

*Leave of Absence*

*Tuesday, January 26, 1993*

**SENATE**

*Tuesday, January 26, 1993*

The Senate met at 1.30 p.m.

**PRAYERS**

[MR. PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. President:** Hon. Senators, I have granted leave to Sen. Dr. Lenny Saith to be absent from the Senate during the period January 25 to January 27, 1993, as he is out of the country.

I have also granted leave to Sen. Camille Robinson-Regis to be absent from today's sitting.

**LATE ARRIVAL**

**Mr. President:** Sen. Muntaz Hosein has indicated that he would be a little late for today's sitting.

**PAPERS LAID**

1. Report of the Commission of Enquiry to investigate all the circumstances relating to an explosion at Camp Omega on April 26, 1988. [*The Minister of National Security (Hon. Russell Huggins)*]

2. Caribbean Industrial Research Institute (CARIRI) Annual Report 1991. [*Hon. R. Huggins*]

**NEWSPAPER REPORT**

**Sen. Wade Mark:** Mr. President, with reference to my contribution in respect of the Central Tenders Board (Amdt.) Bill delivered in this Chamber on Tuesday, January 19, 1993, I wish to correct and/or address a possibly misleading impression which was formed by the Trinidad *Express* newspaper insofar as the UNC's position is concerned in respect of foreign investment and public accountability.

I make reference to a page eight editorial in the Trinidad *Express* dated Saturday January 23, 1993 in which the newspaper stated the following:

"With all due respect to the former judge, we found his arguments to be dubious and we are not surprised that the Report would have raised many

eyebrows and led to extreme reactions in some quarters. One such was the reaction from Senator Wade Mark who charged that there was evidence coming out every day that the Government was involved in shady deals and who went on to insist that the United National Congress planned to mount an overseas mission to inform investors that a UNC government would be under no obligation to honour contracts entered into by the PNM administration."

Mr. President, whilst the impression may have been conveyed to the *Trinidad Express* that a UNC Government would not honour contracts entered into by the PNM administration, let me, as Chairman of the UNC and Leader of the Opposition business in this Senate, clear the minds of both potential and current investors and also the *Trinidad Express* on this issue.

The UNC's position is that it would not honour any contracts that were corruptly formulated and not in the best interest of the people of Trinidad and Tobago. In other words, the UNC would not be compelled or be under any obligation to honour contracts entered into corruptly by the PNM and which would ultimately hurt the interest and integrity of the nation. The UNC would, therefore, not bind itself and Trinidad and Tobago to any terms which would clearly be against the interest of the people of Trinidad and Tobago.

The *Hansard* record would reveal that my statement was made in the context of a suspicious and possibly shady deal between this Government and NUCOR, and it was against this background that the party stance on the matter was advanced.

**Sen. Kuarsingh:** Mr. President, on a point of order. I see here according to rule 19:

"...no controversial matter may be brought forward nor may debate arise upon the explanation."

I think the UNC's policy is very controversial. I seek your guidance in this matter.

**Mr. President:** The matter is not a matter of controversy. The Senator is claiming that he made a statement, it was quoted in the *Express* and they expressed an opinion, and he merely wants to show the context in which the statement was made. I think he was coming to a part where he was referring to something he had said earlier and he said that the statement should be taken in that context. He is not raising a debate. That went on last week and it is still open for debate and can be replied to.

**Sen. Kuarsingh:** I accept your ruling.

**Mr. President:** Sen. Mark, as I said, you only have to deal with the clarification.

**Sen. W. Mark:** In this regard, Mr. President, the UNC would want to indicate that the basis of our approach is rooted in the principle of accountability. The Government must account to the people on whose behalf it acts. If the Government fails to honour this request, we are saying that the foreign companies and lending agencies included would have to assist, failing which the UNC would not be under any obligation to honour any contracts, corrupt or suspiciously entered into, between these agencies and the state.

Mr. President, we do not consider this stance to be irresponsible or extreme. It should be recalled that some time ago a similar contract was brought to an end by a former Prime Minister. Sometimes it takes extreme reaction to—

**Mr. President:** Sen. W. Mark, identify the article in the *Express*, say what is wrong and use your statements from earlier in your speech to clarify what was meant by that. Do not go into a rehash of all that went into that.

**Sen. W. Mark:** Mr. President, the UNC is committed to public accountability and transparency insofar as the spending of taxpayers' money is concerned. Since there does not appear to be any intention to seriously address this vital issue on the part of the present Government, this alternative government—

**Sen. Kuarsingh:** Mr. President, on a point of order. This is political campaigning. This matter was raised under "Personal Explanation". I seek your protection, Sir.

**Mr. President:** Point of order sustained.

**1.40 p.m.**

**Sen. W. Mark:** On a point of clarification, all we attempted to do here is to ensure that whatever impression may have been formed out there, we would like to clarify it; and maybe I can make this final statement, Mr. President. The UNC has no intention of frightening or scaring away potential foreign investors who are interested, or willing to invest in Trinidad and Tobago. Nor are we interested in subverting the plans of the recent OPIC mission, or harming or hampering the attraction of new investors. In fact, we welcome foreign investment on our terms and once these investments are in the vital interest of the people. What we firmly

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state, Mr. President, and are clearly committed to, is a policy of accountability and transparency in public affairs. The UNC, Mr. President, shall settle for nothing less.

Thank you very much.

#### ORDER OF BUSINESS

**The Minister of National Security (Sen. The Hon. Russell Huggins):** Mr. President, in accordance with the provisions of Standing Order 20 (4), I beg to move that this Senate proceed with the debate on the second reading of the Bill entitled An Act to amend the Central Tenders Board Ordinance, 1961 and to validate certain contracts made between the Government and the National Insurance Property Development Company Limited; followed by consideration of a Private Bill for second reading listed under Private Business, page 4 of the Order Paper; and then the continuation of the debate on Motion No. 1 listed under Private Business.

*Leave granted.*

**Mr. President:** Hon. Senators, the debate of a Bill entitled An Act to amend the Central Tenders Board Ordinance 1961 and to validate certain contracts made between the Government and the National Insurance Property Development Company Limited will now be resumed.

#### CENTRAL TENDERS BOARD (AMDT.) BILL

[SECOND DAY]

*Order read for resuming adjourned debate on question [January 19, 1993]:*

That the Bill be now read a second time.

*Question again proposed.*

**Sen. Rev. Daniel Teelucksingh:** Mr. President, I find great difficulty in identifying with the validation clause in the Bill before us which seeks to amend the Central Tenders Board Act. Mr. President, it is unbelievable that this Senate is expected to grant approval for past contracts between Government and NIPDEC, details of which are not before us; and some of us wonder if details of such contracts even exist today. I do not accuse the hon. Minister, but for me it is almost intolerable to be asked to approve clauses which validate acts and things done or omitted in past years.

**Mr. Sobion:** I want to indicate to the hon. Senator that there is a proposed amendment to the proposed validation provision which will take care of the concern that he has expressed. It should be circulated shortly and it does deal with

that question of acts done under the contracts. It is not the intention to validate those matters. That amendment will be here shortly.

**Sen. Rev. Teelucksingh:** Mr. President, one needs to enquire very seriously why such an omission escaped notice, or was permitted to go unattended over the years? It is a question that we need to ask. What is exposed today is either the obvious inefficiency and irresponsibility of certain person or persons in the past; or the persistent and apparently successful attempt in the past to ignore and circumvent the Central Tenders Board. Mr. President, the national stables must be cleansed. This must be one of the moves towards doing that.

Nevertheless, there are certain pertinent questions that must be addressed which are quite appropriate in any appreciation and understanding of the role and function of the Central Tenders Board. I would like to ask, and I have been asking myself, why does Government intend to utilize the services of NIPDEC? As the hon. Minister said, in fact, this was done over past years. Is it, Mr. President, because of the possible inefficiency or deficiency in the Central Tenders Board? One may prefer to see a revitalized and restructured Central Tenders Board. Is it indicative of Government's intention to further decentralize tendering procedures? Whatever the reason, Mr. President, the amendment we are considering weakens the Central Tenders Board. The amendment defuses some of its authority and it is a definite move towards the erosion of the authority and power of this one-time important board. Is a Bill like this promoting institutions like NIPDEC as Government supported rivals of the Central Tenders Board?

Finally, Mr. President, may I add, with your permission, a comment about one of the present controversies. We have so many in this nation. That controversy and its attendant public interest, which seems to be gathering momentum every day. I refer to the Pegasus contract, variously referred to as the Pegasus scandal or the Pegasus airport deal, and raising questions as to whether, in this country, we need to re-examine our policy and procedures in awarding contracts.

Notwithstanding Justice Collymore's investigations, Mr. President, I would dare to suggest that, out of the rising tide of public scepticism towards the Pegasus contract, Government intervenes, advising the Trinidad and Tobago Airports Authority to scrap the Pegasus airport contract and start all over again in its search for developers for its PRIDE project.

Thank you, Mr. President.

**Mr. President:** Would anybody else like to speak on the debate?

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):**  
Mr. President, I have listened and noted the various concerns expressed by Members both on the Opposition and Independent Benches with respect to this Bill.

Quite apart from the concerns which have been expressed, I have also noted the sentiment, which accords with that of Members on this side, that there is the need to balance the question of the efficiency of Government with the need to have procedures for accountability.

