or they did not want to borrow money. Ordinary employees—FCB has over 1,000 employees, how could the Minister believe that these employees would be able to take up 15 per cent of $1 billion or whatever the figure is, Madam Deputy Speaker? It is obvious that it was impossible from the beginning.

Only half of the shares made available to employees were taken up, while individuals on the other hand, who wanted to get shares, their applications were oversubscribed by 300 per cent, Madam Deputy Speaker. So John Public, who is not an employee of FCB, who might have a little savings, they must have just retired, they got a gratuity, whatever, they have a pension fund, they cashed it in, they have a policy, they have a little cash available to them. John Public, who wanted to invest in this IPO, was limited to the average public investor individual,

got about 15 per cent of what they asked for, just about 15 per cent. So if you asked for $100,000 in shares, they might have gotten $15,000, $16,000, $17,000 in shares, Madam Deputy Speaker. That is your average member of the public. Because it was oversubscribed, and because there was a block of shares available to the public, fixed by the prospectus, you could only get so much.

So the ordinary members of the public, they applied in their thousands, three times the amount available to them, so all they got was 15 per cent. But employees obviously, they are not wealthy people, not all of them, half of the shares available to employees were left there, and what is interesting is that the people who bought these shares, bought them at the end of the process. It is obvious they had inside knowledge, because how would they know that employees had not taken up the offer. How would an employee of FCB know that 50 per cent of the shares allocated to employees had not been taken up? How would they know? It is inside knowledge obviously. How did Mr. Rahaman know that if he applied for an additional 600,000-plus shares in FCB, that he would get them? How did he know 600,000 shares were available to him? [*Crosstalk*] How did he know? How, Madam Deputy Speaker? How did they know? So again, that just means an obvious breach. Are you a magician? On the last day or the second to last day for taking up additional shares not taken up by employees, you suddenly get some kind of inspiration by extrasensory perception, and you know, you are not supposed to know, but you know, that they have a million shares there that have not been taken up.

Madam Deputy Speaker, this thing—I mean, you do not need all these high-powered lawyers and these high-powered accountants to take 13 months, to take this thing beyond the purview of the Summary Offences Act, as the case may be, Madam Deputy Speaker. You do not need all of that. It is so obvious. It is so glaring.

I am asking the Minister, I think it is essential—well, this whole thing about summary offences, I am completely opposed to that. It is ridiculous. You could make some of the penalties—some of the offences summary offences, some of the minor ones, no problem. But the major ones, where persons will profit, in the hundreds of millions and so on, it is ridiculous to subject it to the strictures of the Summary Offences Act, Madam Deputy Speaker, ridiculous. It is ridiculous to give the commission the power to withhold information, that is ridiculous, and what is going to happen as I said is, all you are doing is making work for lawyers. So that you will have a series of judicial review applications, and the courts—that is the Invader's Bay matter, I was talking about.

The Government refused to disclose a legal opinion that it received on the Invader's Bay project, citing client/attorney privilege. The judge decided that public interest considerations, the right of the public to know, overrode the client/attorney privilege, and instructed the Minister to produce the information, right, instructed the Minister—decided that public interest considerations overrode the usual client/attorney privilege.

Now, the Securities Commission is not going to be able to hide behind client/attorney privilege, they are what I would call a low fence. You know, in war and in politics, there is something called a low fence, something you can hop over with one step. You know, you are contesting the election against somebody, and they do not stand a chance, that is a low fence, you hop over them. So I would say the commission is now going to be a low fence in terms of judicial review, because what possible reasons are they going to tell the court—that the public interest requires that they do not disclose the information? I want to see that one, and the individual's right to privacy is greater than the public interest. I want to see that one, too. I would love to see the complex legal arguments that are going to be presented to the court to justify withholding of information. I do not think you need to put the Securities Commission in that position, they will just have to spend the little money that they have, paying lawyers to lose a case. So I would advise you to revisit that, Madam Deputy Speaker.

So this Bill unfortunately, while it does address issues that arose—you see the problem with this Bill, Madam Deputy Speaker, it is out of date. If you look at the Bill essentials, what happened was, when the Securities Act of 2012 was assented to in 2012, or was passed in the Senate in 2012, Sen. Ganga Singh gave the undertaking that comments made by Members of the Senate on the Bill would, within six months, be revisited with relevant by-laws and amendments. So in December 2012, the Government gave a commitment that they would revisit the Securities Act—[*Interruption*]

Madam Deputy Speaker: Mr. Imbert.

Mr. C. Imbert:—yeah, I am wrapping up—and they would make amendments, and what they have done is that they have looked at the 2012 comments, and completely ignored what has happened in 2013 and 2014, in terms of the FCB scandal, and in terms of the admission from the Securities Commission, that it simply is not mandated to follow up on a prospectus on the distribution and the allocation of shares. That is what they told us, that that is not their mandate, their mandate is to look at the IPO. Once the IPO goes out, they are

not mandated to interrogate and investigate the performance and the distribution of shares, unless a complaint is made to them at some point in time. These are problems that arose in 2013 and in 2014.

What is wrong with this Bill, Madam Deputy Speaker, is that it addresses issues raised in 2012, but a lot has happened in Trinidad and Tobago since then. In many, many areas this Bill is woefully deficient and will not assist us in dealing with this insider trading scourge, market manipulation scourge, this white-collar crime that has reared its head in the last 12 months or so.

So I urge the Minister—and the one that bothers me the most is the conversion of all the offences from indictable to summary, introducing a limitation period of 12 months, and capping the jail term at 10 years. I urge the Minister that it will benefit persons who are bent on improper practices. I urge the Minister to reconsider that, otherwise this is going to lead to trouble in this country.

I thank you, Madam Deputy Speaker. [*Desk thumping*]

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): [*Desk thumping*] Thank you, Madam Deputy Speaker, and I would like to thank the Members for the comments which have been made. I will try to deal with the comments seriatim, starting with the comments which were made by the hon. Member for St. Joseph, and then moving on to the comments made by the Member for Diego Martin North/East.

8.20 p.m.

The comments made by the Member for St. Joseph were fairly wide-ranging and dealt with a number of issues: foreign currency, SRC, the SEC salaries, Central Bank, ICATT, and so on. I think that some of those are not necessary, in terms of this particular Bill, for me to respond to other than to say that, of course, the Ministry of Finance and the Economy is looking at all the issues and is seeking to address the foreign currency and the salary issues and so on that have been identified.

The point that the hon. Member made, that certainly it is, at the end of the day, up to individual members to act ethically and morally is, of course, very well taken because we understand that, in a sense, no matter what system you put in place, there is always the challenge of the persons who actually implement; and certainly the Member for Diego Martin North/East made the point quite eloquently when he said that it is the manager in charge of risk that created the risk that we dealt with.

I want to say that, certainly, in going forward, the issue of who is employed to do what is certainly something that needs to be addressed. There was the issue of the allocation formula because the First Citizens IPO, of course, has been a major part of the debate and certainly the examples that came out of it are things that we have identified.

I want to say though that, in that regard, I do disagree with the hon. Member in terms of whether this particular legislation does or does not allow for us to successfully prosecute these issues. In fact, the legislation, as it stands, does allow us to successfully prosecute these issues—I will come to that—and, therefore, it is something that we have to bear in mind as we go along.

Now, one of the things with the First Citizens IPO is that, in a sense, we have to recognize the fact and we have to start from the point of what is the public policy issue that we are trying to achieve; and, certainly, the public policy issue is that we are seeking to achieve as broad an ownership of the organization as we can while, at the same time, of course, the Government itself retaining control over the institution.

To that extent, I think that the IPO was a success in that there are over 12,000 people today who have ownership of this particular institution. Of course, they would have liked to have had more and we understand that, yes, because it had the opportunity to multiply income for individuals and that is why people are upset that they did not get enough and other people tried to get more than they should have gotten.

So those are things that—well, I suppose we will see what happens there in the end, but the thing is some people tried to get more than they should have gotten because everybody saw the potential that this IPO had and the potential that this policy of the Government has for increasing the wealth of individuals within the community done in a proper way.

This particular legislation certainly gives us—from sections 92 up to 100—certainly allow us to prosecute successfully insider trading and a number of market manipulation type of activities and so on. What it does require, however, is that, in going to court, you have to put together the right kind of a case that could stand up to scrutiny and that could stand up to the arguments which would be proffered on both sides.

The issue that has been raised—[*Interruption*] Let me finish. With respect to the allocation formula, the hon. Member for St. Joseph mentioned that with the NFM issue, for example, nationals got 50 per cent. But, of course, in those days

Unit Trust got a small percentage and the mutual funds did not get anything; but in those days mutual funds were only the Unit Trust and there were only two other mutual funds. So, in all, there were three mutual funds back in those days.

