

*Leave of Absence*

*Tuesday, June 8, 1993*

**SENATE**

*Tuesday, June 8, 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. Everard Dean to be absent from sittings of the Senate during the period Thursday, June 10 to Friday, June 25, 1993

I have also granted leave to Sen. Prof. John Spence to be absent from sittings of the Senate during the period June 12-28, 1993. Both Senators will be out of the country.

**COMMITTEE OF PRIVILEGES**

**Mr. President:** Hon. Senators, during my recent absence from the Senate, April 27 to May 16, 1993, the Privileges Committee of the Senate commenced consideration of the reference which was made by the Senate on April 19, 1993. The Vice-President of the Senate presided over the Committee.

The matter is still before the Committee and, in my view, the Vice-President should continue to chair the Committee on that matter because:

- (1) he was presiding at its commencement; and
- (2) in the particular circumstances involving the matter under reference, I consider that it would not be appropriate for me to chair the Committee, in any event.

This is a position which I would have taken even if I had been available for the initial meeting of the Committee.

Our Standing Order dealing with the Committee provides that the President shall be both a Member and the Chairman. It does not provide for circumstances where the President considers it inappropriate for him to participate in the investigation.

Standing Order 84 provides the avenue for curing that silence and, accordingly, I have taken the view that the Vice-President should continue to chair the proceedings on this matter.

**PAPER LAID**

Agreement for the Establishment of an Assembly of Caribbean Community Parliamentarians [*The Minister of Planning and Development (Hon. Lenny Saith)*]

**ORAL ANSWERS TO QUESTIONS**

**T&TEC Properties  
(Market Prices)**

**67. Sen. Wade Mark** asked the Minister of Public Utilities:

Regarding the sale of properties by T&TEC, could the Minister state:

- (a) whether the commission is seeking market prices for these properties in the prime areas, and what are the prices sought by the commission?
- (b) how many of these properties have been sold, to whom, and at what sale prices were these properties sold?

**The Minister of Public Utilities (Hon. Morris Marshall):** Mr. President, I wish to advise that the commission have sought valuations for their properties from two reputable surveying companies. The commission chose the higher valuation.

To date down payments have been made with respect to the following by the existing occupants:

- 6, St. Kitts Avenue, Federation Park
- 4, St. Vincent Avenue, Federation Park
- 7, Valleton Avenue, Maraval
- 6A, Mary Avenue, Diego Martin
- 18, Chelsea, Cascade
- 32, Collins Road, Maraval
- 16, Alcazar Street, St. Clair
- Hillside Avenue, Cascade
- Henry-Pierre Street, San Fernando
- Butu Road, Valsayn South.

Other properties to be sold are currently being advertised—I think in the newspapers. They are:

52, Elizabeth Gardens, St. Joseph

3, Gibbes Street, San Fernando

Ponderosa, Rio Claro

12, Fourth Street, San Fernando

**Sen. W. Mark:** Could the hon. Minister of Public Utilities tell us what are the prices involved for those properties that have been sold or down payments made?

**Hon. M. Marshall:** My memory tells me that I did provide this honourable Senate with details that relate to the valuations some time recently. That information is available to the hon. Senator.

**Sen. W. Mark:** Is the hon. Minister saying that the persons who are currently occupying those houses will be the same persons purchasing them? Is that what he is telling us here?

**Hon. M. Marshall:** I think, as relates to those persons who occupy specific units, I did present this honourable Senate with details of that—not the names but, at least, the positions of the persons who are employed at the Commission.

#### T&TEC

#### (Privatization/Divestment)

**68. Sen. Wade Mark** asked the Minister of Public Utilities:

Could the Minister state whether the Government intends to privatize/divest the Trinidad and Tobago Electricity Commission, and if so, how soon?

**The Minister of Public Utilities (Hon. Morris Marshall):** I wish to advise the Senate that the Government has taken no decision to privatize/divest the Trinidad and Tobago Electricity Commission. However, a number of options are presently being explored to address the anticipated increase in demand for electricity.

**Sen. W. Mark:** Could the hon. Minister indicate to us whether any consultations are being held with the relevant interest groups insofar as the options that he described are concerned?

Secondly, could the hon. Minister indicate to this Senate what are these options?

**Hon. M. Marshall:** As relates to the first question, yes, discussions are being held with interest groups. In fact, I, myself, met with the shop stewards of the OWTU, for example, and we discussed the matter. I have instructed T&TEC to make available to OWTU all the details that are available, so that they can respond accordingly. That is where we are going. We are holding discussions.

On the question of the options, I do not think that I am prepared to say anything more at this time, in view of the present situation where a decision has not been taken on this matter.

**Sen. W. Mark:** Could the hon. Minister tell us whether privatization of the generation aspect of T&TEC is one of the options currently being looked at by his Government?

**Hon. M. Marshall:** As I said a while ago, T&TEC has a particular problem at this time and we are looking at various options. I do not want to get involved in handles and terminologies. We are looking at options to address a critical problem at T&TEC, and at this time I do not think that it is necessary for me to identify some of the options that are being discussed with some of the interested groups, in view of the fact that no decision has been taken.

**1.40 p.m.**

**Foreign Agencies  
(Co-generation of Electricity)**

**69. Sen. Wade Mark** asked the Minister of Public Utilities:

Could the Minister state how far the Government has reached in its plan to embark on a co-generation of electricity arrangement with foreign agencies?

**The Minister of Public Utilities (Hon. Morris Marshall):** Mr. President, I wish to advise the Senate that preliminary discussions have been held with a number of interested foreign organizations which possess expertise in the generation of electricity and at present provide power generation facilities in other countries. In this regard, to date no firm arrangements have been made with any foreign agency to provide co-generation of electricity to the Government of Trinidad and Tobago.

**Sen. W. Mark:** Mr. President, could the hon. Minister identify to this Senate these customers/investors that the Government has been holding discussions with to date, and whether Enron Oil & Gas is one of those investors?

**Hon. M. Marshall:** Mr. President, as it relates to his first question, no, I am not at this time prepared to provide those details.

**Sen. W. Mark:** Why?

**Hon. M. Marshall:** Because, as I said before, discussions are taking place.

**Sen. W. Mark:** I asked the hon. Minister whether, Enron Oil & Gas is one of the investors. Is the Minister prepared to answer that?

**Hon. M. Marshall:** Mr. President, I think I have answered the question. I said that at this time, hon. Senator, I am not prepared until—you are not going to force me into any sort of situation that will result in conflict; you are not going to force me into anything. I am saying that, at this point, those details are not available. As soon as they are, we will make them available to the entire country.

### **Public Sector Reform Programme (Expenditure)**

**83. Sen. Carol Merritt** asked the Minister in the Office of the Prime Minister responsible for Public Administration:

Can the Minister state to this honourable Senate:

- (a) The total sum of money which was spent on the retreats organized for the public sector reform programme?
- (b) A breakdown of the expenses incurred for each retreat according to the Ministry?

**The Minister in the Office of the Prime Minister responsible for Public Administration (Sen. The Hon. Gordon Draper):** Mr. President, before answering the question, I wish to inform the Senate that the retreats/strategic planning workshops were planned for the following purposes:-

- (1) to allow every member of staff to be part of the definition of mission and vision of his or her ministry or department;

- (2) to provide the opportunity for each member of staff to participate in the planning strategies for the achievement of that mission and vision;
- (3) to provide members of staff with an opportunity to examine approaches to improve the quality of service provided to the public; and
- (4) to allow staff of the public service to understand and identify with the process of reform being implemented.

The sum of \$824,926 was spent on a total of 121 retreats from January 1992, involving 22,800 participants at an average cost of \$36.18 per participant.