Mr. President, it is well recognized that there is the need for Government to take quick and decisive action when the need arises. There is that evident need, but there is also the need to have some degree of accountability. There is no question about that.

Among the concerns which have been expressed, Mr. President, is the question of the validation provision, raised lastly by Sen. Rev. Teelucksingh. Although it had been raised by other persons in the course of the debate at the last sitting, no one had specifically referred to the provision, but on having a second look at the amendment, I am of the view that there may be some cause for concern.

Certain Senators had expressed the view that we should bring all the contracts here, examine them, determine whether there was something wrong with them, whether there had been any impropriety in the execution of those contracts; and I was a little concerned about it. So I had a second look at the Bill before the Senate and I recognized that there is, in the wording of clause 5, an area which causes some doubt. I propose, at the committee stage, to move an amendment to clause 5 to clarify that doubt.

**1.50 p.m.**

Clause 5, as it now stands, says that:

"All contracts made between the National Insurance Property Development Company Limited and the Government acting on its own behalf..."

These are the words that I propose to delete:

"and all acts and things done or omitted to be done under those contracts..."

It continues:

"...shall, notwithstanding any law to the contrary, be deemed to have been lawfully made..."

Then we delete again:

"..done or omitted under this Act."

So it should now read:

"...be deemed to have been lawfully made as if this Act had been in force at the commencement of the Central Tenders Board (Amdt.) Act, 1979.

What we are seeking to validate is the fact of the contracts having been made without the due authority under the Central Tenders Board Act, what we are preserving by the validation is the right of the Government to commence proceedings against NIPDEC in the event that there have been any breaches of those several contracts which have been made. It also preserves the right for the state to take such action as may be considered necessary in the event of there having been any alleged irregular activity in the execution of those contracts.

So all we are seeking to do is to preserve the position whereby contracts were awarded inadvertently, using the provisions of section 20A when they should have gone to the Central Tenders Board under the provisions of section 20. So I think the proposed amendment ought to satisfy Members of that concern.

The second matter which appears to need some addressing is the question of accountability. I signalled, in another place, when I presented the Bill, that it seems to me that this Central Tenders Board Act has a history of creating within the Parliament, charges of corruption every time an amendment is presented. So I was not surprised and I was not disappointed that we should have found ourselves—

**Sen. Mansoor:** Mr. President, through you, may I ask the Attorney General whether it is the intention of Government to sue or in any other way, go after NIPDEC for violations of any contracts it has had with Government? If the answer is, yes, what is the purpose if NIPDEC essentially, or in substance, is a wholly owned subsidiary of the Government via NIB. Is that the intention of this Bill, so that you can sue NIPDEC?

**Hon. K. Sobion:** For the purpose of correction, NIPDEC is not a wholly owned subsidiary of Government or the state. That is what has led to the problems all along. There is no immediate intention to commence proceedings—

**Sen. Daly:** Mr. President, I believe that we started this debate on the basis that NIPDEC was a wholly owned subsidiary of the Government. So could we be told what it is?

**Hon. K. Sobion:** Mr. President, I am now faced with having to answer two positions which have been advanced to me. If it were that I said, and I do not recall saying that it was a wholly owned subsidiary, because if it were, there would have been no need for this Bill to have been here, because the present provision states that in section 20A of the Act, that the Government can engage in contracts bypassing Central Tenders Board if it is contracting with a wholly owned subsidiary. If Sen. Daly was of the view that I said that, that is not what I thought I said.

Quite apart from that, there is no immediate intention to commence proceedings against NIPDEC, because there is no evidence of any irregular activity in relation to contracts which have been awarded to NIPDEC. But for the purpose of preserving that right, should the need arise, the validation provision should be narrowed only to deal with the question of entering into the contractual arrangement and should not seek to legalize things done under the contract. That preserves a right of civil action in the event of a breach. For instance, in most of these construction contracts, you will find that there will be a “defects provision” and if it is that NIPDEC has completed a building for Government and they are in breach of the defects clause, then the Government will have a right of action against NIPDEC in that instance.

I noted that the Leader of the Independent Benches latched on to the question of corruption as well, which is the point at which I was. I want to make it clear that—you see, Mr. President, there are statements coming from the Independent Benches. I think Sen. Mark said—from the Opposition Benches, rather—

**Hon. Senator:** They are independent opposition.

**Sen. Mansoor:** Out of an abundance of respect to the learned Attorney General, I did not say anything about corruption. I asked a very technical, legal question which had nothing to do with corruption. I wish you would protect me from his previous edicts.

**Hon. K. Sobion:** I am sorry, Mr. President. I said that the point arose at the point when I was getting on to the question of corruption, and I merely noted that it was at that point that the question was posed. It was just a question, as my colleague says, of timing.

I was raising the fact that accountability was raised in this debate, as I had anticipated, and it was Sen. Mark, who said “whether the true intention of this



amendment is to evade accountability." Sen. Capildeo, in almost similar vein, was at pains to talk about "a history of alleged corruption and ratifying the expenditure of billions of dollars of taxpayers' money; amendments to get hands on taxpayers' funds, with limited or no accountability; to do business without recourse to the tenders procedure." The hysteria overwhelms at one point. One cannot understand where a responsible government is coming to a Parliament and saying, "listen, for the last 13 years, something has gone wrong. Successive administrations have treated with NIPDEC as though it were an exception under section 20A of the Act." We have discovered and we are coming to the Parliament and saying, "listen, we have a number of contracts which we are in the process of negotiating with NIPDEC, but because we have discovered that this procedure was wrong, we have come to rectify it." That is all we are doing. But we find that there is this mass hysteria about corruption.

I am concerned, and let me say, categorically, that this Government is committed to integrity in public affairs. We campaigned on that basis and we got the mandate of the people on the basis that we are committed to integrity in public affairs. All our actions thus far—and I can list them if you wish—have demonstrated that we remain committed to that path.

Mr. President, I am not going to be party to this Parliament being used as a political football for all who wish to raise all kinds of unsubstantiated statements, allegations etc. We have a firm position; we have restated it on a number of occasions and we continue to restate it. Even in relation to the Pegasus position, this Government, once there was some concern expressed about the award of the Pegasus contract, we took it upon ourselves to engage the services of someone above reproach, in our view, to investigate that matter. Once the report was presented, it was laid in this Parliament for the scrutiny of the Parliament.

**2.00 p.m.**

**Sen. W. Mark:** Mr. President, on a point of clarification, could the hon. Minister indicate why the Government of Trinidad and Tobago did not appoint Justice Collymore under the Commissions of Enquiry Act so that he could have had the power to subpoena and compel people to appear before him?

**Hon. K. Sobion:** Mr. President, if we had appointed Mr. Justice Collymore under the Commissions of Enquiry Act, we would have been faced with the question of "Another Commission of Enquiry, again?". No one has complained that in this voluntary process, which Mr. Collymore undertook, that they were the

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denied right to appear before him or to state their position. No one has complained. So, raising that as an issue, to my mind, is a non-issue. Everyone had free access to Mr. Collymore, and no one has complained that they wanted to give evidence before him and he refused to hear that evidence.

**Sen. Capildeo:** Mr. President, before the hon. Minister moves away from that point, could he indicate whether or not the Government is satisfied with the Collymore Report in its entirety?

**Hon. K. Sobion:** Mr. President, I believe, in a statement made by Sen. Draper, the Government indicated that the report had been presented to the Prime Minister and that the Government accepted the report as laid out by the independent commissioner who investigated the matter. There is no question about that. We have accepted the report of Mr. Collymore.

Mr. President, I am not surprised that in presenting this simple amendment which is intended to regularize a position which has persisted for the last 13 years, the Opposition should seek to paint a broad brush of corruption, not only in respect of this Government, but in respect of persons who hold responsible positions and, thereby, run the risk of tarnishing independent institutions outside. I caution that Opposition Senators take heed of what, perhaps unwittingly, they may be doing. Perhaps unwittingly, they may be causing a situation where the population of this country loses faith in our institutions. If that should happen, then, I see no other recourse than we revert to the law of the jungle.

I said, Mr. President, in presenting this Bill, that we were creating an exception to the normal procedure of going to the Central Tenders Board. Section 20A is an amendment which was enacted in 1979 and provided a way whereby Government, in order to expedite certain matters, could have avoided going to the Central Tenders Board. All the amendment does, is to include NIPDEC in that procedure. I said that it was a controlled procedure because NIPDEC has its own tendering rules; rules which are akin to the rules of the Central Tenders Board and, therefore, it was a controlled situation.

It is not a willy-nilly type of amendment. It is not a situation where one avoids going to the Central Tenders Board and there are no governing rules. It is a situation where NIPDEC, as other state enterprises that are already included in section 20A, have their own tenders procedure and rules. So that there is that element of checks and balances.

I find it very difficult, in those circumstance, to understand what Sen. Wade Mark means when he talks about weakening the tenders procedure. Because, he says we are weakening the tenders procedure, another one says that we are looking to dip our hands in the till; in a circumstance where there are controls. If one can lay that charge on this Government, I wonder, therefore, what would be said about the previous administration who also introduced amendments to section 20A in circumstances, where there were no controls.