Today, there are 64 mutual funds and in those days those mutual funds had $3 billion in assets and today the mutual funds have $44 billion in assets, so that we had to make an allowance for a larger percentage to be given to the mutual funds and, through that mechanism, certainly some of the small individuals would have gotten the opportunity to purchase into these shares. So that mutual funds were given 25 per cent of the offering in addition to what was given to the UTC, so that overall the total that was given to mutual funds was significantly larger this time around than the last time.

So clearly, you only have 100 per cent to share up and, therefore, if you put a larger percentage into the mutual funds so that a broad range of people could access the shares, then certainly less will go to nationals of Trinidad and that is what happened as part of this entire process.

The issue was also raised by the hon. Member for St. Joseph that perhaps we should have something like a circuit breaker, he referred to, so that if a certain number of shares are sold, there should be some kind of trigger that brings this to the attention of persons.

He did say that I had indicated to him, sotto voce, that, in fact, we do have that, and Rule 115 of the stock exchange allows for supervision of trading in any of these securities and allows the stock exchange to stop a particular trade or any particular trade where, in its opinion, it is fair and reasonable to do so. The stock exchange does have its rules in terms of at what stage it would intervene to stop a particular trade. What the stock exchange had done is that they had set the limits at a level which these particular trades actually fell below and, therefore, it did not trigger that, but there is a rule—[*Interruption*] Well 650 in, you know, a couple of billion dollars, it is a lot. So the thing is that it did fall below the Rule 115 and, therefore, they were able to get past as far as that is concerned.

The issue also was raised concerning the allocation and the stricter source of funds and we understand and there are AML rules which allow us to control some of these things and, again, it is here now for the relevant institution, whichever institution it happens to be, to monitor that very closely and to deal with those particular issues.

Turning to the issues which were raised by the hon. Member for Diego Martin North/East: first of all, I think there was an issue in respect of section 136. The

amendment was made to allow for the use of administrative forms. In the current legislation as it stands, all forms must be prescribed and this, therefore, limits the commission's ability to issue and/or change forms when this is required.

So the commission currently has four forms, but they also have 27 draft forms to accommodate the draft by-laws which are currently before the LRC and which will be shortly tabled in this House. And these forms will allow for more standardized filings and would also facilitate electronic filing.

So these are things that, in making the amendment to the Act, what we sought to do was to provide greater flexibility to the Securities and Exchange Commission with respect to the types of forms that they will file and the number of forms which a person could have and, therefore, the flexibility they will have in terms of introducing a number of forms.

There was also the issue raised of the audit of First Citizens Bank and where we are and I would simply reiterate the AG's advice. [*Interruption*] I will—perhaps, perhaps not—but I certainly reiterate the AG's advice that the matter continues to be under investigation and the report has been turned over to the DPP and the DPP himself is in the process of addressing the particular matter and, therefore, it would be inadvisable for us to make the details of the report public. So I suppose those are things that we have to bear in mind and we have, therefore, done that.

With respect to the freedom of information or the public availability of filed documents I want to say that this was discussed at length in the Senate select committee and it was agreed that the commission must have discretion in these matters. Certainly everything falls under the Freedom of Information Act—so the Freedom of Information Act applies—section 169A of the Act says that the Freedom of Information Act applies in this particular case—but we recognized, in the discussion, that the SEC must have some discretion with respect to some of these particular matters and where that is so or where these things are being challenged—of course they can be challenged in the courts as has happened with the matter of the Invader's Bay facility—but all documents expressly required to be filed under this Act are required to be made available to the public.

So I want to start with that, that in fact the documents are made available to the public under the Freedom of Information Act. However, when the committee did discuss it, the committee agreed that a body such as the commission would need a certain amount of private information that should not necessarily be made

public and some of this would relate to things like people's bank account information and so on, which you probably would not want to make public; and the provisions under the Act are aligned with the provisions of the Freedom of Information Act, to which the commission is also subject. This is referred to a in new section, which is the section 169A that I referred to.

What is happening with this particular Bill is the Freedom of Information Act applies under section 169A, but we recognize the fact that the commission would have access to certain kinds of information which would require, in the normal course, to be maintained on a strictly confidential basis.

So, I think one of the things that, of course many of the comments which were made by the Member for Diego Martin North/East are actually taken care of in the Bill and are dealt with in the Bill and we do have all of the relevant requirements in the Act that would allow us to successfully prosecute these matters.

Of course, the Member went on at length to be very graphic about a number of issues relating to the First Citizens Bank IPO and, in fact, as I said, there are two or three that are being prosecuted right now. They are both in front of the SEC at the moment and the SEC continues to prosecute that; and the new board of the First Citizens Bank is dealing with this.

I want to say this, that, yes, the Member went into detail about some of the issues that perhaps the former board of First Citizens Bank should have picked up and we recognize that and that is why certain changes were made to the board of the bank. We recognize the points that were made and we recognize some of the issues that were raised and we recognize the fact that certain things should have been dealt with and we, therefore, made the changes.

8.35 p.m.

And certainly we did phase those changes in, and as soon as the issue regarding the Chanka Seeterram matter came to our attention, which happened long after the issue of the Rahaman purchase of shares, as soon as—[*Crosstalk*] no—it came to our attention, I am talking about. So when that came to our attention, we immediately acted on it, and we made the changes that we needed to make.

So again, everything—all of those issues which the hon. Member for Diego Martin North/East had raised, I mean, with respect to the First Citizens IPO, I mean, we are in the process of dealing with those. I think the Government does not get the credit for the work that it is doing on all of these particular issues, and they are all under investigation, and they are all going to be dealt with in due course.

Mr. Imbert: Would the Minister give way? [*Crosstalk*]

Sen. The Hon. L. Howai: So it is not—[*Interruption*]

Mr. Imbert: Would the Minister give way? What happen? "Yuh" not giving way now?

Sen. The Hon. L. Howai: You know, it is certainly—

Mr. Imbert: Would the Minister give way?

Sen. The Hon. L. Howai: "Oh gaw, I give yuh an hour and a half, yuh cyar want more time."

Mr. Imbert: No. But you refusing to give way? "Yuh" refusing to give way?

Sen. The Hon. L. Howai: Lemme finish wha ah saying nah".

Mr. Imbert: But that is what you keep saying.

Sen. The Hon. L. Howai: It is late. I want to get to the—[*Crosstalk*] I want to say—well we are getting to the end. Yeah. [*Crosstalk*] No. No. When we get to the committee stage, we will deal with it.

With respect to the summary conviction issue, you know, what we said—[*Crosstalk*] no, no, no; I am dealing with the facts. The thing is, regarding the issue of summary conviction, as you did say, the matter did come up in the discussion on the Insurance Bill. It did come up and when we did look into the matter initially, what happened is that the Financial Institutions Act [*Crosstalk*]—just now—has all of the offences on a summary basis. And in fact, what we sought to do is to pattern what we did here along the lines of what the Financial Institutions Act does. So it did come up as part of the discussion in the Insurance Bill, and when we did so, we recognized the fact that there was a change. [*Crosstalk*]

No. Member, you are correct regarding that particular 12-month matter. Because it came up when we were having the discussions. It did come up when we were having the discussions as far as the Insurance Bill is concerned. I do not know if you recall, but at that time we said that there was a change in the limitation period which was introduced in the Financial Institutions Act to make it three years, but that was not picked up until we had the discussions on the Insurance Bill.

So, in fact there, we do have an amendment [*Crosstalk*] which allows us to pattern it in the same way that the Financial Institutions Act does. So, in fact, we did draft that prior to coming to this sitting today, because we recognized that

same issue. It was missed initially, and I admit that it was missed initially when it was done in the Senate, but when we had the discussion in the joint select committee on the Insurance Bill where, hon. Member, you were present, you were privy to the discussion that we had which identified that that particular issue was an issue that needed to be addressed, and that we would need to make some kind of amendment to deal with that particular matter. So, in fact, we do have an amendment that we will make that will address that particular issue.

The reason why we went to summary conviction, again it was a question of balancing the two. It takes a long time and there are a lot of complaints that things go on forever, and nobody ever gets charged for anything or nobody ever gets jailed for anything. And therefore, what the committee sought to do was to try to find a balance between what would allow for a more speedy resolution of these issues, but at the same time would allow us to impose what we thought would be fairly hefty fines and, in fact, we did increase the fines.

For example, insider trading which had a fine of $5 million and seven years, we have now increased it to $10 million and 10 years, simply because we were going the route, this particular route, of summary offences. So the thing is, we think that 10 years is enough of a deterrent. There is nobody who is going to say, "Well, I do not mind going to jail for 10 years because I am going to make some money". The fact, of the matter is, we feel that that is a sufficient deterrent, but on the other side what it does, it allows us a faster turnaround time as far as the trial is concerned. It does not make sense having the ability to jail somebody for life, but it takes you a lifetime to actually jail them.