A breakdown of the expenses incurred for each retreat according to Ministry/Department is as follows:

<b>Ministry/Department</b>	<b>Cost \$TT</b>	<b>Approx. No. of Persons Attending</b>
Community Development, Culture and Women's Affairs	10,661	250
Office of the Prime Minister	20,840	715
Agriculture, Land and Marine Resources	15,781	700
Service Commissions Department	10,628	240
Statutory Authorities Service Commission	1,350	38
Sport and Youth Affairs	11,966	371
Planning and Development	18,150	445
Consumer Affairs and Social Services	5,235	382
Labour and Co-operatives	14,280	295
Attorney General and Legal Affairs	27,701	526
Public Utilities	41,624	649
Local Government	57,863	4,745
Housing and Settlement	3,950	130
National Housing Authority	114,544	1,087

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Personnel Department	4,319	215
<b>Ministry/Department</b>	<b>Cost</b>	<b>Approx. No. of</b>
	<b>\$TT</b>	<b>Persons Attending</b>
Magistracy	15,716	218
Office of the Ombudsman	1,858	18
Industrial Court	7,969	100
Works	45,800	750
Transport Division	22,000	300
National Security	108,864	3,687
Finance	102,249	2,160
Trade, Industry and Tourism	10,000	210
Auditor General	9,840	131
Sugar, Labour Industry and Welfare	4,061	70
Library Services	8,276	200
Education	36,000	1,300
Foreign Affairs	9,982	175
Energy	15,332	200
Parliament	3,415	55
Tobago House of Assembly	59,542	2,348
El Dorado Youth Camp	—	60
Central Administrative Services, Tobago (CAST)	2,250	4

**Sen. Merritt:** Could the Minister indicate to the Senate how many retreats will be held in the future, or whether the programme for retreats has been completed?

**Hon. G. Draper:** Mr. President, the programme for retreats has not been completed. The Ministry of Local Government, in particular, the Regional

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Councils are about half way through their own retreats and they are continuing this month and next month. The Ministry of Education has some other retreats to do, particularly since the Education Task Force has, in fact, only recently reported. The Ministry of Works and Transport and the Ministry of Health still have some retreats to do.

**Sen. W. Mark:** Mr. President, could the hon. Minister indicate to this Senate whether he is satisfied so far with the outcomes of these retreats and whether these retreats are not designed to psychologically prepare public servants for the privatization of the service?

**Sen. The Hon. G. Draper:** Mr. President, I am satisfied with the outcomes of the retreats. They are an integral part of consultation and dialogue with public servants for public service reform.

**Sen. W. Mark:** Mr. President, I asked the Minister a second question. Would he like me to repeat it?

**Mr. President:** That is introducing a new matter for which you will need to give notice.

**Sen. W. Mark:** That is a new matter, Sir? All right, Sir, I will be guided by you.

### **Health Institutions (Cleaning Chemicals)**

**84. Sen. Carol Merritt** asked the Minister of Health:

- a. Is the hon. Minister aware that the various health institutions, particularly the general hospitals, are not being provided with the necessary chemicals to clean bathrooms and toilets?
- b. If the answer is in the affirmative, could the Minister indicate what steps will be taken to address this problem?

**The Minister of Health (Hon. John Eckstein):** Mr. President, the Minister of Health is not aware that the various institutions, particularly the general hospitals, are not being provided with the necessary chemicals to clean bathrooms and toilets. Information received from the administrators of the various hospitals indicates that there is absolutely no problem concerning the provision of cleaning agents; and that all hospitals have been provided with the necessary materials to



clean bathrooms and toilets. In the light of that, part (b) of the question is now not relevant.

**Sen. Merritt:** Is the Minister aware that the bleach which is used at the various hospitals in the country is of a substandard quality?

**Hon. J. Eckstein:** I am not aware that the bleach—I have got a list of the cleaning agents and I do not know which of them is substandard. Is it Clorox, Pine, Solvol, Bright Bowl, Zip Scouring Powder, Lysol Disinfectant Spray, Scouring Powder, Black Disinfectant, Pine Disinfectant, Bleach Breakup Degreaser. I really do not know which one is the culprit in the group.

**1.50 p.m.**

**Sen. Kwabene:** All are substandard!

The Minister did not mention one named Bayon, which was the bleach that was used at the hospitals, and the patients are complaining of the state of the bathrooms and the lavatories. I hope he is aware of this situation, where there are ground itch and other insect bites. This is a serious thing; it is not a laughing matter.

**Hon. J. Eckstein:** I am not aware. I have not been made aware. Let me just, for the benefit of the Senate, deal with one of the responses I got. This is the administrator of the St. Ann's Hospital responding:

"I wish to advise that for the year 1993, the St. Ann's Hospital has had all the necessary chemicals, cleaning materials to clean bathrooms and toilets."

Then the administrator gave a long list and the conclusion is:

"In my opinion, for the year 1993 an adequate supply of chemicals has been available for the cleaning of the bathrooms and toilets."

In respect of Port of Spain, the response from the administrator there is as follows:

"I must inform you that the General Hospital, Port of Spain has, in fact, been provided with the necessary chemicals to clean the bathrooms and toilets."

Then in respect of San Fernando, the response from the administrator there:

"There is absolutely no problem at the San Fernando General Hospital concerning the provision of cleaning agents."

I did not get any response from Tobago, so I do not know if the problem is in respect of Tobago.

**VAT**

**(Basic Food Items and Pharmaceuticals)**

**85. Sen. Carol Merritt** asked the Minister of Finance:

Could the hon. Minister state whether his Government has any plans to remove Value Added Tax from basic food items and pharmaceuticals?

**The Minister of Finance (Hon. Wendell Mottley):** Mr. President, already there is a wide range of basic food items and pharmaceuticals that are not subject to VAT.

The food items not subject to VAT include any unprocessed food, rice, flour, milk and processed food like margarine, bread, baby formulas and any live bird, fish, crustacean, mollusc or other animal or a bird generally used as, or yielding or producing food for human consumption.

The pharmaceuticals not subject to VAT include medicines and drugs of a kind available only by prescription: analgesics, cough and cold preparations, antacids and anti-flatulants, laxatives, anthelmintics, oral rehydration preparations, diabetic diagnostic testing kits and devices and diabetic insulin syringes and devices.

**Sen. Merritt:** Mr. President, given that the academic year is almost at an end, what steps have the Government taken to implement the recommendation of the report of the Cabinet-appointed committee for making school books affordable and available? Is the Government making any effort to have a follow-up study on the recommendation?

**Mr. President:** This is a follow-up to the question on the Order Paper?

**Sen. Merritt:** Yes. Okay, I withdraw the question.

**ORDER OF BUSINESS**

**The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith):** Mr. President, I beg to move that the matter under "Private Business,

"Bill's Second Reading" on the Supplemental Order Paper, be taken at this time before "Government Business."

*Assent indicated.*

**ENVIRONMENTAL FOUNDATION (INC'N) BILL**

*Question put and agreed to,* That a bill to provide for the incorporation of the Environmental Foundation, be now read a second time.

*Bill accordingly read a second time.*

*Bill referred to a special select committee of the Senate chosen by the President as follows:* Sen. Ainsley Mark (Chairman), Sen. Roi Kwabene, Sen. Diana Mahabir-Wyatt and Sen. Jean Elder.

**FINANCIAL INSTITUTIONS BILL**

[THIRD DAY]

*Order read for resuming adjourned debate on question [May 18, 1993]:*

That the Bill be now read a second time.

*Question again proposed.*

**Sen. Ainsley Mark:** Mr. President, I rise in support of the Financial Institutions Bill, 1993. Having listened to the contributions of other Senators last Tuesday, I am in agreement that this is certainly a most important piece of legislation, because the legislation attempts to enlarge the regulatory powers of the Central Bank. The reality is that the existing legislation does not provide the Central Bank with the authority and power which it needs to effectively supervise and control the financial institutions of Trinidad and Tobago.

The Government is clear that through the Central Bank, it has the ultimate responsibility to ensure the safety and the stability of the banking and financial system. This is effected through the supervisory and prudential policies and programmes.

**2.00 p.m.**

Let me, first of all, attempt to place this piece of legislation in a wider perspective.

We on this side understand that the most critical problem facing Trinidad and Tobago at this time is unemployment. We understand that there is an urgent need

to create more permanent jobs. We understand, also, that these permanent jobs would be created only through increased economic activity; and that increased economic activity is a function of increased investment. Investment, whether it is domestic or foreign, arises through savings, and financial institutions are the main depositories of savings. Therefore, we must ensure that depositors have faith and confidence that their deposits are safe.

Mr. President, my contribution this afternoon is going to treat with three inter-related issues, all having to do with reassuring the public and depositors that financial institutions in Trinidad and Tobago are conducting their affairs prudently. Firstly, with issues relating to the safeguarding of depositors' funds; secondly, issues relating to limiting concentrations of loans, both secured and unsecured, to individuals and borrower groups, and, thirdly, with the expanded role of the external auditor as proposed in this Bill.