In the last administration, Mr. President, the then Minister of Works, Mr. Humphrey, who is a member of the party opposite—*[Interruption]* I dealt with him downstairs—and of which his leader was a deputy political leader, introduced an amendment to the Central Tenders Board Act. I will tell you what it is. It is an amendment to section 20A. That amendment, which was Act 22 of 1987, sought to bypass the tenders procedure, notwithstanding the provision of Section 20(1) which is the procedure to go to the Central Tenders Board. The Government may act on its own behalf where—section 20A(e) states:

"...as a result of the occurrence or anticipation of flooding, hurricane, landslide, earthquake or other natural disasters, the Minister is of the opinion that an emergency situation has arisen..."

In that scenario he proposed an amendment that where he anticipates an earthquake, flood or a hurricane, he can go out in his own anticipation and contract with suppliers, without having to go through the Central Tenders Board procedure.

Now, that is an amendment which creates a situation where the Minister, of his own accord, who has no tenders rules, procedure or anything, can go, of his own anticipation, sits down in his house one morning and says, "I anticipate an earthquake is going to happen in Trinidad tomorrow, so let me award contracts for the repair of buildings in Port of Spain". If that kind of amendment does not attract the criticism of corruption, I cannot see how this amendment, controlled as it is by NIPDEC's own tenders procedure, can be deemed such.

Mr. President, the then Minister of Works recognized that there was a need—and this is where one has to balance—

**Sen. Mansoor:** Mr. President, subsequent to a decision like that being made, the contract had to be brought to the knowledge of Parliament and whether or not it could not be debated on a further occasion. My recollection is that the Minister, in fact, could make such a decision in anticipation of a disaster, but after the

contract had been awarded, Parliament would have to be advised of the circumstances which led him to make that decision. Is that not so?

**Hon. K. Sobion:** No. Mr. President, the Minister had then no such power. This is why the amendment was proposed and made. If I understand the hon. Sen. Mansoor correctly, in this situation, during the course of the debate it was suggested as an amendment, that such contracts be laid in Parliament. That proposed amendment was not accepted by the Senate in 1987, and Sen. Mansoor was then a member of the Senate. What was proposed, I believe if I am not mistaken, either coming from Sen. Mansoor or Sen. Furness-Smith, was that such an amendment should have been included in the then proposed amendment of 1987. It was not accepted by the then Government. But, the fact is that the amendment that was proposed and passed in 1987 gave the discretion to the Minister to act in anticipation of natural disasters without recourse to the Central Tenders Board.

**Sen. Mansoor:** Mr. President, I have a copy of the Act that was, in fact, assented to. It says, in section 2(ii)(4):

"(4) Where the Government acts in pursuance of subsection (1)(e),..."

Which I think is the relevant section—

"...the Minister shall report the matter to Parliament within thirty days of the Government taking the decision so to act or at the first sitting thereafter, and shall cause a report of the expenditure incurred in completion of the work necessary for the abatement, prevention or alleviation of the emergency, to be laid in Parliament within thirty days of such completion."

I think that there was some sort of control on the Minister's ability to make such a decision.

**2.10 p.m.**

**Hon. K. Sobion:** Mr. President, let me say that, that may be so. The consolidated amendment to the Central Tenders Board Act which I have at the moment, does not reflect that provision. But that is not the point. The point is that the amendment to the Act was proposed without that particular provision of reporting and if it came at all, it came during the debate. My research in the *Hansard* and the consolidated amendment that I have does not include that provision. The point is that control was forced upon the then Minister of Works. What he presented to Parliament did not include that particular provision.

The simple point I am making is that the Opposition has become quite hysterical about corruption in a situation where an amendment is proposed to regularize an activity which was irregular for the past 13 years, an activity which is operating under controlled circumstances. And what more can you say if an amendment was proposed by persons who now sit together with them which had no controls whatsoever? That is the simple point I am making.

**Sen. W. Mark:** Mr. President, on a point of order.

**Mr. President:** What is the point of order?

**Sen. W. Mark:** The point of order is I think that the hon. Attorney General is misleading this Senate. When we were speaking on this side about corruption whilst we made reference to NIPDEC—I feel I need to make this explanation because he is misleading this Senate, by accusing the Opposition—

**Hon. K. Sobion:** Mr. President, on a point of order on his point of order. What is his point of order?

**Mr. President:** Overruled.

**Hon. K. Sobion:** Mr. President, I may say in addition, quite apart from the tenders rules and procedures, that NIPDEC is subject to the control of the Auditor General. Their accounts are audited on an annual basis by the Auditor General so that there are sufficient controls in place to ensure that there is accountability. I trust that hon. Senators would understand that we are very mindful of the question of accountability and that we will do all in our power to ensure that accountability is maintained.

I may say in that vein that in the other place we accepted an amendment proposed by the Opposition to the effect that all such procedures and rules of NIPDEC will be laid in Parliament [*Interruption*] I am not going to be distracted by Sen. Wade Mark. I have great respect for “Sen. A. Mark”. We accepted in the other place an amendment which will provide for the NIPDEC tenders rules and procedures to be laid in Parliament and to be subject to the scrutiny of the Parliament. I think the point of accountability is a significant non-point and I would leave it at that.

There was a minor point raised by the Leader of the Opposition business. It has to do with the Government's social agenda. I was a little taken aback at the shortsightedness of the learned Senator. He was suggesting that this Government had no social agenda and that this legislation would not take the concerns of the

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population to heart. I thought that when I had expressed the view in presenting the Bill that the intention was that NIPDEC was, among other things, engaged in joint negotiations with the Ministry of Health and other agencies with respect to the construction of health and educational facilities, he would have understood that the reason for regularizing this position was that those social programmes could be put in place. I listed a number of health facilities spread throughout the country which were going to become part of NIPDEC's next project under this present administration.

He must understand and look behind the mere words which are set out in an amendment and appreciate that in order to facilitate some the social programmes which this Government has embarked upon, it is necessary that this amendment be put through. That was a minor point and I would not dwell upon it any further.

Mr. President, there was one other I think we need to address. Sen Daly raised the question of whether or not the formation of NIPDEC was *ultra vires* the powers of the National Insurance Board. It was a point which I signalled to the hon. Senator that I did not think was to be dealt with in this forum. If it is that there is some issue about it, then the proper forum really is for the judiciary to determine whether or not it is *ultra vires*. I think in fairness to you, Mr. President, and to this Senate, that I should deal with it to some extent because the hon. Senator signalled as well that he felt unable to support the measure unless he was satisfied to some extent on that score. The hon. Senator is an attorney of some eminence and, therefore, I hope that I can be able to persuade him that what he perceives as a difficulty is not in fact a difficulty at all. I do not propose to get into any detailed legal argument on the matter but there are certain points that must be raised.

The National Insurance Board is empowered by its Act. It is empowered by that Act to engage in authorized investments. Section 23 (1) reads:

"Money standing to the credit of the Funds of the Board established under section 43, not immediately required to be expended in the meeting of any obligations or commitments may be invested from time to time in such proportions as the Board may approve, having regard to the several contingencies in relation to which benefits are provided under section 46, in such securities as are set out in the First Schedule."

The First Schedule allows the board to invest in shares I will read the following section:

1. "The Board may invest in securities of the following classes:
  - (g) fully paid ordinary shares of any corporation as referred to in (e); but investment in any such ordinary shares shall not without the approval of the Minister of Finance, exceed twenty-five per cent of the total funds of the Board."

Mr. President, there is one other provision which is, perhaps, relevant and that is section 8 (2). It states:

In the performance of its functions and duties and in the exercise of its powers the Board may do all lawful things that are necessary or expedient to secure the due execution of the purposes of this Act."

We have a situation where under section 23, the National Insurance Board is authorized to engage in investments and section 8 expands that by saying that the Board may do such things as it may consider expedient in exercising the powers under the Act.

Where the difficulty may lie, is the question of investment in shares in an existing company as opposed to the creation or formation of a company in which the Board invests. Without dealing with the legal authorities on that matter, I may indicate that as far back as 1884, in a case of *London Financial Association vs Kelck*, the courts have held that a power to invest includes necessarily, a power to create and form a company in which an investment is being sought.

### **2.20 p.m.**

That matter is a long settled matter which goes back to 1884. May I also say that in other reported cases, in relation to the wider powers conferred by section 8, it has been held that the court will not enquire into or question the right or authority of a private company, whether incorporated under the Companies Act, or whether incorporated by statute, whether they have exercised their power in relation to a matter in which they are competent so to do.

If I may just read from the British Institute Studies in International and Comparative Law No.5, authored by W. Friedman dealing with the width of statutory powers. It says:

"The mandatory statutory duties and the permissive statutory powers incidental thereto, corresponding to the objects clause in the memorandum of association of a registered company are drawn in wide terms.

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An example of such a statutory duty is where a party may engage in any activity connected with the statutory purposes and including in particular, the power to lend or invest money."

The conclusion that the learned authors came to in relation to that matter is stated all page 47 of that article. It reads as follows:

"The ultra vires doctrine as in the case of companies registered in the Companies Act provides an unreliable tool in the hands of someone seeking to restrain certain activities in the absence of expressed statutory prohibition."

Without taking hon. Members into a discourse into an avenue which I do not think this House is required to pronounce upon, I assure Sen. Daly that from my assessment of the position, the National Insurance Board was quite competent to create the company NIPDEC in pursuance of its powers of investment as contained in the National Insurance Board Act.