And therefore, we said, look, let us try and figure out what is the best arrangement that we could do. And what we decided to do in this case was to—[*Crosstalk*] and that was not the solution that we came to. What we said was, what we will seek to do is pattern this after the Financial Institutions Act, and in patterning it after the Financial Institutions Act, we will seek to speed up the trials and so on, and we have a precedent in place. Because, hon. Member, the Financial Institutions Act was passed, you know, by your Government at the time, using the same formula of summary offences, and we simply go on to that particular formula as far as this is concerned. So what we have done is try to deal with it from that point of view.

So those were the critical issues, as far as I understood, from what you said, hon. Member. The first dealt with the forms which, I think, we have been very clear on why it is we think the forms that we have, and the change that we have made will help us to make this much more efficient and effective. There was the

issue of the freedom of information and public availability of filed documents, and we did make changes in the Act to facilitate that, to allow the Freedom of Information Act to take precedence, but at the same time recognizing the fact that the SEC itself needs to have, you know, in a sense certain kinds of information which still needs to be made public—sorry—kept private, but they can be made public if one has recourse to the courts.

And finally, with respect to the issue of summary conviction, we did weigh it up on both sides when we met in the joint select—sorry, in the Senate Select Committee, both sides of the House, both sides of that particular House met, and we considered the issue. The attorneys on all sides considered the issue and it was felt, after an appropriate consideration, that we should balance the question of the speed of the trial, and the speed of bringing these matters to resolution with the overall penalties that would apply, and we thought that $10 million and 10 years was, in fact, a strong enough deterrent, and certainly a strong enough penalty for persons to pay, if it is they were found guilty of insider trading or any other related type of offence. We did, however, recognize the point which you had made about the 12-month limitation, and we will propose an amendment which will bring us in line with what actually happens in the FIA, and which will allow us to certainly have enough time to successfully prosecute these matters.

So with these short words, Madam Deputy Speaker, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

8.50 p.m.

Madam Chairman: Hon. Members, I crave your indulgence to ask that the clauses be taken in groups from one to 10, do I have your okay for that?

[*Assent indicated*]

Mr. Hypolite: I prefer one to 20.

Madam Chairman: One to 20.

Dr. Moonilal: I have no problem with that.

Madam Chairman: Leader of Government Business, one to 20.

Clauses 1 to 40 ordered to stand part of the Bill.

Clause 41 to 60.

Question proposed: That clauses 41 to 60 stand part of the Bill.

Mr. Imbert: Madam Chairman, what is going on with clause 47?

Hon. Member: Clauses 47 and 48.

Mr. Imbert: Are they like FCB, they cannot see?

Dr. Moonilal: Madam Chairman, the Government withdraws any amendment to clause 47.

Mr. Imbert: Oh, really. So you circulated it and then you—

Dr. Moonilal: Yes, we have sent circulation.

Mr. Imbert: Could you tell us why?

Sen. Howai: No, the thing is, as I said, from a policy point of view, we decided to keep it as summary and, in fact, clause 47 was converting it back to indictable, and we thought that we would keep—in keeping with our decision to line this up properly or line this up fully with the Financial Institutions Act, we decided to keep everything as summary.

Mr. Imbert: Are you sure you are talking about the right clause?

Sen. Howai: Yes.

Mr. Imbert: I have the amendment in front of me, you know, and all it does is increases the fine from $5 million to $10 million. How does that change the jurisdiction?

Sen. Howai: Because we are not actually—the change, the original clause would have remained in the Bill because we were actually taking—what we are doing is we are making a change to that to make it summary now, so we are going to go back to the original and put back the original fines that we had in there.

Mr. Imbert: Why are you putting back the original fines? Those are not a requirement of the summary offences court. [*Interruption*] He is just doing what they tell him to do, you know.

Miss Mc Donald: Look, they have moved it from $5 million to $10 million and then seven years to 10 years.

Mr. Imbert: And he is taking it out. He "take" it out. What that has to do with summary offences?

Sen. Howai: Yes, basically what this would have done, Member, is that, we were deleting the clause which had been put in, in the Senate and we were leaving the clause which was there in the 2012 Bill, and we were putting back the penalties as they existed in the 2012 Bill. So, what this does is actually now puts back what—by leaving it out, now, by taking this back out, we are leaving the amendments which came in, in the Senate—

Hon. Member: Which is 10?

Sen. Howai: Yes, which is 10 and 10. I do not know if that explains it—[*Interruption*]—yes, and summary conviction.

Mr. Imbert: And you think 10 years is an adequate penalty for this offence?

Sen. Howai: Yes.

Dr. Gopeesingh: It is in keeping with the other summary offences.

Mr. Imbert: That is not in keeping, there is a limit of 10 years in the summary court. Do you think 10 years is adequate?

Sen. Howai: Yes, 10 and 10.

Mr. Imbert: Suppose they sentence people to 20 years and so.

Sen. Howai: No, we recognized that we had to make a trade-off.

Mr. Imbert: What was it before?

Miss Mc Donald: Seven.

Sen. Howai: Seven. So, we have moved it from five and seven—$5 million and seven years to $10 million and 10 years.

Mr. Imbert: If you are in a gang, you could go to prison for life.

Dr. Moonilal: Yes, that is gang.

Mr. Imbert: So, these white-collar gangs that commit these offences, only 10 years?

Dr. Moonilal: We will amend the gang Act to include white-collar gangs.

Mr. Imbert: You know, whatever, you all have the majority, do whatever you want. But what you are doing makes no sense, because by making all the offences summary offences you have a limit now of only 10 years in prison.

Dr. Moonilal: You could get much more accumulated with the offences.

Mr. Imbert: They did not see the problem.

Dr. Gopeesingh: No, but all your people in the Senate agreed to it.

Mr. Imbert: But you all did that when you were in Government and when you were in Opposition, same thing. [*Interruption*] That is irrelevant.

Sen. Howai: Okay. All right, all right. Member, just so you would be clear. In fact, many of these crimes you have several—what you call them, traits—and therefore each one of them could be 10 years and $10 million.

Mr. Imbert: And you are telling me in the summary court you can run—

Sen. Howai: So, it could be 20.

Mr. Imbert:—consecutively instead of concurrently. Are you telling me that? That is what you are telling me?

Sen. Howai: It would be separate charges, they are saying it could run—

Mr. Imbert: Concurrently or consecutively?

Hon. Member: Anyhow, talk to the judge.

Sen. Howai: Yes.

Hon. Member: It is up to the judicial officer on how it would run, if it would run consecutively or concurrently.

Sen. Howai: "Hm-mm."

Sen. Imbert: You are telling me that. Okay, I do not agree, but it is all right. [*Interruption*]

Madam Chairman: Could we proceed, Members.

Mr. Imbert: No, you may not.

Question put and agreed to.

Clause 41 to 60 ordered to stand part of the Bill.

Clauses 61 to 68.

Question proposed: That clauses 61 to 68 stand part of the Bill.

Mr. Imbert: Madam Chairman, are we abandoning 62 as well? So, this next amendment, you forget about that?

Sen. Howai: No.

Mr. Imbert: How you mean, no? [*Interruption*] "All yuh is something else, you know". You all are something else.

Question put and agreed to.

Clauses 61 to 68 ordered to stand part of the Bill.

New clause 62C.

Sen. Howai: Mr. Chairman, I beg to move that new clause 62c which reads as follows be added to the bill:

62c. *The Act is amended by inserting after section 156A the following new section:*

"Jurisdiction And Limitation

156B (1) Summary proceedings for an offence under this Act may, without prejudice to any jurisdiction exercisable apart from this subsection, be taken against a licensee including an incorporated body and a financial holding company an entity in any place at which it has a place of business, and against anindividual in any place at which he is for the time being located.

(2) Notwithstanding anything in any other law to the contrary, any complaint relating to an offence under this Act which is triable by a Magistrate's Court in Trinidad and Tobago may be so tried if it is laid at any time within three years after the commission of the offence or within eighteen months after the relevant date.

(3) In this section "relevant date" means the date on which evidence sufficient in the opinion of the Commission to justify the institution of summary proceedings comes to its knowledge.

(4) For the purpose of subsection (s), a certificate as to the date on which evidence referred to in subsection (3) came to the knowledge of the Commission shall be conclusive evidence of that fact".

New clause 62C read the first time.

Question proposed: That the new clause be read a second time.

Question put and agreed to.

Question proposed: That the new clause be added to the Bill.