Let me treat first of all with the question of safeguarding depositors' funds, and, ultimately, safeguarding the entire financial system. As usual, I listened very intently to Sen. Capildeo's contribution. He was very elegant and eloquent, but, for the most part, wrong, as usual; elegantly wrong. He made mention of one of his clients who suffered a loss, I think of \$900,000, and who is at present an out-patient of the St. Ann's Hospital. He said that in his one-man practice, he had clients who have lost millions of dollars. I think that in all of Sen. Capildeo's contribution that was, perhaps, the most critical issue that he addressed.

Mr. President, our firm was engaged, after the fact, in coming up with some statements of financial position of a number of those failed institutions in the early 1980s. Some of the most heart-rending experiences in my professional life were in looking at some of those failed institutions. For the benefit of the debate today, I will just recall three cases.

There was the case of a retired teacher. Her name jumped out at me because she was the colleague of my deceased mother in a primary school in Port of Spain. This was a woman who had worked all her life as a primary school teacher; she placed her gratuity in a firm whose symbol was an angel—do you remember the "Guardian Angel", Mr. President? At the end of some 35 years of working life, that woman was wiped out. Unlike Sen. Capildeo's client, who is still alive and is still an out-patient at St. Ann's Hospital, this woman did not survive the shock of losing all her money.

The second example is that of a nurse; a woman who left Trinidad in the 1950s and went to New York. She gave the stories of working in a hospital in New York in those early days; a black West Indian woman; the dirtiest jobs in the hospital; having to work two shifts—I am talking about the days when she went to work in darkness and she came home in darkness. She retired, came back to Trinidad with her nest-egg and put it in the place with the “Guardian angel”. I think she is now back in New York, trying to make a living; she had lost everything.

The third example has to do with an education plan that one of those houses came up with. In Trinidad and Tobago great store is placed on education, particularly, in the rural areas, and these places had offices in all of the rural areas. There was an example of this plan where—I remember the Sangre Grande branch, particularly—month after month these savings were put into this plan. I imagine the hope of these savers was that they were involved in agriculture, but if they could provide their children with the wherewithal to get out of agriculture, they would make whatever sacrifices are necessary. All of those funds in that plan were also lost.

I have used those three examples to make the point that there are many depositors—I would say the majority of depositors in Trinidad and Tobago—who would not have access to professional advice from the likes of my colleagues, Senators Daly and Mansoor. They would not have the opportunity to have someone who understands risk analysis and advise them. They would not have benefited from the advice that if a company is paying 15 per cent on your deposit, they have to be generating 35 or 40 per cent, and that is of necessity, very speculative and risky.

I am suggesting, Mr. President, that those depositors who do not have access to professional advice have the right—almost an inalienable right—to believe that the institution which has the responsibility to regulate these financial institutions also has the authority and the power to do so. I repeat that, the majority of depositors have a right to believe that the institution in the society which has the responsibility for regulating these financial institutions also has the authority and the power to do so effectively.

Notwithstanding the deposit insurance, I think that we in the Senate have a responsibility to ensure that this country would never again see the likes of the ITLs, the Trade Confirmers, the SWAITS, Commercial Finance, Summit Finance and others.

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**2.10 p.m.**

Mr. President, we have a responsibility in the Senate to ensure that the Central Bank has the power and the authority to move swiftly and decisively to protect depositors' funds; and in protecting depositors' funds, what they are in fact doing, is protecting the entire system.

Sen. Capildeo did mention that notwithstanding the fact that depositors lost tens of millions of dollars, some of the directors are still in and around Trinidad very happily and very easily. I was wondering, perhaps, if one of the persons he was referring to was the Senator that his party put in the Senate during the last term. The bottom line is that if depositors are to have confidence in the system they must be satisfied that the regulatory authority and the supervisory authority, the Central Bank, has the power and the authority to deal with issues as they arise.

Let me move on to the second issue, the question of concentration of loans to individuals and borrower groups. It is an area of grave concern. Sections 22(h) and 22(2)(h) and (i) seek to restrict exposure of the institution with respect to unsecured and secured loans to any one person or borrower group. The issue here is that of prudence, ensuring basically that an institution and, consequently, the entire financial system, is not put at risk by difficulties in any borrower group. That is essentially what those sections seek to address. Let me spend a little time dealing with the international situation.

*Fortune* magazine, April 1992—there is an article on page 58 entitled "BANKING FINALLY HITS THE BOTTOM".

"Mistakes in real estate will continue to haunt the industry for years, so don't look for a dramatic turnaround."

In that article on page 59:

"A high rate of failures will continue to plague the industry..."

"The Federal Deposit Insurance Corp. may close around 200 institutions this year, up from 127 last year. And it is eyeing another 1,100 nervously."

On page 60 of that article, I quote again—they are talking about those banks and other financial institutions that are in trouble:

"They are pinning their hopes on an economic recovery that will boost demand and bail out troubled borrowers. The most prominent is Citicorp, which eliminated its dividend in the third quarter of 1991, took huge loan-loss provisions, and hunkered down for several rugged years."

Do you hear whom we are talking about Mr. President? Citicorp. Let us now look at what is happening in Britain. I am quoting from an article in "*Euro-money*" March 1992 entitled "Winner by Default."

"Barclays Bank looks good in comparison with its fiercest rivals in the United Kingdom. But behind the facade lurks serious problems. Capital ratios are likely to come under threat. On closer inspection, the bank's foreign forays fail to form part of a coherent strategy. Investment banking is yet to produce an acceptable return. And Barclays has sustained serious setbacks in its core UK domestic "markets."

Mr. President, the article continues:

"There is every chance that bad-debt provisions and write-offs will wreck Barclays' capital ratios in the next two years, as the UK recession rips into its core business. Former power-houses such as Barclaycard are fizzling out. The bank has to get its costs under control. There may well be bad news still to come from its US operations"

And sticking with Barclays, the issue of *The Economist* March 6, 1993, an article entitled "A Long climb out of the pit"

"Is BARCLAYS BANK the Citicorp of Britain? If it is lucky Like America's troubled giant, Barclays has been ripped apart by credit risks that it gleefully embraced and woefully assessed. Yet Barclays has neither the global reach nor the managerial single-mindedness that has helped Citicorp claw its way back to safety. Where now for what was once Britain's premier bank?"

On March 4th Barclays reported the first loss in its history: £285 million after tax..."

"Though operating profits were up by 18% over the previous year, provisions against doubtful debts were almost £2.6 billion."

Mr. President, I am making the point that major banks in the US, the United Kingdom and Japan have been and continue to be affected by over-exposure in certain industries and certain regions. In the United States, the regions of the Northeast and California—the banks in those areas, are bedevilled by real estate

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loans. The banks in Texas were wiped out by problems in the petroleum industry. Centre banks in New York are reeling under the pressures from some of the leverage buy-outs that they effected a few years ago.

In the United Kingdom the giant Barclays is under pressure. We have seen one project, the Canary Wharf Project, having deleterious effects on banks in the United Kingdom, the United States and in Canada. In fact, one of the largest real estate developers in the world has been brought to its knees by the difficulties arising out of that project.

One might ask: What does that have to do with Trinidad and Tobago? The questions that we must address are firstly: Is it reasonable to believe that banks in Trinidad and Tobago are somehow exempt from the difficulties that other international banks are experiencing? Or, secondly, can we really say that the activities that most of the local companies, the giants in Trinidad and Tobago, are engaged in make them impervious to problems and decline?

**2.20 p.m.**

Sen. Daly in his contribution introduced the commissars. In a similar vein, I would introduce the concept of the dialectic, that we are in a process of constant decline and growth.

Mr. President, a few years ago, do you remember in this country we had a magician; everything he touched turned to gold. The then reigning calypso king even had a calypso telling the government, if it could not run the country, call in the "Magician". In those days bankers were lining up, jostling one another to make advances to that group. And one fateful morning there was a tragic accident. The magician passed away and that group started to unravel.

At about the same time that that took place, there were changes in technology at one of the manufacturers; we were no longer interested in using cans; we were talking about using plastic—and so changes in technology at a manufacturer, beset that manufacturer.