By way of passing, I may say that while Sen. Daly thought that he may have provoked me, I want to assure him that I was not really provoked. I was merely concerned that the record should reflect what had in fact transpired, and if it were that he asked the specific question which he later asked, I would certainly have been in a position to answer that specific question. The questions which were asked of me were not in relation to the matter which he quite properly raised, even though I say, it is not a matter for this Senate, but I think it is an expression of the concern which is borne out of his experience as a practitioner at the Bar.

I am hopeful that I have been able to convince the Senator that the concern which he has is not really a concern at all. I thought I had dealt with the matters of import which were raised in the course of this debate. As I said, I do not propose to engage in any battle across the floor of this honourable Parliament on unsubstantiated questions of corruption. I think that we are about the people's business and we should do it with the dignity which this Senate requires, and that we should focus at all times on the matters which are before this Senate.

In so saying, I therefore beg to move that—

**Sen. Daly:** Mr. President, when I raised the point, I did not refer, as my learned friend has done, because this is not the place. May I just remind him that I raised the point and this was not simply a question of the investment of any funds. It was the investment of funds which NIB was holding effectively as an insurance carrier. My concern was not only about their lawful formation, but also what



permitted them to use funds which they held as an insurance carrier to embark on other activities. I am still not satisfied.

**Hon. K. Sobion:** Mr. President, as section 23 says, they can invest such funds as are not immediately required. I am very grateful to Sen. Daly for reminding me of that other point which he had raised.

The company NIPDEC uses internally generated funds to finance its day to day operations; in respect of projects undertaken by NIPDEC for the Government or any other client, the cost of the projects inclusive of NIPDEC's management fees are met from the resources of the client as in any normal business venture.

The company NIPDEC has never received any funds from the National Insurance Board to conduct its business, save and except the paid-up share capital and a loan in the sum of \$8 million, in respect of the purchase of the property known as NIPDEC House.

NIPDEC House is subject to a mortgage in favour of NIB which is repayable over a period of 15 years, at an interest rate of 10 1/2 per cent. So that, what is in fact transpiring is that NIPDEC is using the funds generated from its contractual arrangements to conduct its own affairs as an ongoing concern.

I trust that satisfies the—

**Sen. Daly:** I am very sorry to intervene again, but the loan of \$8 million—since I reminded the Attorney General of this point, perhaps he might indicate whether that loan of \$8 million was sourced from contributions under the National Insurance Scheme.

**Hon. K. Sobion:** Mr. President, under section 23 of the Act, the National Insurance Board is authorized to engage in investments. It is well known that the National Insurance Board is one of the major providers of mortgage provision to home-owners in this country. The fact that they have entered into a mortgage arrangement with NIPDEC is part of the normal business and powers that they have under section 23 of the Act.

I do not see that there is any cause for concern that the National Insurance Board, by entering into this arrangement with NIPDEC, which is a commercial transaction—I have cited the interest rate which is 10 1/2 per cent—is acting improperly or outside of its powers in relation to this transaction.

In closing, as I said, we have sought to introduce this amendment in order to give the Government a little more leeway whereby they can be efficient in their

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operations in circumstances which are controlled; in circumstances where there are tendering procedures in place and where the Auditor General has the right to review the accounts of the National Insurance Board and NIPDEC.

In those circumstances, I therefore beg to move that this Bill be read a second time.

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in Committee.*

**2.30 p.m.**

**Mr. Chairman:** Just before we start, Senators would have received a list of amendments already made in the House of Representatives to be circulated with the Bill when it was introduced. These amendments have already been made and have to be read in conjunction with the printed Bill.

Today, Senators received a new proposed amendment which the Attorney General proposes to make at the appropriate stage in Committee today.

*Clauses 1 to 4 ordered to stand part of the Bill.*

*New Clause 5.*

**Sen. W. Mark:** Could the hon. Attorney General indicate to us the basis for this new amendment?

**Mr. Chairman:** Let him propose it and he will explain it.

**Mr. Sobion:** Mr. Chairman, I have a proposed amendment to clause 5 and the notice which has been circulated to hon. Senators would indicate that we propose to delete the present clause 5 and substitute a new clause 5 as follows:

"5. All contracts made between the National Insurance Property Development Company Limited and the Government acting on its own behalf shall, notwithstanding any law to the contrary, be deemed to have been lawfully made, as if this Act had been in force at the commencement of the Central Tenders Board (Amendment) Act, 1979."

I indicated, Mr. President, in winding up the debate on this matter, that the intention of the Government is to validate the fact that contracts were made

between the Government and NIPDEC and not the acts and things done under those contracts. So the effect of the amendment of clause 5 is to remove that phrase which seeks, on the face of it, to validate acts and things done or omitted to be done under those contracts. That is the purport of the amendment. So what we are validating is the fact that contracts have been made with NIPDEC without recourse to the Central Tenders Board procedure.

**Sen. W. Mark:** Can the Attorney General say, for instance, when those contracts will be in Parliament and when it is to be debated and, subsequently, if cost overruns are involved, is he saying that this particular amendment is going to actually exonerate the Government and NIPDEC from any queries? Is that what he is proposing in this amendment?

**Mr. Sobion:** If clause 5 had remained in the form that it was originally set, then that question may have arisen, but in the proposed amendment, that cannot arise at all.

**Sen. Dr. St. Cyr:** What would be the effect of deleting clause 5 altogether?

**Mr. Sobion:** If clause 5 were to be deleted, it would mean that all contracts entered into between the Government and NIPDEC would be illegal and if the Government wished to pursue a claim against NIPDEC for a breach of those contracts, they would be prevented from so doing. This validates the fact of the contract having been entered into and all rights of the parties will flow from that validation. I do not know whether the hon. Senator is satisfied with the response.

**Sen. Dr. St. Cyr:** The thing that is in my mind is that I would be hesitant to close off investigation into an area which may need to be investigated if I did not have to close it off. So I am hearing you say that it is necessary to validate those contracts, but that still leaves me wondering, should I wish to look at that again, whether I had the option of going back into that at all.

**Mr. Sobion:** Let me assure the hon. Senator, Mr. Chairman, that the proposed amendment clause 5 does not in any way preclude any agency from investigating matters arising out of the contracts which had been entered into between Government and NIPDEC. All it does is validate the fact that a contract was made so that it does not close off any other enquiry after that.

*New clause 5 read the first time.*

*Question proposed, That the new clause be read a second time.*

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*Question put and agreed to.*

*New clause 5 read a second time.*

*Question proposed, That the new clause be added to the Bill.*

*Question put and agreed to.*

*New clause 5 added to the Bill.*

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

*Senate resumed.*

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

**MAINGOT VILLAGE SUMATEE SABHA (INC'N) BILL**

*Order for second reading read.*

**Sen. Rev. Daniel Teelucksingh:** Mr. President, I beg to move,

That a Bill to provide for the incorporation of the Maingot Village Sumatee Sabha and for matters incidental thereto, be now read a second time.

*Seconded by Sen. E. Dean.*

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in Committee.*

*Clauses 1 to 9 ordered to stand part of the Bill.*

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

*Senate resumed.*

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

**PUBLIC SERVICE REFORM**

[THIRD DAY]

*Order read for resuming adjourned debate on question [September 22, 1992]:*

*Whereas the Government of Trinidad and Tobago recognizes the importance of the Public Service in the administration of Government and in ensuring sustained growth in the nation; and*

*Whereas* the Government recognizes that there have been many attempts by successive Governments to reform the Public Service; and

*Whereas* the Government recognizes that in an increasingly dynamic world the demands and challenges facing the Public Service are becoming more varied and complex; and

*Whereas* the Government notes that Public Service Reform is a long-term ongoing process which must involve a holistic approach:

*Be it resolved* that this Senate take note of the Government's current approach to the implementation of Public Service Reform, and recognizes its unswerving commitment to the successful reform of the Public Service. [*Sen. Pundit Ramcharan Gosine*]

*Question again proposed.*

**Mr. President:** Hon. Senators who have already spoken—Sen. W. Mark, Sen. R. Kwabene, Sen. Dr. J. Spence, Sen. D. Teelucksingh, Sen. S. Capildeo, Sen. M. Daly, Sen. M. Hosein, Sen. E. Dean and Sen. A. Mark—will be able to speak on the amendment only, if the amendment was moved after their contributions.

**Sen. Jean Elder:** Mr. President, I am glad for the opportunity to speak on what I consider to be a very significant motion and to add my support to government's approach to implementation of public service reform and its unswerving commitment to the successful reform of the public service.

The public service in Trinidad and Tobago is an inheritance of what was termed the civil service in colonial times. Among the main criteria in the civil service at that time was the rigid discipline and strict adherence to the rules, regulations and procedures from which, I understand, there was little scope initiated in the rank and file. Coupled with this was the fact that nationals of Trinidad and Tobago could only gain promotion to a certain rank. Senior positions in the civil service were reserved for the colonial masters. With the coming of independence, brought about by the PNM, changes occurred, among which was that a national was able to reach the highest office.

Over the years, however, a certain amount of indifference and indiscipline crept in and one could observe a lackadaisical attitude in several areas: punctuality, excessive leave and improper attire. In some instances, a total breakdown in the attitude towards the public. But most of all, Mr. President, one of the greatest complaints of the citizens towards the public service is the amount

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of bureaucracy. Simple matters that should be dealt with in a short space of time take weeks and sometimes months.