Question put and agreed to.

New clause 62C added to the Bill.

Mr. Imbert: Madam Chairman, I am completely opposed to this, eh. To put a three-year time limit on investigations and prosecutions, that is three times worse than section 34, which was a 10-year limit. This is putting a limit of three years to prosecute someone for insider trading. Why not 10 years? Why three years?

Sen. Howai: This is the equivalent of section 119 in the FIA.

Mr. Imbert: It does not matter, a lot has happened since 2008. We have had the FCB IPO; we have had the section 34 fiasco. Three years to prosecute someone is not long enough, especially the way investigations drag on in this country. Who are you trying to protect with this three-year limitation?

Dr. Moonilal: Madam Chairman, I want to move that the new clause 62C, to insert section 156B, be revisited by deleting the word "licensee" in line 4 and substituting the words "registrant or self-regulatory organization".

Mr. Imbert: Madam Chairman, since we are still on this clause—

New clause 62C recommitted.

Question again proposed: That new clause 62C standard part of the Bill.

Mr. Imbert: But, what jail is this? [*Laughter*] Madam Chairman, I raised a matter, I received no response from the Government. Before I receive a response—I have not got any—a new thing comes on the table. Could I get a response to my query which was before the Minister of Housing and Urban

Development? I would like to know what is the policy after the FCB fiasco and the section 34 fiasco. Why are you limiting the time to bring a prosecution to three years? You cannot say it is because it was in 2008. A lot has happened in the last six years. Who are you trying to protect with this three-year limitation period? What is the policy? Why three years? "What it is with all yuh?" Who are you trying to protect? And, Madam Chairman, let me just say, in the Insurance Bill they had put 10 years as the limitation period, eh; 10 years in the Insurance Bill, why three years here? Why? What is so special about three years?

I mean, investigation in this country takes 20 years. [*Interruption*] Yes, you want your friends to escape prosecution, you let the investigation run for four years, that is your plan—and this thing would have retroactive application, you know. [*Interruption*] That was before FCB and before section 34. The country has learnt a lot since then. [*Interruption*] It is irrelevant now. The initiation—[*Interruption*]—no, but the investigations are taking four and five years. [*Interruption*] Oh, yes; there was an investigation into the FIFA Under-17 World Cup irregularity; it started in 2001; 13 years later it "eh" finish, you know that? [*Interruption*] Three years is not enough. Right now there is no limitation on indictable offences, so if you commit a crime and they discover 20 years later, you could be prosecuted.

This is a' criminal matter; this is insider trading we are talking about. So somebody could have committed the crime of insider trading three years ago, investigation takes four years, because they are dragging their feet or they do not have the resources, or they cannot get investigators, and that is it. The person walks away laughing. You realize the implications of this? And it has retroactive application, because it is commission of the crime three years ago. You understand? Why you must agree to that?

9.05 p.m.

Dr. Moonilal: Madam Chairman, the Member for Diego Martin North/East, I just wanted to hear once again a synopsis of your argument on this.

Mr. Imbert: I am told that in the Financial Institutions Act there is a three-year limitation period for initiating a prosecution. It gives you three years to investigate and lay charges, and so on. That legislation was passed in 2008. Since then we have had the Clico collapse; we have had the collapse of Colonial Life; we have had the collapse of the HCU; we have had the FCB IPO controversies and then the controversy about section 34 which had implications for a number of matters before the courts. So a lot has happened since 2008.

In my view, there is no justification for a three-year limitation period for bringing a prosecution for insider trading. Insider trading is a very complicated matter. If you look at other countries, investigations into insider trading have taken up to seven to eight years before they have enough evidence. In order to bring a charge of insider trading, you really need to have hard evidence that the person got inside information and used that to profit.

So when you look at the United States, with some of these things—with all of these famous cases, some of them have been under investigation for seven to eight years and then they gather enough information and then they lay the charges. So three years in the changing environment that we have since the meltdown, the "Bernie" Madoff scandal and so on, three years to gather enough information of a justiciable nature to be able to lay charges that will stick, is just not enough, not in this day and age. So I am recommending that you increase the three years to some far greater period.

Sen. Howai: Okay, but for simple contracts, it is statute barred after four years.

Mr. Imbert: That is civil litigation. For criminal offences that are indictable, there is no time limit, and it makes sense. If you are going to put a limitation period on criminal offences—these are criminal offences—and insider trading, somebody could steal $500 million in insider trading. You have already limited the custodial thing to 10 years and now you are saying that the authorities must be able to gather enough evidence. I am aware of matters that the recommendations have been made for prosecution since 2005 in this country, public matters. We are now in 2014 and no charges have been laid in the other matters that I am talking about. And you, yourself Minister—[*Interruption*]

Sen. Howai: Yeah, certainly, the individual should not suffer for the fact that for whatever reason the bureaucracy has information to charge someone from 2005 and does not do anything for nine years. I mean, you could put 10 years and it still does not matter.

Mr. Imbert: Minister, I cannot agree with you, eh, because in violent crimes there are no cold cases. You could have a cold case, there is no limitation period. You cannot say that the individual must not suffer because he managed to avoid—that is what happens with insider trading, you know, they are very clever and they manage to avoid the prosecution.

Dr. Gopeesingh: They are differentiating between summary and indictable, the indictable is a long period of time.

Mr. Imbert: The indictable offence is no limitation period. Summary, it is 12, and you are now making it three years. It does not make sense.

Dr. Gopeesingh: You would be prepared to accept five?

Sen. Howai: Okay, five.

Mr. Imbert: How long is seven? Does it make a difference how long it is? It makes a difference how short it is.

Dr. Moonilal: What I am saying is that in the United States, for example, they indicate that this cannot take four to five years, some of these matters and so on.

Mr. Imbert: I have seen cases that have taken seven to eight years.

Dr. Moonilal: Yeah, we can synchronize between what obtains in the 2008 legislation which is three years, which you are saying that times have changed and complexity may have changed as well, and in the taxation laws I believe it is six years, is it?

Mr. Imbert: Yes, six plus three.

Dr. Moonilal: Six plus two.

Mr. Imbert: Two, six plus another one.

Dr. Moonilal: That is why we were suggesting five years between the six and the three.

Mr. Imbert: Let us go with seven, "nah". Because the shorter it is, it is a problem; the longer it is, it is not a problem.

Dr. Gopeesingh: You see, you will be holding up somebody's investigation.

Mr. Imbert: You see, they may not know, Tim, in a case, Member for Caroni East, the person may not know, you know. Remember the investigation is going on, but the person may not know that they are under investigation. That has happened in the United States as well. [*Crosstalk*] Yeah, it is when the offence, it is the commission of the offence. So a person may be under investigation but they do not know that they are under investigation. So there is no question of them suffering.

Dr. Moonilal: All right, seven.

Mr. Imbert: Okay, thank you. At last you listen to reason for once.

Sen. Howai: Thank you for your intervention.

Dr. Moonilal: So you will vote for it? [*Crosstalk*]

Dr. Moonilal: Mr. Chairman, we are at new clause 62C, inserting 156B:

I propose to remove in the first paragraph the following words: "a licensee including an unincorporated body and a financial holding company" and insert after "against", "an entity". And at subclause (2), remove "three" and insert "seven" to read, "laid at anytime within seven years after the commission of the offence." And remove everything thereafter.

Mr. Imbert: Even the 18 months you are taking out too?

Dr. Moonilal: Yes.

Mr. Imbert: I think the 18 is a good—[*Interruption*]

Dr. Moonilal: But if it is seven years, it is seven includes.

Mr. Imbert: No, I think you should leave the 18 months.

Dr. Moonilal: Or within 18 months after the relevant date.

Mr. Imbert: That is when they find out.

Dr. Moonilal: Okay, so "offence or within eighteen months of the relevant date" and remove three and four.

Mr. Imbert: That does not count with the seven.

Dr. Moonilal: Oh, you have to leave it, okay.

Mr. Imbert: Could I just make it absolutely clear that 18 months is after the seven years has run out.

Sen. Howai: It is after the relevant date.

Dr. Moonilal: What is the relevant date?

Mr. Imbert: No, I am just saying, the 18 months, does that run out after the seven years has run out? That is how I read it. So the seven years will run and then they have another 18 months if they discover something that they did not know about before to bring the thing. That is my understanding of it.

Dr. Moonilal: Okay, we have agreed, "seven years after the commission of the offence" and everything else remains the same.

Sen. Howai: Or within 18 months after.

Dr. Moonilal: Yes, everything else remains the same.

Madam Chairman: The question is that new clause 62C be amended in section 156B subsection (1) by deleting the word, "a licensee including an unincorporated body and a financial holding company" and inserting after the word "against", "an entity". And in subsection (2) delete the word "three" and replace it with the word "seven".