At about the same time a major department store that had been a household name in this country for decades went into receivership. Those three things came together at about the same time. It was common knowledge that one of the major banks in this country, a bank that had been established long before any of the indigenous banks were dreamt about was fully up against the ropes. If you were to ask a young person now, to drive through Port of Spain, or any part of the country



and look for a vestige of the magician's empire, he would not find it; it is gone, vanished.

That of course is not the only recent example. We are also aware of another situation in the mid-1980s, when another major group, headquartered in Central Trinidad had its problems, and another major bank was up against the ropes. What we are talking about here is nothing theoretical; it is very practical. We know how much this country had to pay to maintain stability in the financial system arising out of that latter incident.

The bottom line is that to have any bank over-exposed is totally unacceptable. The risk is much too great for the entire financial system. This is why when we look at the legislation we see in clause 22 (7) provisions for transitional periods.

Prof. Spence was concerned that the Government had some plans for, maybe, allowing some foreign banks to stave off the imminent collapse. I was taken aback because one does not normally associate Prof. Spence with those types of alarmist sentiments. I think that the Central Bank is no doubt aptly guided by the Basle Arrangement.

If we look at the Council Directive 92/121/EEC of December 21, 1992, on transitions relating to exposures in excess of the limit, Article 6 states:

- "(1) If a credit institution has already incurred an exposure or exposures exceeding either the large exposure limit or the aggregate large exposure limit laid down in this Directive, the competent authorities shall require the credit institution concerned to take steps to have that exposure or those exposures brought within the limits laid down in this Directive.
- (2) The process of having such an exposure or exposures brought within authorized limits shall be devised, adopted, implemented and completed within the period which the competent authorities consider consistent with the principle of sound administration and fair competition..."

These are the principles that are going to guide the Central Bank.

I do not think that the Central Bank is going to invoke or enforce any regulations that would result in the crashing of the financial sector. We are not about crashing. The whole essence of this piece of legislation is to give the bank regulatory and supervisory powers to maintain and stabilize the financial system.

The second point I want to raise in relation to over-exposure is that it is already an existing practice in Trinidad and Tobago, the syndication of loans. That

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is an established practice. If a company has a sound bankable project, then a consortium of banks can take it and spread it around in relation to their limits. It is likely therefore that under that type of scenario, some of the not so strong banks might get an opportunity to get piece of the real bankable action in the country.

I think that we have to be concerned with over-exposure. It is not prudent banking to have any institution at the mercy of any borrower group, or individuals. A number of banks have found themselves in the situation where they cannot afford to stop lending to somebody. Have you ever heard about that situation? It is said that you are too big to fail. If you are owing, you must owe a large amount of money, so the bank cannot stop lending you. If they were to stop lending you and you collapse, then they would collapse. That is the cycle that this legislation proposes to break.

**Sen. Daly:** I wonder whether the Senator would entertain a question. Whether the relationship of the Government of Trinidad and Tobago and the Central Bank, its banker, in relation to the reported overdraft of \$2.2 billion falls into that category?

**Sen. A. Mark:** The Minister of Finance would be in a better position to respond to that question.

Let me now move on to the expanded role of the external auditor because this Bill breaks new ground in terms of the external auditor of the financial institution and his relationship with the Inspector of Banks.

**2.30 p.m.**

I quote clause 46(1):

"No duty to which an auditor or former auditor of a licensee may be subject shall be regarded as contravened by reason of his communication in good faith to the Central Bank or to the Inspector, whether or not in response to a request made by either of them, of any information or opinion on a matter to which this section applies and which is relevant to any function of the Central Bank and the Inspector under this Act or the Central Bank Act."

This is really a critical clause because in the existing situation the auditor cannot communicate anything to the Central Bank or to the Inspector of Banks. He has an auditor/client relationship and that confidentiality relationship is paramount. What this article serves to do is to require the external auditor, by law, to communicate with the Inspector of Banks.

In my view, this clause does not go far enough. It is much too vague and I am hoping that when regulations are done that perhaps we will tighten it up a bit. The clause speaks here about any information or opinion on a matter which the section applies. Why I feel that we need to go a little further is that auditors came in for a lot of licks with those failed institutions. People could not understand how a financial institution was getting clean, unqualified audit reports for years and then one morning they hear it has gone "belly-up". They could not understand it.

Auditors are normally in a very serious bind. Some time last year I completed a little publication, entitled, "Ethical dilemmas for professional accountants practising in Trinidad and Tobago". Unlike the attorney-at-law who is an advocate for his client, the auditor sometimes finds himself having a dual responsibility. Let me use the words of a former Chief Justice of the US, where he compares the role of the internal auditor and a private attorney in the American society:

"The private attorney's role is as the client's confidential adviser and advocate, a loyal representative whose duty is to present the client's case in the most favourable possible light. An independent certified public accountant performs a different role. By certifying the public reports that collectively depict a corporation's financial status, the independent auditor assumes a public responsibility transcending any employment possibility, transcending any employment relationship with the client. The independent public accountant performing this special function owes ultimate allegiance to the corporation's creditors and shareholders, as well as to the investing public. This "public watchdog" function demands that the accountant maintain total independence from the client at all times and requires complete fidelity to the public trust..."

That is how former Chief Justice Burger sees the role. But it is not as simple as that.

The auditor finds himself in a situation where, ostensibly he is engaged by the shareholders, but the managers are the ones who pay his fees and who decide whether he is going to get the audit in the following year. So, he is sometimes caught between those two poles.

R. J. Boland, in an article entitled "Myth and Technology in the American Accounting Profession" stated that:

"Accountants have been accused of placing too much trust in management, of acquiescing too readily to management's interpretations of accounting principles; of overlooking obvious abuses of financial reporting and being too sympathetic to their clients' interests. An oft repeated comment in the

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profession is that the auditor's role in society has changed from being a once feared watchdog to becoming management's poodle."

In Trinidad and Tobago, the auditor is not assisted by the Institute of Chartered Accountants of Trinidad and Tobago. No help whatsoever; no direction or guidance of any substance. It is in fact a big club. Their concern is only about blocking out certain people. You just pay your annual dues and you remain a member. It is just like a club. It is just like Harvard or Queen's Park or Dynamos. Once you pay your dues, you can stay a member. You do not pay, they are quick to strike you off and have you on the carpet, you cannot sign statements. There is no concern whatsoever about developing national accounting standards; no concern about continuing education.

You could have passed your examinations in 1940 but as long as you pay that fee to ICATT every year, they are not concerned about whether you ever do a refresher—no concern whatsoever. In fact, we have a situation where the people who ICATT keeps out of their association are the only people who have studied Trinidad tax and Trinidad law. Can you imagine that?

I went to school in Canada. I studied Canadian tax and Canadian law. I can be a member, but if someone studied Trinidad tax and Trinidad law, they say that this person is not really up to scratch.

They are not concerned about local examinations. They have no interest in local examinations. In fact, ICATT is a branch of one of the large bodies in the United Kingdom, a body which derives in excess of 75 per cent of its revenue from overseas students. So that ICATT, this club in Trinidad is engaged simply in shipping away our limited foreign exchange.

I am suggesting that since the auditor as an individual has this dilemma as to whom he owes his responsibility, and since there is no support or guidance to get from ICATT, then we have no alternative but to put precisely what we want the auditor to communicate to the Inspector of Banks in the law—either in the body of the law or in the regulations.

If we were to look at some legislation from Ontario, with loan and trust corporations, we would see reference, for example, that the auditor must communicate with the Inspector of Banks, the supervisor:

- (a) if there has been a change in the circumstances of the financial institution that might reasonably be expected to materially and adversely affect its financial position;
- (b) where there are circumstances that indicate that there may have been a contravention of this Act or the regulations; or
- (c) where there are circumstances that indicate that there may have been a contravention of the Securities Industry Act, Income Tax Act or the regulations under those Acts.

So that, in the Canadian legislation and the English legislation there are stated in very specific terms what the external auditors must communicate with the inspector.

**Sen. Mansoor:** I wanted to know whether, in the Senator's opinion, the responsibilities of the external auditor are sufficiently well-defined in this legislation?

**2.40 p.m.**

**Sen. A. Mark:** I do not think that the responsibilities have been sufficiently well defined, but in discussions the view has been expressed that the regulations would, in fact, clarify some of the issues that are not as clear as they might be.