Mr. President, the name "public servant" raises various scenarios in one's thoughts. One thinks of the tremendous contribution made by some well known figures in the development of our country, names such as Ellis Clarke, Errol de Santos, Alan Reece, Solomon Hochoy, C.T.W. E. Worrell. I have only mentioned a few, among so many public servants who have served our country faithfully and well. But, Mr President, I am positive honourable Senators would agree with me that all has not been well in the public service, hence the need for reform.

There is a great need for improvement in relations with the public. In business, there is the saying that the customer is always right. Public servants should bear this in mind and treat the members of the public, their customers, with courtesy, respect and dispatch.

Mr. President, there is another saying that clothes do not make the man but they make half the man. Again, Senators would agree with me that the attire of some public servants, and I stress the word "some", leaves much to be desired. I recall on one occasion being attended to by a public servant with a red T-shirt, wrangler and a towel over his shoulder. Is there a need for a dress code in the public service?

Other matters which should be attended to are absenteeism and unpunctuality. Which reminds me, Mr. President, to ask the question: Why should some Government offices cease attending to members of the public at lunch time? For example, the Treasury and some area post offices. Could they not, by staggering the working hours of staff attend to the public all day, as some other Government offices do? Could we not attempt flexi-time?

On the other hand, Mr. President, protagonists contend that the service, over the years, was a useful training ground for many of our nationals, some of whom had proud and illustrious careers, having made tremendous contributions to the development of Trinidad and Tobago and others who have gone on to make their mark in private industry. With greatest respect, I think of you, Mr. President, having risen to the illustrious position you now hold by virtue of your devoted contribution to Parliament.

Mr. President, the PNM Government has seen the need to arrest many of the ills which I have previously mentioned, having recognized the vital role of the public service in the administration of government in enabling continued growth

in the nation. Not only this, but times have changed over the years, with the introduction of modern technology and with the pace of change, the public today faces many demands which are complex and varied. For example, there is the computer and the fax machine.

The public servant today must be ready and trained to meet the challenges of a fast moving world and must be prepared in an instant for change. Yet, there is no doubt, Mr. President, that despite the rapid advance made in modern technology and the use of sophisticated techniques, the most valuable asset of the public service, however, is its personnel. If this is so, an obvious corollary is that the effective management of the public service is of paramount importance.

Over the years, many managers erroneously thought that little or no specific skills were required to perform jobs in the public service. As a result, training and development were given a low rating and priority has not been given to the human resource function in the public service, a vital factor in any organization.

Permit me, Mr. President, to quote from the booklet entitled, "Personnel Management", by no other than our Sen. Gordon Draper. I quote:

"What is needed now is the introduction of a personnel management philosophy which places Man and his development as paramount, both in the nation and in work organizations. While our history has bequeathed us a system geared to exploitation, the new Caribbean society faces the challenge of turning history and the economic system on their heads."

Mr. President, permit me to refer, again, to Sen. Draper's booklet, "Personnel Management". I quote:

"The structure and personnel function of these firms bear a direct relationship to their history in the region. The traditional Public Bureaucracy, historically collected taxes, and maintained law and order on behalf of the colonial power. Power and decision-making was highly centralized. Even as their functions grew, and independence was attained by some islands, the basic structure remained in tact. Personnel decisions, (among other decisions) were highly centralized and were in fact far removed from the point where decisions are to be implemented. Little has been done to change basic bureaucratic structures to permit more worker participation or to ensure freer and fuller information flows."

The present effort by the Government to overcome these deficiencies by its current approach to the implementation of public service reform is highly

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commendable. This, Mr. President, is tangible evidence of the PNM's determination to effectively manage what ought to be its most vital asset: an efficient well-trained and dedicated public service.

Mr. President, I would like to deal with a few features of public service reform which are most noteworthy. Let me first deal with the new reclassification system. Tenders have been invited from consultancy firms to conduct a comprehensive review and appraisal of the classification system in the public service.

I turn now to the new system of budgeting. A team drawn from a committee of Permanent Secretaries and senior public servants has been assessing the present system. This team is also examining documentation on other models, for example, New Zealand and Australia. The team will then develop a work plan, their objective being the formulation of proposals of a new system by March 31, 1993.

Mr. President, let me now deal with computerization. Government has introduced a human resource information system and registry information system. Installation of a computer-based management information system on demonstration in the office of the Prime Minister has been completed. A project to computerize the Service Commissions department's records has begun. The AS-400 mainframe computer, which was acquired for this project, has been located in the office of the Service Commissions' department. One notices that tenders have been invited for the installation and deliverance of cables and fillings for the attachment of 31 terminals on the six floors of this building. A systems administrator has been identified and at present he is familiarizing himself with the machine.

Mr. President, permit me to touch on the Customs and Excise division. One notes with pleasure the modernization of this department, so vital as a revenue earner, with the introduction of the ASACUDA, an automated systems customs data and its core project. The introduction of a new form of entry. This single administrative document, which legally will be referred to as the Customs Declaration will go a long way in eradicating red tape and bureaucracy associated with this division.

Mr. President, as I mentioned previously, human resource management planning is of extreme importance in public service reform. This aspect of the public service has been regarded by many persons, including senior public servants, as secondary. Due to this, the industrial relations climate has been unsettled and industrial relations have been seen more in terms of Government



versus Public Service Association conflict, than as an avenue to provide optimum personnel services and a harmonious and safe working environment. Government, in an effort to deal with this area, has established a committee to address the issue of officers holding appointments for extended periods of time both at entry and at high level.

One notes with satisfaction, Mr. President, that an attempt is being made to establish a human resource unit in all ministries and departments and that a pilot project to establish a model human resource unit has been set up in the Ministry of Agriculture, Land and Marine Resources.

Mr. President, a Cabinet-appointed task force was established to address the issue of centralization of the human resource management function in the public service. This, together with the introduction of a revised performance appraisal system, should go a long way in improving the industrial relations climate in the public service.

Mr. President, Government has established a joint consultative committee task force. As of November 25, 1992, joint consultative committees were operational in 19 ministries and departments. I am sure you will agree with me that the staff is playing a major role in public service reform.

I turn now to identification of actual costs of delivering selected services, with a view to improving cost recovery. Government is now examining the services they provide with a view to ensuring adequate cost recovery and maximizing their revenue-generating capacity. Mr. President, I am sure that hon. Senators would agree that revenue-generating is of utmost importance in times of economic downturn.

I turn now to the education task force. The task force was given the mandate to prepare a long-term plan for education. The task force has prepared a report which will form a reference document for national consultation. The task force will prepare a final report for submission to Cabinet by February 1993.

Mr. President, let me now turn to the reduction of delays in the administration of justice. This area has been receiving quite an amount of publicity and adverse criticisms. A review team was appointed to advise on systems to reduce delays in the administration of justice. The team has submitted its report and action has been initiated to implement their recommendations.

Mr. President, there is no doubt in my mind that the effort of the People's National Movement Government to reform the public service has come at a most

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opportune time. Again, I can hardly think of a more suitable individual to head such a thrust than the Hon. Minister, Sen. Gordon Draper.

Public service reform at this time, could only redound to the benefit of the Government and people, and the development of our beloved country, Trinidad and Tobago. One notes, also, Mr. President that it is intended to be a long-term, ongoing process involving a holistic approach. I am happy to support the motion before this honourable Senate and commend it to my fellow Senators.

Mr. President, I thank you.

**3.00 p.m.**

**Sen. Dr. Eric Baldwyn St. Cyr:** Mr. President, I must say that I am speaking at a disadvantage, not having heard the contributions of the dozen or so Senators who spoke much earlier, since I was not in this Senate at the time; but this is a most important subject and I thought that even without a great deal of preparation, I should add a few brief remarks.

The public service is of fundamental and tremendous importance in the development of any nation since the administration of the whole country is so critical to social development, economic development and the proper management of the nation as a whole. We very often and correctly, I think, give emphasis to the private sector and, perhaps, we do this because in this country the public sector has been quite large, quite prominent in the public's eye and so perhaps we might have been at the position where the private sector had not been given its proper emphasis in the course of things. Perhaps, in emphasizing the private sector, we might have given the impression that efficiency and the proper functioning of the public sector is no longer important but we must not err in that direction.

The first comment I would like to make pertains to efficiency in the public sector. I am almost tempted to suggest that over the years the public sector has come to be regarded as a place where we can find job slots, in a situation where the coming on to the market of young persons aspiring to enter the job market has been so large and the generation of jobs elsewhere has been relatively slow, but I do not think we should entertain, as a norm, the notion that the public sector is a place where we find and make jobs because of the unemployment situation.

Hear me carefully, I am not saying that there is not a case where in a transitional situation job places in the public sector for doing work which must be done is not a tremendous good, and this has been the case, I think, as far back as

in the 1880s. In France, massive public works done by Napoleon III, and so on, have featured prominently in stabilizing the society and providing its infrastructure and taking the pressure off the unemployment situation. It was also a major feature during the Keynesian revolution in Britain during the 1930s.

All I am saying is that we must recognize what we do there by way of job creation in proper perspective, remembering always that we have to get a number of balances correct; for example, the balance between the production of goods and the production of services. In most cases, the public sector produces services and we must get the quantum of resources deployed there in proper balance with the quantum of resources deployed in the production of goods. To take a very simple example: If you are going to clean up the environment, you need the equipment with which to do it, so that you cannot only have the persons available for doing the service of cleaning, you must previously have produced the equipment with which they would work.