Question put and agreed to.

Question proposed: That the new clause, as amended, be added to the Bill.

Question put and agreed to.

New clause 62C, as amended, added to the Bill.

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

House resumed.

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

NURSES AND MIDWIVES REGISTRATION (AMDT.) BILL, 2014

Senate Amendments

The Minister of Health (Hon. Dr. Fuad Khan): Madam Deputy Speaker, I beg to move the following Motion standing in my name:

Be it resolved that the Senate Amendments to the Nurses and Midwives Registration (Amendment) Bill, 2014 listed at Appendix II in the Order Paper be now considered.

Question proposed.

Question put and agreed to.

Senate amendments read as follows:

Long title

A. Delete the word "Advance" and replace with the word "Advanced";

B. Insert the words "Nurse Interns" after the word "Nurses".

Short title

Delete the words "Nurses and Midwives" in the second place where they occur and replace with the words "Nursing Personnel".

9.20 p.m.

Clause 5

A. In the definition of "nursing personnel" delete all the words after the words "practice nurse," and replace with the words "a registered nurse, a nurse, a nurse intern, a midwife and a nursing assistant;"

B. In the definition of "registered nurse" insert after the words "registered nurse" the words "or "nurse"".

New Clause 5A

Insert after clause 5 the following new clause as follows:

Section 3 amended	5A. The Act is amended in section 3(2) by inserting after the words "enrolled as" the words "advanced practice nurses, nurse interns,".

Clause 6

In proposed Section 3A:

(a) in subsection (b) delete and substitute the following:

"(b) register, enroll, certify or licence nursing personnel in accordance with this Act;";

(b) in subsection (c), delete the words "enrollment certification and" and substitute the words "enrollment, certification or";

(c) in subsection (d) delete after the word "nursing" the words "and midwifery;"

(d) in subsection (g) delete the word "profession" after the word "nursing" and substitute the words "and midwifery professions";

(e) in subsection (h) delete all the words after the word "competence" and substitute the words "of the nursing personnel";

(f) in subsection (i) delete the words "and midwifery" and substitute the word "personnel."

In proposed Section 3B:

(i) in subsection (a) delete the word "enroll" and substitute the word "enrol";

(ii) In subsection (c) insert the word "," after the words "licences" and the word "applicable"; and

(iii) in subsection (i) delete the words "monies for".

Dr. Khan: Madam Deputy Speaker, I beg to move that this House agree with the Senate amendments to the clauses just read: Long Title to clause 6 of the Nurses and Midwives Registration (Amdt.) Bill, 2014.

I beg to move.

Question proposed.

Miss Mc Donald: We have some concerns.

Dr. Browne: Madam Deputy Speaker, we have some concerns.

Miss Mc Donald: That is right, yeah.

Dr. Khan: Madam Deputy Speaker, could we take all the clauses in bulk, as we had spoken? I would like to crave the indulgence of the House that we could take all the clauses in bulk—total clauses from clause—we have just taken up to clause 6. Could we take clause 7 to the end, which is "renumbered clause 34"? Thank you.

Miss Mc Donald: Madam Deputy Speaker, with the greatest respect to my colleague from Barataria/San Juan, yes these amendments are here before us. It is a special procedure. He has outlined that these amendments, he would like the House to accept them, but we have some concerns. So I think now it should

bounce back to this Bench where my colleague—I have three colleagues lined up to speak on these concerns—on these clauses.

Dr. Khan: Madam Deputy Speaker, could I crave the indulgence of the House, these amendments came from the Senate. Most of them are consequential amendments to the Act itself. There is nothing new in this Act other than drafting arrangements that we did. The Opposition would like to speak on it. I would like to understand exactly what parts of the amendments they would like to discuss.

Miss Mc Donald: Madam Deputy Speaker, I understand what my colleague is saying, and I agree that whatever our concerns, must be with respect to the amendments here, but at the same time, we have to be given that opportunity to speak and we would be speaking only on the amendments, as submitted.

Madam Deputy Speaker: Hon. Members, after the Clerk has read all the amended clauses, I will ask the Minister to proceed.

Miss Mc Donald: So when he is finished, we will do it.

Madam Deputy Speaker: After which you will proceed.

In proposed section 4 –

(i) in the proposed chapeau delete the word "fifteen" and substitute the word "sixteen";

(ii) in paragraph (a)(i) insert after the words "Attorney-at-law" the words "of not less than five years standing";

(iii) in paragraph (a)(v) delete the word "Minister" and replace with the word "Ministry"; and

(iv) by inserting a new paragraph (c) as follows-

"(c) the Chief Nursing Officer or his nominee who shall be an *ex officio* member."

Clause 9

Delete and substitute the following clause 9:

Section 5 amended

9. The Act is amended in section 5-

(a) in subsection (1) by deleting the word "members" and substituting the word "member"";

(b) In subsection (3) by –

(i) deleting the words "(d), (e) or (f) of section 4 (1)" and "(d), (e) or (f)" wherever they occur and substituting the words "section 4(b)" respectively; and

(ii) deleting the words "as the case may be" wherever they occur; and

(c) by inserting after subsection

(7) the following new subsection:

"(8) A Committee may co-opt in respect of a matter to be dealt with by the Committee, a suitable person to assist the Committee."

ssuitable p suitable person to assist t the th ttttttth

dealt with by the Committee

"(8) A Committee may co-opt in respect of a matter to be dealt with by the Committee, a suitable person to assist the Committee."

New Clause 9A

Insert after clause 9 the following new clause:

Section 6 repealed

9A. Section 6 of the Act is repealed.

Clause 10

In proposed section 8A:

(a) in subsection (1) insert after the word "employ" the words ", at such salary and remuneration as the Council may from time to time determine, ";

(b) in subsection (3) –

(i) in paragraph (a) insert after the word "Registers" the words "and Rolls";

(ii) in paragraph (d) by deleting the word "Register" and substituting the words "Registers and Rolls"; and

(iii) in paragraph (f) insert after the word "Registers" the words "and Rolls"; and

(c) in subsection 5:

(i) in paragraph (a) insert after the word "Register" the words "or Roll"; and

(ii) in paragraph (d) by deleting the word "Register" and substituting the words "Registers or Rolls".

New clauses 10A, 10B and 10C

Insert after clause 10, the following new clauses:

Section 13 repealed

10A. The Act is amended by repealing section 13.

Section 14 amended

10B. The Act is amended in section 14:

(a) in subsection (1) by deleting the word "Roll" and substituting the word "Rolls"; and

(b) in subsection (2) by deleting the word "Roll" and substituting the word "Rolls".

Part II Heading

Part II heading amended

10C. The Act is amended by deleting the heading "NURSES", and substituting the following new heading:

"NURSES, ADVANCED PRACTICE NURSES AND NURSE INTERNS".

Clause 11

A. In paragraph (d) in proposed subsection (4)(b) delete the word "expertise" and replace it with the word "specialization".

B. In paragraph (d)-

(a) in proposed subsection (6) delete the word "both" and replace with the words "the Register of Midwives,";

(b) in proposed subsection (7)-

(i) insert after the word "registration of" the words "a midwife,";

(ii) insert after the words "remove the name of" the words "the midwife,";

(iii) insert after the words "nurse from" the words "the Register of Midwives,";

(c) in proposed subsection (8) insert after the words "Register of Nurses" the words "and the Register of Midwives".

Clause 12

A. In proposed subsection (2A) delete the word "six" and replace with the word "three"; and

B. Delete proposed clauses 16 (2B), (2C), and (2D).

Clause 13

A. In the proposed new section 16A:

(a) in subsection (1) insert after the word "Council" the words "for a period of four years in the first instance";

(b) in subsection (3):

(i) insert after the word "nurse" the word "intern";

(ii) delete the word "public";

(c) in subsection (4), by deleting the words "the Regional Nursing Body" and substituting the words " or any other examining body recognized by the Accreditation Council";

(d) delete subsections (6) and (7) and replace with the following:

"(6) Where a nurse intern fails the licensing examination after his third attempt, the Council may require him to take a one-year remedial programme before he re-submits himself to a licensing examination."

(e) renumber subsections (8) to (14) as (7) to (13);

(f) in renumbered subsection (7) delete the words "(7)" and replace with the words "(6)";

(g) in renumbered subsection (8) delete the words "(7), he shall be issued a" and replace with the words "(6) and the original provisional certificate granted under subsection (1) has expired, he shall be issued another,";

(h) in renumbered subsection (10) delete the words "six months" and replace with the words "three months"; and

(i) delete as renumbered, subsections (11), (12) and (13).