Mr. President, in a publication, *Bank Failure*, an evaluation of the factors contributing to the failure of national banks which has been put out by the Controller of the Currency, Washington D.C., June 1988, mention is made as to why banks fail. They identify a combination of internal and external factors; and they argue in this publication that the internal factors are, in fact, more critical, because you have a situation where in the same economic environment while some banks are failing, others seem to be doing better and better. And the whole question of the management practices of the board, of the executive management are highlighted. But I think that there is a section here that really brings that whole issue together. Let me quote from page 7 of this publication—

"...failed banks consistently lack policies, systems and controls to guide their staffs in performing the task required to maintain a well-managed and income-producing loan portfolio through both good and bad economic times."

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In another publication, Mr. President, *Bank Crises—Cases and Issues*, an article entitled "Distressed Financial Institutions in Thailand" written by R. Barry Johnson, in a section on Inadequate Legislative Framework, states:

"The internal weaknesses among the banks and finance companies might not have threatened the ability of the financial system if the authorities had had adequate powers to regulate, supervise and intervene to direct the financial institutions."

**Mr. President:** The speaking time of the Senator has expired.

*Motion made,* That the Senator's speaking time be extended by 15 minutes.  
[Hon. L. Saith]

*Question put and agreed to.*

**Sen. A. Mark:** Mr. President, we are embarking on a new era in banking in Trinidad and Tobago. We are seeing the liberalization of the financial sector. We are seeing greater use being made of modern technology, computers; we are seeing new financial products, new financial instruments, being developed at a dizzying pace. The commercial banks have been given much wider powers to act, and we are of the view that it is absolutely necessary to supplement the regulatory and supervisory powers of the Central Bank to meet these new conditions. We are of the view that the Government, through the Central Bank, has the ultimate responsibility to ensure the safety and stability of the banking and financial system.

This safety and stability will be effected through adequate, appropriate supervisory and prudential policies and programmes. Mr. President, the core elements of sound supervisory policy include comprehensive annual examinations, meaningful prudential standards in such areas as capital adequacy, liquidity, risk management systems, credit concentrations, rigorous control of balance sheet activities; and an insistence on rigorous management attention to credit generation and credit monitoring systems.

Mr. President, the Senate has a responsibility to ensure that the Central Bank has all the power and authority needed to address these new circumstances. I want us to remember, Mr. President, all those little people who lost their savings in the not too distant past. And if we must err, then let us err on the side of giving the Central Bank too much rather than not enough power and authority. Mr. President, we on this side have the greatest confidence in the officers of the

Central Bank who, we know, have the interest of Trinidad and Tobago at heart and whom, we expect to exercise professional integrity and commitment in the performance of their duties.

Mr. President, I thank you.

**Sen. Diana Mahabir-Wyatt:** Mr. President, I shall not take very long. I would not hold up the Minister very much longer. If there are two speakers I hate to follow in the Senate, one is Sen. Saith and the other is Sen. Ainsley Mark. They are so logical, so rational, so reasonable, so convincing, that you have to really bite your tongue and hold on to your fingernails, otherwise you are going to be so totally convinced, you are not even going to think. However, there were a couple of points that I did want to pursue, and even Sen. Ainsley Mark, with his lucidity, has not quite reassured me on these points. Sen. Wade Mark, when he spoke, indicated that he was taking a position, as Sen. Ainsley Mark noted, relating to the "small" person in the society. And he spoke about other Senators representing banking interests, or big business. I do not represent banking or big business or the trade union movement or the credit union movement. I do not come with any "side" to this argument. I only have a couple of points which I want to make, really out of a deep concern on principle.

**Sen. A. Mark:** Mr. President, for the record, in my contribution I did not attribute to any one of my colleagues any interest. The point that I made is that some people in the society have access to a certain kind of professional advice that others, for all kinds of reasons, do not.

**Sen. D. Mahabir-Wyatt:** I specifically referred to Sen. Wade Mark as having attributed interest to various other persons, not to Sen. Ainsley Mark. Sen. Wade Mark spoke about big business and what not.

**2.50 p.m.**

Mr. President, like Sen. Ainsley Mark, I was very concerned at the time, it was a couple years ago, when there were failures of various financial institutions, and I, too, knew a number of people who were completely wiped out by those tragedies. In fact, many of the people whom I knew are dead now. They lost everything. They were mainly people who were elderly, a number of them single women, widows, people who were elderly and alone and for whom there was very little comeback, because they just had nowhere to go and no help.

I, too, am very concerned that the Financial Institutions Bill provides the power, the authority, so that this will never happen again, and I sincerely hope that this will never happen again. I would just like to get some reassurance, however, when the hon. Minister winds up, that this Bill does, in fact, not only provides for that sort of power, but that it will also be implemented. Because it seems to me that under the Act that this Bill is replacing, the Inspector of Banks had considerable powers but they did not seem to have been used. Those powers that existed under that Act were there but nothing happened in order to save the poor people, the small people, that Sen. Ainsley Mark referred to. I would like to get some sort of reassurance that this will just not be another Bill we are passing on paper, but that it will, in fact be implemented.

Secondly, I would like to refer, as a number of people did in this debate, to Article 22, which is the transition provision in the Bill. We have listened to quite an interesting debate about the Basle Agreement, and I was relieved to hear Sen. Ainsley Mark point out that the Central Bank will be guided by the Basle Agreement. But when he read out the section, I think it was from Article 6 of the Basle Agreement, he indicated that—I do not have the exact words written down; I tried to write as he was speaking—but what he had said indicated to me that the restrictions that had been put under the Basle Agreement in Article 6, were the limits considered reasonable. There were guidelines that were very clear there. Article 27(7) of the Bill that we have before us stipulates that the transitional arrangements have to be taken through all reasonable provisions within four months, but there are no guidelines as to what these reasonable provisions are. I think it might reassure a lot of people if those guidelines were present. There is no specification as to what is reasonable in this legislation.

This brings me to my third point—and I expect the Minister would reply—that the specifications as to what is reasonable will be put in the regulations. As a matter of principle, I find that it is very dangerous to give the power in legislation to any body, any organization, to pass by-laws and regulations which are not, in fact, going to come to this Parliament. It is almost like giving the Central Bank the power to be a government in itself. Some four or five years ago, I was approached by certain officials in the Central Bank who were trying to find out from people in the community, as a whole, what general impressions people in the community had about the Central Bank. I thought about it for a long time before I contributed to this particular project, and when I did, I said that one of the concerns that I had picked up, not only from myself, but from a number of other people in the community, was that the Central Bank appeared to feel and act as



though it were a government apart from a government; that it had powers by itself, that it was not going to cede an inch off, and that these powers could be exercised without too much reference to anywhere else.

It seems to me, as it seems, I think, to a number of people who have contributed to this debate, that this Bill is going to extend that power. We know that no institution that has power ever wants to give up even a small part of it. This is part of the nature of power. But I think that we must remember that Parliament is paramount, and to allow anybody in an organization, especially in this country, which is as powerful and as important as the Central Bank, to pass by-laws without referring these to Parliament for its approval, is extremely dangerous and I hope the Minister will address this in his response. Thank you, Mr. President.

**Sen. Rev. Daniel Teelucksingh:** Mr. President, I should like to begin with an observation arising from the *Trinidad and Tobago Express* newspaper of Sunday, May 30, 1993. Sen. Spence also made reference to this article during last Tuesday's sitting of the Senate. I have read with interest and surprise that a newspaper report which sees the Financial Institutions Bill, 1993, in the context of Government's fulfilment of conditionalities of a US \$100 million loan from the Inter-American Development Bank—Sen. Spence used that article last week and I feel that if I am wrong, I am not too far wrong; I am in good company:

"...the loan programme will target investment 'constraints' in the financial sector. The Government is thus committed to improve regulation of banks, financial institutions and the securities industry.

The programme encompasses the Financial Institutions Act which strengthens the Central Bank's regulatory power over commercial banks and other money market companies."

The hon. Minister in his overview gave to this Senate the impression that the Financial Institutions Bill 1993 arose out of Government's concern to protect the interest of depositors and other customers at our financial institutions. The question I ask myself and the hon. Minister: Whose concern, really, gave birth to the Financial Institutions Bill, the Government of Trinidad and Tobago, or the IDB? May I enquire of the hon. Minister what truth there is that this Bill we are considering, is influenced by loan conditionalities?