A second area of balance we must get quite right is the balance between producing for domestic use and producing for export. If I may, again, use the example of equipment. Since so much of the equipment with which we all in this country work is imported, no less in the public sector as in the private sector, we must absolutely get a balance between the use of our resources in producing for export and producing for domestic use.

The point I am leading to is that in all areas of our endeavours the efficiency with which we use the resources in the public sector must be carefully watched. I say it this way because in the private sector there is a built-in incentive to watching cost outlays versus returns, since if that is not carefully watched the market comes into play and those who have their investments are at risk of losing them. In the public sector that imperative is less evident and we can always think that we can get a larger subsidy or a subvention of sorts to make good the difference.

More importantly, we do not, where we are providing a public service, have the benefit of being able to measure the value of the service we provide and match that measure against a measurement of the cost of providing those services; so that we are at a disadvantage there and that is an area which would have to be looked at carefully. I think we tend more easily to be able to measure the cost side because we are buying labour and other inputs, competitively, with alternative uses for these inputs but we are not selling the output usually, competitively, in a

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market so that we could raise the price to cover costs where the costs are rising. My point here is that in the area of the public service as a whole, we want to be sure that we are getting value for money spent.

I think myself that we have come so far away from 1962 that we should probably no longer be emphasizing the colonial origin. We should, by now, have worked those through the system, not only in the area of the public sector reform but in every other area of our social life. I think myself that the generation of people who know the old days are pretty few compared with those who know the new days and we should probably no longer be emphasizing those historical origins, certainly not the negative side of them.

**3.10 p.m.**

My final point concerns the use of proper equipment. We are living in a time when the processing of information, using computers and related technologies, opens the opportunity for tremendous efficiencies and gains.

The public service should no longer, then, be regarded as the place where clerical skills are the main skills, but skills which go to complement the modern equipment and which would make for most cost reduction in providing the necessary services must be emphasized. So that, for instance, I would think that computer literacy should be a basic skill, certainly, if not computer literacy, persons should not be scared of getting on the machines and using them.

This takes us back to the school system where we would need to get our young people having hand-on training. I am saying this because the inevitable question would then arise, if we go for efficiency, what will happen to the numbers? Somehow—and I should probably be careful how I say this—I get the impression that the public sector is probably, at this point, relatively large, compared with, say, the area in the economy which is producing for exports; and in shifting resources, we want to be cognizant of the time-frame. It is easy to do nothing and have little social disruptions, but then that does not get us to the place where we ought to be.

We have to be moving in the right direction, recognizing areas where we can improve efficiency; recognizing the new technologies; recognizing the training that must be done and the time it would take to bring these people in, at the same time, upgrading people in posts and dealing with the problem in terms of natural attrition. I do want, however, to say that we cannot regard the public sector as a permanent source of jobs by itself, because we must get the balance, as I said,

between goods and services, between producing for home use and producing for exports in right balance.

Mr. President, with those remarks, I would like to say that I lend my support to the efforts being undertaken by the hon. Minister, and will do whatever I can by way of supporting.

I thank you, Sir.

**Sen. John Rahael:** Mr. President, I am very pleased, indeed, to register my own support for the motion moved by Sen. Gosine. Events affecting certain departments and ministries over the last few months must now be added to various other concerns vis-a-vis the public service. It is therefore even more obvious to the people of this country that there is a pressing need for public service reform. It is obvious that reform will not be an easy task.

When it appears that individuals both within and outside the service appear to plead ignorance, to refuse to co-operate, to employ intimidation and even to resort to violence to prevent effective reform, it becomes even more crucial that the Government receive the support and recognition of Members of the Senate in its programme of public service reform. As a businessman and as a citizen of Trinidad and Tobago, I am unfortunate to have had first-hand experience of some sort of circumstances that make the need for reform of the service so pressing. Indeed, who has not? Who has not tried to get service from the public service at one time or another, only to meet with frustration and delay?

Sen. Rev. Teelucksingh drew our attention in this very Senate, even before it was drawn to our attention by the media, to the fact that the deficiencies in the performance of the Licensing Department were glaring and were affecting the entire population. Sen. Capildeo was able to point out to us that we can go to the Woodbrook Post Office, even in the middle of the day, and not be able to enjoy the facilities paid for by our taxpayers because there is no policeman present. Frustration and delay.

Unfortunately, Mr. President, those are the qualities we have come to associate with our public service, yet all the time, as we are aware, there are also thousands of public servants who are willing to do all that the phrase "public service" implies. They are ready to serve the public politely and efficiently, given half the chance. I say let us have reform; let us give public servants, who are willing to serve, a chance to do so; and let us support them in doing their jobs, otherwise I assure you, Mr. President, that same public service will be

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instrumental in weakening this country at a time when it is crucial that we all work together, because it is our very survival that is at stake.

In fact, not only do we need to work together, but every one of us has to recognize that each effort has to be made at the right time. Every person who wants to survive in business knows that he or she has to be sensitive to correct timing in completing any project. Do you think that any Trinidadian or Tobagonian will accept a costume from a bandleader on Carnival Tuesday night, or on Ash Wednesday? No way! The bandleader who dares to try that with a masquerader can be sure that that is one masquerader that he will not be seeing next Carnival; and rightly so. However, beautiful the costume is, what is the masquerader going to do with it if he only gets it after Carnival is over?

Mr. President, this is a time of economic crisis. We need to penetrate foreign markets. We need to attract foreign investment. We have all heard this said a thousand times, yet I think people, on the whole, do not quite realize how important the public service support is to the export and investment drive. To show what I mean, let us assume that I have a contract with a company in the United States, or Europe, to deliver goods in time for a particular season. As a businessman, I may have the whole series of activities leading up to delivery of the goods carefully planned and scheduled, but I cannot make a move unless I get approval for certain procedures. I have to have documentation processed and all these things must be done by various departments of the public service. If they are not done by a certain date, but remain gathering dust in files somewhere within some ministry, I will fail in my commitment to my client, and, believe me, Mr. President, once we neglect to fulfil our business commitments and agreements abroad, we are not easily going to have a second opportunity to do so; not when businessmen in other countries all over the world are just waiting for an opportunity to make a similar deal.

You see, Mr. President, we must operate just in time to capture the opportunity. After all, as we all know, if a batsman does not keep his eye on the ball and time his stroke, he may find himself walking back to the pavilion with his wicket on the ground.

**3.20 p.m.**

What public service reform will attempt to do is impress upon the public servants, the urgency of certain transactions. Maybe the public service officer is genuinely unaware of the consequences of a bureaucratic delay, or maybe the

current system operates in such a way that the delays are inevitable, as a piece of paper winds its way from desk to desk within a department. Public service reform is aimed at moving that document from the officer's desk to the client in the shortest possible time.

As we eliminate a few of the bureaucratic steps, as has already been developed for the Customs and Excise Division, I know that such reform will reduce business frustration and allow the businessman to concentrate on revenue-generation, rather than paper shuffling. The public service can be of tremendous use to the business community, and not merely to rubber-stamp documents. There are agencies in this country which have access to, and collate, information that is not readily made available to the business community. In many cases, the business community is not even aware that that information is available. Here are dedicated public servants doing all this work and the country does not benefit because the information flow is non-existent. No doubt there are public servants who are themselves frustrated by this situation. They are sitting on this wealth of research and information and it is not reaching the right quarters.

I, myself, had experience in this area. In an effort to expand our export base, my office launched a search for data on foreign markets. We came across a comprehensive market assessment of potential North American and European markets, done specifically for the Caribbean. There are associations which represent local manufacturers and they are not made aware of the existence of the survey which yields some valuable information.

Public service reform is geared towards better information access. To show how this country may lose out in yet another way because of weakness in the service, if I want to have a thriving business, which employs people, which generates income for the country, I need to be efficient. But on any given day, one worker may be delayed at immigration getting a passport renewed, another may be going for the third time to collect a necessary document from this very building. Things like these can stretch on for hours, days or even weeks, and all the time productivity is being affected. Businessmen, teachers and others, and many other public servants themselves, are all being kept from doing their jobs, because documents cannot be found or because supplies are not made available, or because somebody was not clear what his or her job demanded or because the system is antiquated.

Mr. President, a couple years ago when I applied to get a document to process an export shipment, that document delayed that shipment for some two weeks.

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When I enquired from the public servant who was processing the document if he can explain what was the purpose of the document, he was at a loss. He could not explain to me why it was necessary for him to process that document. As a matter of fact, I went so far as to ask the minister who was in charge at the time, as to what was the purpose of having that document approved. He, too, could not have answered that question.

It only goes to show how important it is that Sen. Draper's job should address this whole question of the amount of paper work that is being done in order to process the necessary export drive upon which we have to embark. It is also very important that when someone is doing a job, he understands very carefully why he is doing it, and what they are doing, and should link it with what is taking place in the overall picture.

Too often people go to work, do their job and they do not quite understand what is the purpose of what they are doing. If you do not understand the purpose, the need and the urgency for what you are doing, it is obvious, then, that you will not do it with the enthusiasm and efficiency with which you may be capable.