B. Delete proposed section 16B and replace with the following:

"Nurse Intern's Roll

16B. The Council shall keep for the purposes of this Part, a roll to be known as the "Nurse Intern's Roll", on which shall be entered the name of every person who has been issued with a Nurse Intern's Certificate to practise as a nurse intern in accordance with section 16A.".

Clause 14

A. Renumber paragraphs (a) to (d) as (b) to (e).

B. Insert a new paragraph (a) as follows:

"(a) in subsection (1) by inserting-

(i) after the word "Register" the words "or Roll"; and

(ii) after the word "registration" the words "or enrollment"."

C. In paragraph (b) as renumbered, in proposed subsection (1A) delete the words "Advance" and "advance" and replace with the word "Advanced" and "advanced" respectively.

D. In paragraph (c) as renumbered in proposed subsection (2) –

(i) insert after the words "fee and any" the word "administrative".; and

(ii) delete the words "on 30th September of each year," and replace with the words "for three months after it becomes due";

New clause 14A

Insert after clause 14 the following new clause:

Section 18 amended

14A. Section 18 of the Act is amended -

(a) in subsection (1) –

(i) by inserting after the word "registration" wherever it occurs, the it occurs, the words "or enrollment";

(ii) by inserting after the word "registered" the words "or enrolled";

(iii) by inserting after the words "17(1)" the words "or the licence issued under section 17(1)A"; and

(iv) by inserting after the words "deemed to be", the word "revoked".

(b) in subsection (2) –

(i) in paragraph (c) by deleting the word "nurse" and substituting the word "person";

(ii) in paragraph (d) by deleting the words "to a nurse" and substituting the words "of the profession of nursing";

(iii) in paragraph (f) by inserting after the word "registration" the words "or enrollment"; and

(iv) in the closing words, by inserting after the word "registered" the words "or enrolled"; and

(c) in subsection (3) by inserting after the word "registration" the words "or enrollment".

9.35 p.m.

Clause 15

Delete and replace with the following:

15. The Act is amended by repealing section 19 and substituting the following:

Falsely conveying impression being of registered

19. (1) A person who, not being registered or enrolled under this Part, or who during any period when his certificate of registration or enrollment has been suspended or cancelled or is deemed to have been suspended, takes or uses the name or title of "advanced practice nurse", "registered nurse", "nurse" or "nurse intern" whether alone or in combination with any other words or letters, or any name, title, addition, description, uniform or badge implying or calculated to convey the impression that he is registered or enrolled under this Part, or is recognized by law as an advanced practice nurse, a registered nurse, a nurse or a nurse intern, commits an offence.

(2) A person who, not being registered or enrolled under this Part or, who during any period when his certificate or registration or enrollment issued under this Part has been suspended or cancelled, practises as an advanced practice nurse, a registered nurse, nurse, or a nurse intern commits an offence and is liable on summary conviction to a fine of ten thousand dollars and for imprisonment for two years.

Clause 16

A. In proposed subsection (2), delete the word "nurse" and substitute the word "midwife";

B. Delete proposed subsections (3), (5), (6) and (7).

New clause 16A

Insert after clause 16 the following new clause:

New section 21A inserted

16A. The Act is amended by inserting after section 21, the following new section:

"Review by Permanent Secretary

21A. (1) Where three months have elapsed since an application was submitted to the Council, pursuant to sections 16, 16A and 21 and no decision has been given to the applicant, the applicant who feels aggrieved, may file a complaint with the Permanent Secretary.

(2) The Permanent Secretary shall cause the matter to be investigated within six weeks of receipt of the complaint.

(3) Upon receipt of the report of the investigation under subsection (2), the Permanent Secretary shall forward the report to the Council requesting that action be taken on the complaint within one month thereafter.

(4) For the purposes of this section, 'Permanent Secretary' means the Permanent Secretary in the Ministry with responsibility for health."

Clause 17

In paragraph (a), in proposed subsection 22(2)—

(i) insert after the words "fee and any" the word "administrative"; and

(ii) delete the words "certificate or" wherever they occur.

Clause 22

Delete Clause 22 and substitute with the following:

22. The Act is amended by inserting after section 32, the following new section:

Part III amended

32A. The Act is amended in Part III, by deleting the words "she", "her" and "herself" wherever they occur and substituting the words "he", "his" and "himself" respectively.

New clauses 24 and 25

Insert after clause 23, the following new clauses and renumber clauses 24 to 28 as clauses 26 to 30 respectively:

Section 38 amended

24. The Act is amended in section 38—

(a) in subsection (1) by inserting after the words "his name", the words "on the Register of Advanced Practice Nurses,";

(b) in subsection (1) by deleting the words "registration as a" and substituting the words "registration as an advanced practice nurse,"; and

(c) in subsection (2) by—

(i) inserting after the words "enrolled as a" the words "nurse intern or as a";

(ii) inserting after the words "removed from the" the words "Roll of Nurse Interns or the"; and

(iii) by deleting the word "Secretary" and substituting the word "Registrar".

Section 39 amended

25. The Act is amended in section 39 by deleting the word

"nurse" wherever it occurs and substituting the words "advanced practice nurse, nurse or nurse intern."

Clause 25A inserted

Insert after clause 25, the following new clause:

Section 40 amended

25A. The Act is amended in section 40 by—

(i) inserting after the word "nurses", the words ", nurse interns,"; and

(ii) by deleting the word "or" occurring before the word "midwives".

Renumbered Clause 26

A. Delete clause 26 as renumbered and replace with the following:

"Section 41 amended

26. The Act is amended in section 41—

(a) in subsection (1) by deleting the words "Council may with the approval of the Minister" and substituting the words "Minister may in consultation with the Council";

(b) in subsection (2)—

(i) by deleting the words "the Council may, with the approval of the Minister, make Rules and" and substituting the words "the Minister may in consultation with the Council, make";

(ii) by inserting after paragraph (a), the following paragraph:

"(aa) prescribing the conditions under which persons may be registered as advanced practice nurses;"

(iii) by inserting after paragraph (b), the following paragraph;

"(ba) prescribing the standards for continuous education and training of advanced practice nurses, nurses and midwives;";

(iv) in paragraph (d) by deleting the word "nurses" and substituting the words "advanced practice nurses, nurses or nurse interns";

(c) by inserting after subsection (3) the following new subsections:

"(4) The Minister in consultation with the Council may by regulations, prescribe the qualifications and experience required and the scope of practice for the advanced practice nurses.

(5) Regulations made under subsection (4) shall be subject to affirmative resolution of Parliament."

Renumbered Clause 27

Delete clause 27 as renumbered and substitute the following:

Section 44 amended

27. The Act is amended in section 44—

(a) by inserting before the words "Register of Nurses," the words "Register of Advanced Practice Nurses,"; and

(b) by deleting after the words "Register of Nurses," the words "or to";

(c) by inserting after the words "Register of Midwives," the words "the Roll of Nurse Interns"; and

(d) by deleting all the words appearing after the word "therefrom".

Renumbered Clause 28

In the proposed amendment to section 47, insert after paragraph (b) the following paragraph:

"(ba) the Roll of Nurse Interns;"

Renumbered Clause 29

Delete clause 29 as renumbered and substitute the following:

Section 48 amended

29. The Act is amended in section 48 by—

(i) deleting the word "nurses" and substituting the words "advanced practice nurses, nurses or nurse interns; and

(ii) deleting the words "or by" occurring before the word "midwives".

Renumbered Clause 30

Delete and replace with the following:

Section 49 amended

30. The Act is amended by deleting section 49 and substituting the following new section:

Registrar to give notice of refusal of application for registration or of order of

49. Where the application of any person for registration or enrollment has been refused by the Council or where any order has been made for the removal of the name of any person from the Register or Roll or the suspension of any person

removal or suspension from Register	registered or enrolled under this Act, the Registrar of the Council shall give notice forthwith of that fact to the person concerned.

New Clause 31

Insert after clause 30 as renumbered, the following new clause and renumber clauses 29 to 31 as clauses 32 to 34:

Section 50 amended

31. The Act is amended in section 50—

(a) in subsection (1), by deleting the words—

(i) "three hundred dollars" and substituting the words "five thousand dollars";

(ii) "four months" and substituting the words "one year";

(iii) "seven hundred and fifty dollars" and substituting the words "ten thousand dollars"; and

(iv) "twelve months" and substituting the words "two years"; and

(b) in subsection (2), by deleting the words—

(i) "three hundred dollars" and substituting the words "five thousand dollars"; and

(ii) "three months" and substituting the words "six months".

Renumbered Clause 32

A. In proposed section 51A insert after the words "registered to practise" and the words "country, to practise" the words "advanced practice nursing,";

B. In proposed section 51B –

(a) insert after the words "Minister" the words "in consultation with the Council";

(b) insert after the words "to practise" the words "advanced practice nursing,".