Mr. President, excuse my momentary deviation, but I need to say this in the context of how I feel about this whole business of the origin of this Bill. The fear is not imaginary and unfounded in Trinidad and Tobago that so much of our life

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in this country appears to be governed, controlled, manipulated, directed, administered or regulated by outside forces. Why should we be silent about a new imperialism in which powerful nations interfere and become involved in so many domestic matters of developing countries? Freedom from the IMF but bondage to the IDB is no freedom at all.

Concerning the Bill, we are aware that over the years this nation has formulated good legislation. Our problem has been our failure in effective implementation and the proper enforcement of these laws.

Several good systems are in place. We do not really need outsiders to tell us how to arrange our affairs and manage them. We have good systems and legislation in place and if we are not careful, this precious Financial Institutions Bill 1993 will be no more than a paper tiger.

**3.00 p.m.**

Mr. President, while we applaud the intentions of the Bill, we must express our concern as to whether the Central Bank Inspectorate will indeed function with efficiency and effectiveness. For example, it is no secret that at present there are certain commercial banks which observe that whenever responses are required from the Central Bank, these take so long. Very important matters are hardly ever processed in a timely manner. Certainly such laxity, if allowed to persist, will undermine the serious intent of the Bill.

Of equal significance is the need for the Central Bank to maintain the professional competence, the astuteness and the capability of its servants, in order to detect problems in good time, so that disaster could be averted.

Mr. President, the hon. Minister hopes for the sharing of information. This, I believe, is easier said than done. I do not think that this is an easy task—to believe that the institutions will be sharing information freely. This is not my impression of life in Trinidad at all. I rather think that the challenge for the Central Bank will be more of obtaining and extracting information. This, I believe, the Central Bank must be equipped for: To penetrate the wall of secrecy, characteristic of several financial institutions in this country.

Part IV of the Bill, with its prohibition clauses, I hope will be of tremendous help in controlling the rise and spread of corruption. The prohibition clauses of unsecured credit facilities to directors, managers, officers or employees are commendable. I wondered, when I read this part of the Bill, whether such prohibitions arose because of allegations in past years that certain company

personnel might have feathered their nests with funds entrusted to them, particularly, in the non-banking financial sector.

Mr. President, due to the unfortunate experiences with non-banking financial institutions, several of our citizens continue to question the stability of certain finance companies, banks included. We were informed that one of them, Principal Finance Company, was ordered by the Central Bank to suspend business in August of 1991, and it is only this year, on May 12, 1993, that the company folded-up on a court order. This is our latest example of the unsteady and changeable nature of certain of these finance houses.

Senators Ainsley Mark and Mahabir-Wyatt well illustrated and made reference to several of our citizens who have lost their life savings and were reduced to penury by the collapse of some of these institutions. It is appalling to learn that to date the total loss of depositors' money on the closure of non-banking financial institutions, amounts to approximately \$359.2 million, and this does not include payments via Depositors' Insurance. What has become of \$359.2 million? Sen. Ainsley Mark talked about the small people's money. This is it. Up to now there has been no satisfactory explanation of the loss of this vast sum of depositors' money. Scotland Yard or the FBI should have been brought in a long time ago to help us solve this mystery. Directors, managers or servants of certain companies have declared bankruptcy, and thereafter seem to be absolved of any responsibility whatsoever. As easy as that. In another country, someone would certainly be facing criminal charges.

Mr. President, I would like to draw to the attention of the hon. Minister a matter concerning the Deposit Insurance; other Senators made reference to this insurance. Some bank customers—I am talking about protecting the public—are unaware that the maximum coverage on a single client's name in any one bank is \$50,000.00. But the public have not been told that in any particular bank you are covered only up to \$50,000.00. Beyond that there is no coverage for that client in that particular bank. But, the situation is like this. The competition in Trinidad is so fierce in the money market that certain banks have been receiving in excess of \$50,000.00 in one person's name, and clients have not been properly advised that deposits in excess of that sum may be transferred to another bank to ensure coverage. They are not advised of alternatives.

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Sen. Ainsley Mark talked about building confidence in the system. He was quite right in saying that the public should be protected. I want to add that the public has to be informed and educated. I hope that the clerks and others in the banking system will assist in educating and informing their clients rather than keeping this thing as a secret, when, in truth and in fact, their clients are exposed to all kinds of dangers if there are problems within the system of that particular bank.

Mr. President, one feels very uneasy with the main feature of this Bill. I think, is the concentration—and other Senators have so well elaborated on this—in one place, of what appears to be power absolute. If we are not cautious, we can certainly create a Frankenstein.

Therefore, Sen. Daly's proposed amendments deserve very close attention. I am glad this debate was prolonged to give the hon. Minister, and the Government, a chance to look at the various amendments suggested and proposed, particularly those which prefer the inclusion of the hon. Minister in matters of regulations and other instruments in the Bill. Also of equal significance is the Senator's suggestion of a committee on banking supervision, which I endorse. I hope that he will agree to include in that committee, one other person, independent of the administration of the Central Bank, or other financial institution.

Mr. President, I thank you, very kindly.

**3.10 p.m.**

**The Minister of Finance (Hon. Wendell Mottley):** Mr. President, this has been a long debate in which the Government has been listening earnestly to the recommendations coming from the Senators on the Opposition and Independent Benches, because this is important legislation.

It affects the nation's commerce in a very vital area. It in fact touches on the banks or the lenders. It touches on the borrowers who are the engines of our commerce and it touches on the depositors who put their money there for return, and for security, and all three parties come together in a system, the integrity of which holds up our economy. It is important that the Government hear all views on this and attempt to arrive in the end at some balanced judgment as to how legislation should finally be enacted. It is not easy for the Government or for the Central Bank because we work in between different interests. I can quote here from an article, "Leaders". *The Economist* of May 8, 1993 is speaking about the

role of the bank supervisor. *The Economist* comments that the bank supervisor's lot is, in fact, a very difficult one. It goes on to say:

"Depositors whose savings are at risk and the taxpayers whose money is used to stop one bank collapse from knocking down the entire banking system..."

that is what is at play—

"Yet if a supervisor is too vigilant..."

the Central Bank supervisor.

he is, lambasted for sheltering banks from the discipline of the market or the effects of their own blunders."

This, in fact, is the Scylla and Charybdis between which we attempt to move. The facts are that this legislation has been looked at for a very long time. It goes back to the 1980s. We have seen the requirement for this legislation since the mid-1980s when we moved then to put in the deposit insurance. And from experience since then, a previous Government, not this one, started discussions with the Central Bank, which form the genesis of this legislation that is before us today. In fact, the proposals were submitted and as early as 1991, there was a bill in some shape or the other—a brief. I say this so as to deal with some of the comments of Sen. Teelucksingh which implied that this legislation has its genesis in diktats coming from the IDB. That is not so.

The IDB loan, an investment sector loan, is something that is quite current. It started a year ago. The genesis of this legislation preceded that by more than a year and we have possession of this legislation. We have an interest in this legislation. And it is becoming far too facile to beat these multinationals over the head and have them as the bully sticks, whereas in fact, many of the things that they may touch on tangentially or otherwise, deal with matters of fundamental importance to the people of Trinidad and Tobago, as this legislation does.

In saying that, I want this honourable Senate to know that whereas we are in charge and we brought this legislation in our interest, nevertheless it does have international concern. We operate in a global village and if we do not have links and ties and learn from the experiences of other countries and incorporate those experiences ourselves, we would be very foolish. In addition, other jurisdictions, as I pointed out, have interest in what we do here. We are not so big and so powerful as to say we do not care and they have no influence on our business here.

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I have here, for instance, just to illustrate the point, a comment in a matter that is being heard in the Senate Banking Committee in the United States Congress. They are concerned about matters in the Caribbean, not specifically Trinidad, but matters in the Caribbean relating to offshore non-bank financial institutions including insurance companies as they affect—money laundering, drug matters and the ability of their financial institutions to deal with financial institutions in the Caribbean. They have an interest and they are looking into it whether we like it or not. They have powers of persuasion. This has nothing to do with the IDB or IMF. This has to do with the US Senate and their oversight, not only over their own banking, but also over world-wide banking. These are facts. We need to have this understanding of the world in which we operate.