So all of this is what public service reform is about. Hon. Senators in the Opposition have suggested a number of things about this programme, some apparently contradictory. They have indicated that the only reason this administration is taking the measures it is, is because foreign institutions like the World Bank say we must do so. At the same sitting of this Senate, they have condemned us for not being more prompt in acting upon the need for reform in specific departments of the service.

While I must confess that I would like to feel more comfortable if the Opposition Senators were more consistent in their remarks, I think that it is necessary to address their concerns. Because if we cannot agree, as responsible Members of the Senate, to support a programme of public service reform, then we may be failing in our duty to our country.

As I indicated, I firmly believe that the public service is crucial to our drive to improve the economy. It is crucial to our very health and well-being. The reforms suggested do not reflect an attempt to undermine the service. They reflect, rather, this administration's recognition of the critical importance of the public service to this country's survival.

Discussions in this very Senate have proven that all of us recognize that the public service needs reform. Yet, Sen. Wade Mark has suggested that in



attempting to solve these problems, Government is simply responding to the demands of the World Bank and other international lending agencies. To quote Sen. Wade Mark," as soon as elections were over, the PNM's manifesto was put into the wastepaper basket and this World Bank manifesto is now the bible." It is possible that Sen. Wade Mark was carried away by the debate, but I feel we must be very careful not to let the joy of the debate divert us from reality.

Let me refer to the PNM's manifesto again and let me remind hon. Senators, before this administration took office and, therefore, before it could have adopted any supposedly World Bank manifesto, page 44 of the PNM's manifesto says:

" An ongoing programme of Public Service Reform must form part of any approach to the Public Service."

The PNM is therefore committed to implementation of reform in the public service.

### **3.30 p.m.**

The manifesto then goes on to propose a plan for setting up a task force. One sees, Mr. President, that while we were a government in exile, we were preparing for government in place. This task force is to report to a minister with responsibility for public service. I assume that Sen. Wade Mark will recognize that the hon. Sen. Gordon Draper has been appointed to perform that function from the earliest days of this administration and continues to do so effectively.

The manifesto, again goes on to suggest that the reform programme will look at organizational structures, reclassification, financial management and disciplinary procedures. Now, I am, I confess, a little puzzled as to which of these proposals Sen. Wade Mark is suggesting that we have put into the waste paper basket. We have a task force and a minister; we are attempting those very reforms. So, what is this about the World Bank manifesto?

Let me address another concern expressed in the course of this debate, that all the Government is doing is talking and not acting. I quote Sen. Capildeo:

"Do we really need a retreat in this country to tell the citizens of this country what is wrong with the public service?"

*[Interruption]* Yes, unfortunately. The rest was in Latin, according to my colleague.

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In response to Sen. Capildeo's question: How long must the suffering public servants wait? I respond, for the less complex issues, reform is already on the way. It is generally accepted that we can improve efficiency by the use of available technologies. I note that the second progress report, on the reform of the public service, indicates that computerization of certain departments is already under way. This, by the way, will also ensure that the public servants are not blamed for those delays they cannot avoid, given the existing outdated methods of accessing and disseminating information.

Again, Mr. President, it is important that anyone going to do a job has the proper tools. We cannot, on one hand, ask the public service to become efficient and then, on the other hand, not give them the proper tools with which to operate. This Government has already initiated work on a reclassification scheme, ensuring that the public servants are not shackled by a classification that includes outdated job specifications and proposals for compensation for work done.

Recognizing, as Sen. Kwabene has done, that many public servants also suffer from distress of life and that they may need help if they are to be healthy and productive as individuals, the Government has also instituted pilot projects for counselling public servants in certain ministries. So, again, we are addressing all these concerns.

These are all reforms that are already under way by a caring Government. This is part of what reflects the administration's commitment to successful reform of the public service. But, I am sure we all recognize that all the issues are not simple and cannot be addressed successfully with a band-aid solution. When Sen. Capildeo suggests that all the administration has done is talk, and that it has not been carrying out its programme of reform, he seems to be ignoring all that I have just described. I would like to suggest to him, through you, Mr. President, that some discussions are necessary to ensure that all levels of the public service are aware of what reforms are necessary; why they need to know what those reforms will entail; what they will be expected to do and what will be achieved for them, the public and the country as a whole.

Let me now return to how the public service reform is going to contribute to the very coffers of this country. Just last month, the hon. Minister of Finance announced that improved administration—part of public service reform—will yield additional revenue for the country. A detailed look at how our Customs and Excise Department does business caused the establishment of a special unit,

aimed at revenue collection. We see again, that at the Licensing Department, because of the reform and the effort that is being made by this Government, already, we are stamping out whatever corruption that may exist there. In addition, we are increasing the revenue that we have been collecting from that department.

Mr. President, public service reform is not a monster; it is not an axe. It is not a hacksaw designed to cut up or cut down the public servants or department. It is an ongoing process of improvement. We, in business, continually look at the way we do things and seek reform. In fact, there is an entire profession dedicated to systems reform. That is what this Government is doing; seeking to become more effective in its service to the public. It is time to eliminate any feelings of hostility that the private sector harbours towards the public service and vice versa. What better way of effecting this change than to continually examine the way things are done?

I feel confident that with the process of reform adopted by this administration, people at all levels of the service can be involved in the process of reform. It seems to me, that the programme is truly holistic. It deals with the problem at all levels, proposing improved structures and technologies; addressing the problems of training needs for all, starting with top level managers and including every other public servant. It is also responsible to the emotional as well as to the intellectual and physical support needs of the public service. Providing for counselling, as well as training and technology.

In short, Mr. President, the programme is well thought out and it is being thoughtfully implemented. As such, the programme should have the support of this Senate.

**Sen. Ashick Hassim:** Mr. President, I rise in support of the motion before us. The process of revitalization of the economy of Trinidad and Tobago will, of necessity, involve a careful examination of our country's human resource potential. Central government expenditure on wages and salaries for 1992 is approximately \$2.5 billion, and restructuring of the national economy will require careful management of the public sector.

Rationalization of the public sector will require that the optimal level of staffing, both in terms of quality and quantity, be utilized to provide efficient service at the various ministries and state enterprises. This will involve retraining of staff, review of performance appraisal systems and, in some cases, the painful issue of staff separation.

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Mr. President, with enterprises such as the Port Authority, the Public Transport Service Corporation, British West Indian Airways and the Water and Sewerage Authority, continuing to suffer multi-million dollar losses annually, it is imperative that Government takes immediate steps to address this situation. It may be bitter medicine for some, but as we all know, it is necessary if the patient is to survive. Reform of the public sector needs to be quickly addressed in the face of the large debt repayment commitment which this country faces over the next few years.

Mr. President, management training and development of the large human resource in the public sector must be geared towards efficiency and accountability; two factors which were sadly lacking in the sector in the past, and which have contributed to the high salaries and wages bill. This salary and wages bill is in no way reflective of the production or productivity of the Public Sector. Reform of the public sector will not only look at the human resource element, but will also critically examine the structure of Government departments, state enterprises and statutory boards. The existing structure in many cases represents the core of the problem in the public service.

The Ministry of Agriculture, Lands and Marine Resources is one of the first ministries where reform will take place. In fact, this reform started in 1992 and the ministry is already beginning to get benefits for this reform programme. While there has been no separation of staff, training commenced at all levels in 1992, to equip staff for this new human resource management approach at the Ministry of Agriculture, Lands and Marine Resources.

**3.40 p.m.**

It involves the establishment of new performance appraisals which are geared to allow for a more reliable assessment of performance. Gone are the days when persons will be promoted or receive remuneration purely on the basis of the length of service. This has resulted in too many square pegs in round holes and this Government is determined that this will not be repeated. The Ministry of Agriculture is also in the process of preparing a strategic plan and this will serve to guide the ministry over the next few years.

As the Government seeks to balance its budget in these most difficult times and handle the all important debt repayment, it is imperative that the public sector improve its overall performance and, in particular, its financial performance. While some agencies will of necessity have to seek rate increases, it is

Government's intention to minimize the burden on the general public. The public sector therefore has to find alternative means of improving its financial performance and this can be achieved by reducing its operating cost through more effective management of the human resource component. Management development training for all levels of managers in the public service will be undertaken to facilitate an improved human resource management capability.

In conclusion, the public service in Trinidad and Tobago has the capability to effectively and efficiently operate in this new dynamic environment. It must now demonstrate the will to do so. The Government cannot continue to subsidize inefficient state enterprises and it is our intention through sectoral reform, to place these enterprises on a firm footing. This will require the committed and co-ordinated effort of the Government and workers if any improvement is to be achieved. Mr. President, I commend the motion to all Senators. I thank you.

**Sen. Stanford Callender:** Mr. President, I am happy to be given the opportunity to join in this debate. I want to restate the purpose of this motion moved by Sen. Gosine. The purpose of the motion is to bring to the attention of the honourable Senate the current approach of the Government to the implementation of the public service reform and to emphasize the unswerving commitment of the Government to successfully reforming the public service. I was happy that Sen. Rahael revisited our manifesto and restated our commitment to public service reform. He saved me the opportunity of so doing. We want to demonstrate in this Senate and elsewhere, that we intend to carry out the commitments we have made in our manifesto in all aspects including public service reform.