New Clause 32A

Insert after renumbered clause 32, the following new clause:

"Section 52 amended

32A. The Act is amended in section 52—

(a) in subsection (1) by deleting all the words after the word "Court" and substituting the word "."; and

(b) in subsection (2)—

(i) by deleting the words "other moneys payable under this Act" and substituting the words "monies other than those specified under subsection (1)"; and

(ii) by inserting after the word "fees," the word "administrative".".

Renumbered Clause 33

A. In paragraph (a) delete the word "; and";

B. In paragraph (b) delete the word "." and replace with the word ";";

C. Insert after paragraph (b) the following new paragraphs:

"(c) deleting the words "enroled", and "enrolment" wherever they occur and substituting the words "enrolled" and "enrollment" respectively; and

(d) deleting the word "Secretary" wherever it occurs and substituting the word "Registrar".".

Renumbered Clause 34

Delete the words "and Midwives" in the second place where they occur and replace with the word "Personnel".

Question put.

Madam Deputy Speaker: Member, you may proceed. You said you have questions and you have concerns.

Dr. Browne: Sorry?

Madam Deputy Speaker: You said you have questions and concerns. So let us proceed.

Dr. Amery Browne (*Diego Martin Central*): Thank you, Madam Deputy Speaker, for the privilege of speaking in the Lower House of Parliament. I am the first one to say I am a little surprised that the Minister did not, at least, give us an overview of why some of these amendments were made. I want to start in a very generous fashion, on reviewing the Senate amendments, by commending the Minister for having taken into account a number of the concerns that were raised, first of all, in the Lower House and then in the other place.

9.50 p.m.

The Bill has improved and grown through its progress, but once again, the Minister, in looking at these Senate amendments, has committed a cardinal sin, which is, failure once again to consulting with the nursing council, the TTRNA, [*Crosstalk*] when the Bill left the Senate. So these amendments contain what they have reported as some fundamental flaws. In fact, one senior nurse went so far as to say that—[*Crosstalk*] Madam Deputy Speaker, could we have some silence in the House, please?

Madam Deputy Speaker: Please, please, allow the Member to speak in silence.

Dr. A. Browne: One senior member of the nursing profession indicated that the first batch of amendments, I would say the first two pages, reveal a fundamental lack of understanding, on the part of the Minister, of some of the basics of the nursing profession. So I am going to be very specific because this is

not going to take a lot of time. I am going to start with the short title where the Minister has now—well, he should have led the debate and guided the Senators on this issue, because the short title in the Bill itself reads as follows:

"This Act may be cited as the Nurses and Midwives Registration… Act."

The Senate has now amended that and the new reading with this amendment would be:

"This Act may be cited as the"—Nursing Personnel—"Act.

Madam Deputy Speaker, right there we have arrived at a fundamental divergence of opinion. The reality is, you cannot subsume midwifery under the title of nursing. The only way you might know that, as a physician, is if you speak to the nurses about this, and they feel a sense of chagrin. They are very, very concerned because the entire international body of experience and all the learning tell us that these are two distinct professions.

Madam Deputy Speaker, to help convince the Minister that this is an important amendment, I am going to cite the "World Health Organization, Global standards for the…education of…nurses and midwives". This is one of the WHO's manuals and it says quite categorically:

"…nursing and midwifery are unique health-care professions…"

So, for the Senate, led by the Minister, to come back to us subsuming, or lumping as my colleague would say, nurses and midwives under the phrase "Nursing Personnel" is—I do not want to say a slap in the face but a step backward. And having myself consulted with the representatives of the nurses, I would say that this is something they feel extremely strongly about and the Bill itself, with the Act, would be weakened considerably if this is not changed and corrected. That amendment takes us through several of—that concern takes us through several of these clauses.

For example, moving on from the short title, in clause 6, in subsection (c), what the Minister has done is deleted the words "enrollment certification…" and substituted the words "enrollment, certification or;". Again, the word "midwifery" is missing from this proposed section 3A and that is something the Minister would have to correct because we are speaking about two distinct professions. The Act itself recognizes two distinct registers: a separate register for nurses and a separate register for midwives. Is that not correct, Minister, in the Act itself?

Just to further emphasize the point to the Minister, you can be a nurse without being a midwife and you can be a midwife without being a nurse. So it simply cannot be commingled in these amendments. So that would affect a number of these amendments. I know the Minister is loath to even consider this but he presented this Bill as a way of elevating and encouraging nurses and uplifting the profession and so on, which I think it does, but with this fundamental departure, he is taking a step backwards. I am strongly encouraging the Minister to take another look.

Another example will be in subsection—and when we—would this be going to committee stage, Madam Deputy Speaker?

Dr. Khan: No.

Dr. A. Browne: All right. So then I am going to have to go through each specific one. [*Crosstalk*] No, no, each specific one. Again, under clause 6, in the proposed section 3A(a), the Minister is saying that in subsection (b), we are deleting "register, enroll, certify or licence nursing personnel in accordance…"—

"…delete and substitute the following:

(b) register, enroll, certify or licence nursing personnel in accordance with this Act;";"

Again, "nursing personnel" does not capture midwifery so it has to be nursing and midwifery personnel. That is not negotiable, that is not optional, because it is exclusionary the way it is amended here.

Dr. Khan: Look in the definition of the Act. We changed it so it covers everything.

Dr. A. Browne: Nursing—you see, that is a shortcut that is not acceptable to the nurses. [*Crosstalk*] All right, fair enough. I think the Minister is trying to respond on the fly. The same applies in clause 6

(b) "…delete the words "enrollment certification…" and substitute… "enrollment, certification or";

(c) in subsection (d) delete after the word "nursing" the words "and midwifery"."

The phrase "midwifery" has to stay in that subsection.

(d) "in subsection (g) delete the word "profession" after the word "nursing" and substitute the words "and midwifery professions";

In all of these subclauses, nursing and midwifery professionals need to be maintained. Again, this is not my opinion, I may have had even a different opinion prior to consultation. The nurses feel very strongly about this and this makes it very inconsistent with the recommendations of the World Health Organization, all the literature and I can reference—I do not want to take so much time—a number of basic books focused on nursing and midwifery which specify the separation of these professions.

Madam Deputy Speaker, in subclause (e):

"in subsection (h) delete all the words after the word "competence" and substitute the words "of the nursing personnel".

It has to be of the nursing and midwifery personnel. In (f):

"in subsection (i) delete the words "and midwifery"…"

You cannot delete the words "and midwifery", that is exclusionary.

"In the proposed Section 3B.-

(a) in subsection (a) delete the word "enroll" and substitute…"

Well, that is just a spelling correction; that is fine. But (b):

"…insert the word…"—

—and there is a little bit of an error here which I do not want to dwell on because it is the word licences—not "the words "licences"—the word "licences" and the word "applicable", but again "and midwifery" has to be included in that subsection.

The Minister is referring to the definitions and the definition does cover "nurse-midwife". The definition does cover "advanced practice nurse". The definition covers "Minister". The definition covers "nurse intern". But to subsume "nursing personnel" as including midwife is a simple departure from reality, so that is a tool of convenience that the nurses do not accept. As I said—and this is something that you would have to respond to Minister—if you can be a nurse without being a midwife and be a midwife without being a nurse, you cannot refer to both as "nursing personnel". You have nursing personnel and you have midwifery personnel.

So, I am sorry to sound as if I am sticking on this point but they have convinced me. I did the checks myself with the international literature and those changes do not elevate the profession. It takes us backward when the

policymakers would assume it is one and the same thing. So that definition does not obtain and all of these clauses that I have iterated simply do not obtain.

So, I know the Minister would just like us to pack up and disappear and pretend all is well, but this is something he is going to be hearing a considerable volume from the nurses on. Having been pleased with some of the changes, they strongly feel that if the Minister had simply consulted with them—once again, they were not even aware that this was coming up for debate. You know, the courtesy of sharing the amendments, having some discussion prior to coming and bringing them to the Lower House.

Once again, same error he made the last time. Maybe that could have at least been discussed. The Minister's viewpoint could have been shared and certainly he probably would have been able to hear directly from the nurses themselves because the Bill was in a different shape when it went to the Senate. Those amendments were made and I am here to convey the sentiments of the professionals who form the backbone of the health service of Trinidad and Tobago. Thank you, Madam Deputy Speaker. [*Desk thumping*]

The Minister of Health (Hon. Dr. Fuad Khan): Madam Deputy Speaker, thank you very much; Member for Diego Martin Central, thank you very much for your input. However, in the Senate, we looked at the Bill as a whole and we decided that it was better to make it easier to bring the Bill together and make it more concise utilizing the word "midwifery" and all the other nursing designations as the "Nursing Personnel Act", because it pointed to the nursing personnel throughout parts of the Bill. It was not consistent at certain parts of the older Bill where nursing personnel and also nurses and midwifery were articulated.