Let me deal with the genesis of this Bill again and also point out that not only has the Government been listening to hon. Senators, but to the other interested parties, the borrowers and the commercial banks. The commercial banks have seen several drafts of this Bill and they have made their comments. Comprehensive proposals in respect of new banking proposals were submitted to the commercial banks on November 18, 1992 and we have had the benefit of their comments. Several of these comments have already been incorporated in the Bill before you. Just to give you some examples. Based on the submission, the following matters were amended in or deleted from the Bill.

The proposal was to allow NFI in to carry out banking business although the Bill has been amended to allow the banks to carry out the business of NFI while core banking business is restricted solely to banks.

The proposed restrictions on financial institutions carrying out insurance agency, stock broking and real estate functions have been removed. They will now be able to conduct insurance agency business on a date to be proclaimed.

The definition of the business of banking has been amended in accordance with the bank's suggestion.

I only mention this to give you an illustration of the extent to which there has been consultation on this Bill.

As, I said, the Bill incorporates concerns reflected by the commercial banks and by their borrowers but, it also must concern the interest of depositors. We have gone through an experience in Trinidad and Tobago that hon. Senators are only too aware of.

Sen. Diana Mahabir-Wyatt very poignantly put the case and experiences of some of the depositors. I am sure that Sen. Teelucksingh in his other capacity may well have to minister to some of these depositors, often very old people, who put their money into institutions which they counted on, but when they needed that money most, at the time of retirement, that money was lost. In fact, the deposit insurance legislation came late in the day.

Therefore, many people were caught uncovered and, even so, I have figures to show that \$50,000—that is the amount that Sen. Teelucksingh referred to where you have coverage in one particular bank for one individual—for many people who were investing perhaps imprudently, their life's savings to carry them to the point when they departed this world, it is not enough. They had more than that and often these elderly people put it in one institution.

**3.20 p.m.**

I have the figures before me, the ages of the people, their professions, retired teachers et cetera.

**Sen. Hosein:** Mr. President, I wonder if the hon. Minister would care to share with us whether he plans to increase the deposit insurance to perhaps \$100,000?

**Hon. W. Mottley:** Mr. President, in all of these matters insurance is something you pay for and therefore, the first requirement is to control the damage. If after that we then want to go and look at it and say whether having controlled the damage we feel that \$50,000 is too low or whatever, that is the next item on the agenda; not the first item on the agenda. The first item on the agenda is what is now before us.

We have to get this system sound. The tragedy is that innumerable people suffered, tragically, losses from which they cannot recoup. It is not only ordinary folk and elderly people, but also, often, big institutions. Big institutions put money in several of these non-financial institutions and into the BCCI. Again I do not want to call names, but I want Members on the other side to know that this went right across the board in this society—not only the elderly and the infirm, but also big names as well as major institutions, and institutions investing on behalf of pension plans. The shock of that is still being felt.

Therefore, we need to understand that where we need to put caution, we need to err somewhat on the side of the depositor. In addition to that, we have to understand that this is a youthful country and that many people put money after

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names of people whom they believed in. Sen. Mark spoke particularly about mighty men in this society whom ordinary peasants with their last life savings put their money by. And that is totally gone. We have to understand, therefore, what it is we are talking about.

It goes even beyond that. We must not only look at the interest of the borrower, the lender and the depositor, but also the integrity of the whole system. What we are talking about—mismanagement could bring down all of Trinidad and Tobago. We have to tell you that there have been instances in the past, where in the absence of this type of legislation, major commercial banks, not the second league, have so over-extended their lending to particular borrower groups, that it has gone beyond all reason and prudence.

There is a belief that is typical that beyond a certain size, it cannot fail. I remember at a certain stage this was so true in Korea which is particularly strong in its conglomerate organization of business, and banks continued to lend to conglomerates because the conglomerates had reached such a size that they were too big to fail. That was the concept, and yet, of course, conglomerates began to fail in Korea, and the havoc that was reaped wrought in the banking system back then was enormous.

We have had the experience right here in Trinidad of similar over exposure and the need for the Central Bank to come and protect the borrower. I should not say that—the intervention of the Government *cum* Central Bank to protect the borrower, to protect the lender, so as to stop at that time the whole financial system from caving in.

I do not want to over exaggerate these things, but it is as well that Senators and the public understand this. There are sensitive matters; as Minister of Finance I do not like to get into too many details because, frankly, even after the last debate and some of the things that were said by some of the Members on the other side, there started to be problems, queries and nervousness. So, especially as Minister of Finance, I have to be careful. I say these things only to alert you that we are not talking theory here. We are talking real live wire business.

**Sen. W. Mark:** On a point of clarification. At the last sitting, last week Tuesday, I think it was Sen. Mansoor who made reference to some insolvent bank in this country. I have noted in the newspapers where the share value of a particular bank has collapsed by 14 cents. I am wondering if the Minister could shed some light on this matter because it has very grave implications for our



country and economy. I would like him to shed some light on this statement that was made by Sen. Mansoor—which I consider to be extremely serious.

**Hon. W. Mottley:** I would suggest that the hon. Senator go to Sen. Mansoor for that information.

Let me go on to talk about some of the clauses raised by Members on the other side. We have circulated a number of amendments which Members on the other side would have received. I understand that they are about to be circulated and therefore they would not as yet have had the benefit of going through them in detail. So, perhaps I should go on for a little bit longer in the hope that these amendments may be circulated.

I will deal with one amendment that Sen. Daly raised and which was referred to by several other Senators, and that is the question of the committee on banking supervision.

**3.30 p.m.**

What is argued on the other side is that the way the Central Bank legislation is written, it says that the Central Bank has powers to amend a licence, suspend licences, issue cease and desist orders et cetera. The fear is expressed on the other side that the Governor or the Inspector of Banks, acting at their sole discretion, out of a fit of moon madness, irrespective of findings and so forth, before the right of appeal could be heard and sorted out, could do a great deal of damage to particular financial institutions.

The facts are that the Central Bank acts in its capacity, as outlined in the Central Bank legislation, and the Governor acts on the decisions of the board or as delegated to committees of the board. I understand the concerns expressed by Senators, but, at the same time one does not want to so hamstring the decisions of the Central Bank that they cannot act quickly and in emergencies. The case of the closure of BCCI is a very relevant matter. Acting quickly was absolutely necessary once the information about the actions of the Bank of England had been transmitted to the Central Bank here. There was no question then of finding a full board and giving the board the requisite notice of meeting. So that you have to have some flexibility in the system.

We have heard what Members have said and we have attempted to deal with some of their fears in some of the drafting that we will now circulate. The

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question of why we did not exactly follow the precedent set by the Bank of England and the Board of Banking Supervision is something that I should take up.

The Board of Banking Supervision in the United Kingdom, according to their Banking Act, has, in fact, very little power and I do not think that if we had adopted this wholesale, it would have met the concerns of hon. Senators. The Board of Banking Supervision has only a general power to express disapproval of any decision of the Governor of the Bank of England and they will let that disapproval be known to the Chancellor of the Exchequer and no more. The matter rests there, they have registered a protest, but the power of the Governor of the Bank of England continues unabated. I think hon. Senators need to know that about the legislation as written.

**Sen. Daly:** We have the great problem that the amendments have not been circulated even though they were promised a week ago. The point is that no one, as far as I am aware, has proposed any amendment aping the Board of Banking Supervision in the United Kingdom, for precisely the reason the Minister is articulating. My amendment proposed a committee that is very different and that has real power and would have to give its prior approval before the Central Bank acted.

**Hon. W. Mottley:** I heard the course of the debate and I specifically remember the matter being raised as to why we would deliberately, if we had taken so much of the English legislation, not specifically take this over lock, stock and barrel. These are some of the difficulties I point out. I regret not having had the amendments circulated, but the Attorney General assures me that they would be with you in a matter of minutes.

The regulations, and especially the heart of the regulations, which are the prudential criteria, have been with the commercial banks for quite some time. They have been discussed with the commercial banks and it is not going to be a surprise that they are faced with suddenly one Monday morning. The prudential criteria are here in great detail and the actual criteria have been the subject of detailed discussions, originally with assistance from people in the developed countries—the Bank of England, the Federal Reserve—and then discussed here with our commercial banks.