Sen. Wade Mark, my very good friend described the motion as seeking to virtually monopolize and abuse the privileges of Parliament. I do not think he honestly meant that but he is a man who will use all tricks in the book either by the form of using the Standing Orders incorrectly or otherwise. He saw it as a whole *mamaguy*. I can understand the concern of Sen. Wade Mark because, as was demonstrated last week in the Senate, we have clearly recognized the strategy of the Opposition. If Sen. Gosine did not bring the motion then, I might have been forced to bring it now. We recognize that we have to indicate in no uncertain terms what we are doing in this country, because the Opposition is not going to take the opportunity to commend this Government for anything it has done on any matter.

Mr. President, Sen. Gosine said that this Government, in its effort to demonstrate its commitment to the task has appointed a minister in the Office of the Prime Minister with specific responsibility for public administration. The minister appointed is well known for his managerial skills and capabilities and, therefore, is a person very suitable and qualified for this portfolio. I want to associate myself with those comments. I believe Sen. Draper is doing a fantastic job but Sen. Wade Mark, whilst seeking to confuse himself went on—

**Sen. W. Mark:** Mr. President, on a point of clarification. The way my colleague is emphasizing my name I am becoming worried.

**Mr. President:** That is his manner.

**Sen. W. Mark:** No I do not like the manner. Pronounce my name properly. I guess it is a Tobagonian twang.

**Sen. S. Callender:** That is what the result of the last election has done to me. Sen. Wade Mark continued to say and I quote "Let me indicate that as far as we on this side are concerned, no one can argue seriously with attempting to make the public service and the public sector more service worthy." That is the only paragraph in his contribution I agree with. I commend him for that. But my friend is a suspicious man. He went on to state:

"I understand that there is in fact, a steering committee that is made up of a number of trade unions involved in public service reform, and I hope that at the end of the day they are not misled"

The question comes to mind whether this suspicion is based on the fact that Sen. Wade Mark is not on the steering committee. Because all these reforms are leading to one conclusion. He went on to state:

"I am for speed and efficiency, but try to maintain a balance in terms of the rights of workers. I suspect..."

That is what caused me to come to the conclusion that he is a very suspicious man.

"...that if they are not careful, that is where the Government is heading on its public service programme. It wants to actually undermine and subvert the trade union movement and those trade unions that are directly involved in public service reform."

I would leave my friend Sen. W. Mark for a while and would make a passing comment on the contribution of Sen. Roi Kwabene. His only concern in his

contribution is the fact that if public service reform is to work there must be an equals opportunities commission. Mr. President, I am sure that by now you would have had the answer to that.

**3.50 p.m.**

Unlike Sen. Rahael, I have picked up something else coming from Sen. Capildeo, who described the motion as a sham. He said, "This motion is pure simple politics. Where is the evidence of a single thing being done since December 1991 to September, 1992?"

Sen. Rahael in his contribution sought to highlight some of the things that were done. I want to quote from a more sensible contribution coming from Sen. Teelucksingh, at that same sitting when he began by saying:

"Mr. President, I wish to register my support for this motion proposed by Sen. Gosine, and to commend Sen. Draper whose responsibility it is for public administration, for the regular update we have been receiving from him in the Senate on Government's efforts to reform the public service, such as we have had at the last meeting of the Senate."

I could only suspect that Sen. Capildeo was absent at that sitting of the Senate at which Sen. Teelucksingh spoke.

There has been somewhat a misconception, or lack of understanding about the relationship between the Government and the Tobago House of Assembly. Notwithstanding that lack of understanding, the Government made its first intervention in Tobago on March 23, in an effort to carry out the whole exercise of public service reform. A team went to Tobago and met with all Heads of departments of the Tobago House of Assembly, where sessions in orientation were done, workshops and a total sense of participation by all.

There were several interactions of the Director of O&M on strategic planning. Over 20 facilitators went through workshops over three days in an effort to assist in having the process pushed. Currently, there is an officer of the O&M in Tobago and all these things happened between March and September 1992. All Heads of departments in the Tobago House of Assembly came together during the first week of October to reflect on what was happening.

Change teams are now operating in various departments monitoring the process and the progress of the exercise. All the groundwork has been laid; things are in place—a software package programme in respect of a national information

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system and a register system. Training has been provided in general computer data base. We now have to make sure that the process works.

It is important to make that point because in my absence, at another debate, Sen. Teelucksingh, in another matter raised a very sensitive issue in respect of the involvement of certain parties in the business of Tobago. I want to make it absolutely clear that the Government is committed to the process of development in the interest of the people of Trinidad and Tobago, particularly through the Tobago House of Assembly, in the interest of the people of Tobago. As a government, we have a responsibility to demonstrate that.

I would go further to suggest and hope that as Sen. Draper indicated earlier, at a previous sitting, the whole question of public service reform is an ongoing exercise. I would hope that at the conclusion of discussions which are taking place between the Government's team and the team of the Tobago House of Assembly, one will seek to strengthen the institutional arm of the Government which is CAST (Central Administration Services Tobago) in Tobago, so that the people of Tobago can identify and associate themselves with the Government of Trinidad and Tobago.

We recognize that the Tobago House of Assembly has a function to perform. There are several misunderstandings at the level of politicians and senior people in the public service which result in a hands-off attitude as it relates to Tobago. As a Tobagonian, I want to forewarn that this attitude could only subject the administration of Tobago to backwardness. There needs to be a closer working relationship, so as to allow the senior management in the public service in Tobago, a window of communication and a closer working relationship with their counterparts in Trinidad. The experience and exposure could only work in the interest of our developing nation.

I hope that in our continued quest for public service reform, that we will seek to continue the process as it relates to Tobago and once and for all dismiss the misconception that this Government is somewhat anti the people of Tobago. My presence here, is a clear indication that this Government is committed to the development of Tobago.

**Sen. Kwabene:** You need two more on that side.

**Sen. A. Mark:** What about the other side?

**Sen. S. Callender:** I am now in the Ministry of Agriculture as Parliamentary Secretary, and as indicated in our manifesto by the party, prior to the election, four



ministries, the Ministry of Health, Agriculture, Finance and Industry are designated to serve as models for the implementation of reform in other ministries.

The Ministry of Agriculture, Land and Marine Resources has been identified by the Government as one of the four ministries for accelerating the initiative of public service reform. This focus recognizes the importance which the Government attaches to the agricultural sector, and as a consequence, the need to urgently address the reform exercise in the major institution responsible for performing agricultural development in the country.

In other words, great importance is attached to the extensive clientele which is served by the Ministry. The ministry will be impacted upon by the general reform initiatives identified by my colleague, Sen. Draper. An attempt is being made to improve the systems within the public service in the following areas:

- (1) Accommodation and maintenance;
- (2) Industrial relations;
- (3) Human resource management;
- (4) Budget and financial management;
- (5) Purchasing and supply.

However, as one of the four ministries targeted for special attention, we, in the Ministry of Agriculture, Land and Marine Resources have been requested to identify key areas of strategic concern needing reform and action. The intention here is to get targets and time-frames for reform activities within the ministry, with management and staff in the ministry working together to reform the Ministry for the benefit of the people we serve and for those who work in the ministry.

**4.00 p.m.**

On the basis of the management experience, supported by continuous feedback liaison with our clientele and staff, a few key areas have been identified:

- (a) Improved communication;
- (b) Human resource management and development;
- (c) Information management; and
- (d) Budgeting and accounts management.

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Under human resource management and development, Mr. President, it is important to state that a performance management system is now being piloted within the ministry as a pioneering effort for the public service with wider implementation later in 1993. This will go a long way to ensure that the ministry staff know and feel that they are being more objectively and fairly treated with respect to performance appraisal.

Under information management, it is important to note that a computer has already been acquired for the ministry. The division and computer programme developed by the National Information System Centre, to manage the paperwork and movement of files, has been installed. The work initiated here and extended throughout the ministry would facilitate more effective decision-making, in particular quicker response to time demands made of the organization.

Under budgeting and accounts management, as part of the reform process, this ministry is engaged in wider and deeper consultation to validate the importance of the areas indicated and to hear what are the key areas of reform as viewed by the staff and clients. An important part of the initiative, Mr. President, was the preparation of the ministry's public bulletin No. 1, which was launched at the staff retreat held in July, 1992 at which a cross-section of some 325 staff members of approximately 5,000 took part. This retreat took place over two days, validated the areas already identified and highlighted a few other areas, namely:

- (a) The determination of approved food and agriculture policy and strategic agricultural plan;
- (b) An improved organizational structure, administration and system; and
- (c) A more appropriate accommodation.

Mr. President, the ministry is one of the ministries that is poised to take off in the whole process of public service reform and I felt that it was necessary to just highlight some of the achievements of the ministry so far and to urge my colleagues on the other side to support this motion so ably moved by Sen. Gosine.

I thank you.

#### **BUSINESS OF THE SENATE**

**The Minister of National Security (Sen. The Hon. Russell Huggins):**  
Before moving the motion, Mr. President, may I crave your indulgence to advise Senators that it is the Government's intention to take the Bill entitled, "An Act to

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establish the Police Complaints Authority and for matters incidental thereto,” through all its stages at the next sitting.

**Mr. President:** All that it means is that the Bill which is now No. 4 would be first on the agenda, ahead of the other two.

*Motion made and question proposed, That the Senate do now adjourn to Tuesday, February 2, 1993 at 1.30 p.m. [Hon. R. Huggins]*

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 4.05 p.m.*