However, a midwife may not be a nurse by qualification but a midwife is also considered a nurse by designation, not qualification. [*Crosstalk*] Yes, the "Nursing Personnel Act", as we have done here, speaks to a concise title of the short Act, and in the definition of "nursing personnel", we indicated after the words "practice nurse" and replaced with "a registered nurse, a nurse, nurse intern" and I will read it from the actual Bill itself that we changed:

> "nursing personnel" means an advanced practice nurse, a registered nurse, a nurse, a nurse intern, a midwife and a nursing assistant.

A nurse intern is another definition we replaced. It means:

> "…a person who is granted a Provisional Certificate under section 16A;"

A nurse-midwife of the Act itself indicates:

> ‘“nurse-midwife’ means a person who is registered both as a nurse and as a midwife under this Act;”.

And you go on to it. So, if you look at the definition itself, the midwife is still there. The “Nursing Personnel Act” is a concise definition of the short title. The long title is:

> “An Act to provide for the Registration and Regulation of Advanced Practice Nurses, Midwives, Nurses, Nursing Assistants and other recognized specialties and for matters connected therewith.

That is the long title so it takes into consideration the midwife. The “Nursing Personnel Act” is just the short title for conciseness but the long title has the midwife in it. So you have to do it like that.

Dr. Browne: So why you did not make it more concise than it was? What was the purpose?

Hon. Dr. F. Khan: Because it speaks to the definition that we decided to do in the Senate, it made sense, but the long title still captures that of the midwife, so I do not understand what is the concern.

Dr. Browne: No, it makes sense to you, it does not make sense to the nurses.

Hon. Dr. F. Khan: Well, the long title is the Bill, the Act.

Dr. Browne: But there are clauses that follow.

Hon. Dr. F. Khan: The clauses that follow have taken into consideration “nursing personnel”. There is a separate section for midwives throughout the Bill. There is a totally different section for midwives and the regulations that concern midwives; there is.

10.05 p.m.

Hon. Dr. F. Khan: Madam Deputy Speaker, if you look at clause 11, it speaks of the Register of Midwives.

> “(b) in proposed subsection (7) -
>
> (i) insert after the word ‘registration of’ the words ‘a midwife,’;
>
> (ii) insert after the words ‘remove the name of’ the words ‘the midwife,’;
>
> (iii) insert after the words ‘nurse from’ the words ‘the Register of Midwives,’;”

So it is there.

Dr. Browne: I hear you.

Hon. Dr. F. Khan: So what I am saying, if you are arguing that of the short title it means you are making a mountain out of a molehill. The long title speaks to the midwife, nurse practitioner, the advanced practitioner, et cetera. So in doing so, the midwife is captured.

Dr. Browne: May I? Thank you Minister, for giving way. I hear your explanation, but it does not carry us where we need to go. Because if you look at the amended functions of the Council, I really think you are trying to take a little shortcut here. If you look at the amended functions of the Council, that must cover both professions, both unique professions, and for some reason you have—they were there before quite in correct order and persuaded by what? We have now removed the midwifery profession under the functions of the Council. That is the root. That ties both sections together.

Hon. Dr. F. Khan: I understand. But if you look at it, new section 3B says:

"…the Council shall have the power to—

(a) register or enroll nursing personnel;"

Nursing personnel, by definition, is what we just said. Nursing personnel are all the designations that we just said.

'"nursing personnel' means an advanced practice nurse, a registered nurse, a nurse, a nurse intern, a midwife and a nursing assistant;"

And if you are going to quote the World Health Organization—nurses and midwives, that is not an Act. That is two designations that they placed as the World Health Organization—nurses and midwives. We have nurses and midwives here. All we have done is just made the short title more concise, to nursing personnel, to capture nurse interns, advanced practice nurse together into that system, because if you have nurses and midwives registration, it does not capture the nurse intern, which is the new designation that we placed in, and also the advanced practice nurse. It does not capture that.

By doing "nursing personnel", it captures all; all the different designations. However, the long title of the Bill speaks to everyone singularly. If we were going to go, the Nurses, Midwives Advanced Practice Nurse and Nurse Intern Registration Act, that would sound crazy as a short title.

Dr. Browne: It was there before!

Hon. Dr. F. Khan: No, I am saying you have to add the nurse intern and the advanced practice nurse.

Dr. Browne: Fair enough.

Hon. Dr. F. Khan: No, you cannot. It does not make sense. So you block it into a short title of nursing and personnel Act.

Dr. Browne: Okay, I understand what you are saying. Now, may I?

Hon. Dr. F. Khan: No! Madam Deputy Speaker—[*Interruption*]

Dr. Browne: Well, I do not know where we are going.

Hon. Dr. F. Khan: Madam Deputy Speaker, through you, if we go through this, we would be going in circles.

Madam Deputy Speaker: Proceed, Member.

Hon. Dr. F. Khan: The Nursing Personnel Act is a short title, as designated. Had we not done that, you would have increased the short title to the advanced practice nurse and nurse intern. Now, having the long title:

> "An Act to provide for the Registration and Regulation of Advanced Practice Nurses, Midwives, Nurses, Nursing Assistants and other recognized specialities and for matters connected therewith.

In the definition, and I reiterate, it speaks to the nurse-midwife, it speaks to the nurse intern, and it speaks to the actual nurse itself and the nursing personnel.

Madam Deputy Speaker, what we did in the Senate was, we did the consequential amendments at the same time as developed the short title, if that is the problem. We did not separate the professions by a short title. The professions of nursing and midwives are as they were before. It is the same manner. It is the same thingin in the long title. But, in order to capture all the different new specialties because nurse intern is a new designation. It is a designation to be used where the nurses, after passing their exams from their school of entry, they would then now be able to work in the hospitals, whereas before they were failing.

Recently I got the marks from the last exam, 50 per cent failure rate. With this new Act, the nurses, before they write the RENR exam, will be able to work as nurse interns, a new designation, in the hospitals and they would be given provisional registration for at least a year onwards, as long as four years, and three chances at the exam, which we changed again.

The advanced practice nurse is something that the Nursing Council has been clamouring for. We have decided to put that advanced practice nurse in place. They will, as they say, work alongside doctors. They will be able to examine patients, they will be able to prescribe medication and at the same time, they will be functioning in the remote areas, together, like physician assistants. So, in order to keep the definition at a proper level, rather than increasing the short title, we created a short title of nursing personnel and defined it in the definition but kept the long title.

We have also, at the same time, done regulations, new enrolments, the registers that will pertain to each one of those specialties: nurse intern, advanced practice nurse, midwives and also nurses themselves and nursing assistants. They are all in here, the regulations as well as enrolment functions.

Also, for the first time, it is defined in this Act in the amendment. If you look at amendment number—new clause 16A—prior to these amendments if a nurse or any nurse intern or whoever it may be had a grievance, they would have to write the Nursing Council and wait. In these amendments, they, after three months, could write the Permanent Secretary and the Chief Nursing Officer—and it is defined by time when they should get the answer—and the Permanent Secretary and the Chief Nursing Officer, upon receipt of a complaint, will have an investigation and shall forward the report to the Council within one month thereafter. This is a new thing we have done to allow the nurses to at least complain if they feel aggrieved and it is done in each one of those categories.

We have also done, for the first time, if you look at amendment 22, a male midwife, which is in keeping with international standards, the male midwife has been placed where "she" and "her" and "herself" are deleted and replaced with "he", "his" and "himself".

Madam Deputy Speaker, we have also done the advanced practice nurse and that is new clauses 24 and 25. It speaks to each one of them. So, at the end of the day, these amendments and this new Nursing Personnel Act is going to deal with all categories of nursing personnel and, as the Member for Diego Martin Central has indicated his concern, they are still separated by the different designations and different areas.

So, Madam Deputy Speaker, I commend these amendments from the Senate to the House and I beg to move.

Question put and agreed to.

ADJOURNMENT

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Madam Deputy Speaker, I beg to move that this House do now adjourn to Friday, July 25, 2014, at 1.30 p.m. This would be the last Friday in the month designated for Private Members' Day and I would ask my colleague from Port of Spain South to indicate the nature of the business on that day.

Madam Deputy Speaker, I beg to move.

Miss Mc Donald: Thank you, Madam Deputy Speaker. On Private Members' Day, Friday, July 25, I hereby give notice to the Government that we will be doing Motion No. 1 under "Private Business". That is the Motion on the LifeSport Programme.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 10.15 p.m.