I do not believe that the fears being expressed about arbitrariness of the Central Bank are justified. Indeed, the picture is being painted of such an arbitrary Central Bank staff that, in fact, what would happen if one were looking at the

whole system and the need to protect the whole system, especially in a situation where there is some large borrower group. If the shoe were on the other foot, you could find equally arbitrary actions on the part of a chief executive of a large borrower group that could be even more destabilizing in terms of the exposure of some of the banks themselves.

So that, I do not follow the arguments being brought forward as to the history or possible arbitrariness of the Central Bank. The Central Bank will act in accordance with the Central Bank Act, the parent legislation, amendments to which will be brought to this Senate, and the Central Bank remains accountable to this Parliament. We can change the legislation; however, the facts are that the Central Bank is an institution, in common with other Central Banks across the world, where we are attempting to give some degree of independence to the Central Bank itself. The Bank of England has a great deal of power, far more power than this Central Bank, much more the Central Bank of Germany which goes to the extreme of independence from the Parliament and the German government.

So we have to understand that we are creating institutions in Trinidad and Tobago. There are risks, but one must look at it in balance and understand that the Bank acts in concert with a board and that the board is constructed in a certain way. The ministry does have representation on the board and, in most instances, except in emergencies such as happened with the BCCI, any action on the part of the Central Bank would have been the result of a long process of discussions with a defaulting institution.

It can never be contemplated that a situation will develop in which, overnight, a particular bank comes into such breach of the regulations as promulgated by the Central Bank, that an overnight decision is required by the Governor. It would be through gradual slippages, failure to comply with cease and desist orders, overreaching on capital adequacy ratios et cetera and an exchange of correspondence over time, before the kinds of actions are contemplated, and therefore, the involvement of several tiers of management of the Central Bank and ultimately the board. So that, Mr. President, I do not contemplate the worst fears being expressed by Senators on the other side.

**3.40 p.m.**

Mr. President, even in the banking fraternity here in Trinidad and Tobago, it is to be noted that those banks that still retain connections with parent banks in the

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major financial centres of the world recognize, as a result of the contact with those parent banks, that this legislation is relatively mild, compared with the legislation that they have to deal with in the metropolitan countries. Because the experience of those countries has been, especially over the last two years, not very benign. And the weight of opinion is that the Central Bank has to be extremely vigilant, to be very pro-active and must have very severe powers of intervention and restriction. In the new era of free trade, fast movements, liquid movements of capital, regulation is absolutely essential; and I think I made this point very early in the debate when I especially stressed that banking was no longer a gentlemanly agreement. The world has gone far beyond that.

One of the most serious complaints about the Bill coming from the other side is the question of the transition arrangements. Obviously, with regard to secured and unsecured credits, the Central Bank has fixed certain percentages for compliance in relation to the capital of the banks, which are percentages that have come out of the experience of the developed countries, and enshrined in the Basle Agreement, and which experience is dictating to us, in the interest of the preservation of not only the depositors, but also the security of the whole system, that we need to have as targets. But, obviously, one cannot arrive at the target overnight, our history being that we have vastly exceeded the bounds of discretion and prudential criteria. That is where we are today. The Central Bank understands, and certainly I, as Minister, that we cannot drive the system into urgent and immediate compliance with what is conceived as good, normal banking practice. A great deal of discussion has taken place between the banks and ourselves on this matter. We have compromised because we take Sen. Daly's and Sen. Mansoor's point that if we too rapidly pushed the banks into compliance, it could have the effect of so shocking the system as to cause sell-off of bank loans under forced conditions, and generally be disruptive of commerce. But at the same time we have to be mindful that where we are today, we are over-exposed; and bearing in mind all that I have cited before in terms of what has happened to depositors and the real risks—not theoretical, but actual risks—actually experienced in the relationship between certain borrower groups and certain large commercial banks, we need to have a goal set by somebody like the Basle group and we aim to that group. But how do we get there?

After discussions with the commercial banks it was felt that we should leave the legislation as it is and by side agreements we would proceed to arrive, without any finite date, at compliance with the Basle code. However, upon due reflection and in the understanding that present players may not always be around, we felt it

better to enshrine that understanding in the legislation; and therefore we have brought that into the amendments, that, I believe, have now been circulated, in which we are attempting to have five per cent enshrined more urgently for single borrowers but recognizing that borrower groups, such as conglomerates and so forth, who are presently exposed would need more time to comply. Therefore the amendments seek to stretch that out over as long a period as eight years, but with some milestones along the way, so as to make sure that no institution so back-loaded the transition that we became embarrassed by an indigestible *fait accompli*, the morning before the expiry of the transition period.

So these are our intentions, to put as much flexibility into the system as the Central Bank had originally contemplated in a loose arrangement that it wanted to strike with the commercial banks. But in recognition of the dangers of that, we have stretched the period out over eight years and put certain milestones along the way for implementation, which we hope, will meet the concerns expressed by hon. Senators.

Mr. President, there were some other matters that we have responded to. The discretion to require an increase in the capital of a financial institution. The Central Bank will most likely request a licensee to increase its capital if the Central Bank were of the view that the interests of depositors were at risk. The provision restricts the freedom of the financial institution to operate, but serves to protect the interests of depositors.

The question of credit facilities to an affiliate. We have agreed to this amendment. Also clause 42, the information in respect of affiliates. Again, we see that this could be cumbersome especially where all of these financial statements could be required and automatically triggered and we have, therefore, sought to retain some flexibility where the Central Bank could call for specific balance sheets, rather than have all of them automatically triggered.

Mr. President, those were some of the major amendments. If I could come back now to some of the specific matters raised by Sen. Mahabir-Wyatt as to whether, after all of this trouble, the Central Bank could still find itself in the predicament of not protecting the depositor.

**3.50 p.m.**

Mr. President, regulations and legislation like this are not a guarantee against bank failures—we have to understand that—but they certainly go a long way, especially in providing the intermediate powers that were so sorely lacking in the

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earlier legislation. The major point about the earlier legislation is not that the Inspector of Banks was idle. Often times the Inspector of Banks knew of situations, and there were reports, but he lacked the tools to correct the flu before it developed into full-scale pneumonia. Only at the stage when, on death's doorstep, did he have the Draconian power to go in and close it all.

This is what we are seeking especially to stop. The cease and desist orders are a major departure in this legislation from what went before. I am extremely confident that by building on the real supervision that is taking place, and has been taking place for quite some time now in the Central Bank, we shall now have the power to do those little things to pull back institutions before they reach the point of no return.

I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

**Sen. W. Mark:** Mr. President, before we go further, Sir, may I say that we are finding it very difficult on our side to digest these amendments in a few seconds. These things were just put on our desk. In fact, they are not even properly before us. I did not get a seconder on these amendments at all.

**Mr. Chairman:** No seconder is required.

**Sen. W. Mark:** I am guided. But, Mr. Chairman, I think that we need to have some time to study these matters. I would want to propose that we adjourn on this matter. It is madness to expect Senators to digest this matter in two seconds. There are some amendments here that we would like to look at carefully. So I want to propose to the Minister of Finance that he adjourn this matter until next week Tuesday. What is the rush?

**Mr. Chairman:** All right, Senator. You have made a point; you are getting a response from the Leader of Government Business. It is suggested that we suspend the sitting at this stage to give Senators time to consider the matter. The question is, do you want just half-an-hour, or a little more time?

**Sen. Capildeo:** Mr. Chairman, with all due respect, I am trying to write in the amendments on the Bill and I have only reached here. It would take me at least half-an-hour to write it and then some time to look at it and consider it. I think it is physically impossible to do it today.

**Mr. Chairman:** Can you say whether the amendments are based on those that have been proposed by other people?

**Sen. Daly:** I appreciate the feeling on these amendments and I appreciate also what the Government has done, but I do not see how we can digest this and deal with it intelligently today. I agree with Sen. Capildeo—you have got to lay it alongside the material that we already have. I, certainly, only just got the revised version which does not have all the typographical mistakes. I got that only today; that is this one. We have now got these amendments; we have to lay them side by side, even with the old Act. Actually, before the Minister began his winding up, we did not have the amendments. I do not know whether one can be expected to make a useful contribution against that background.

I emphasize, I appreciate what the Government has done, but I do not see how one can operate sensibly against a background like that. The amendments were not even available when the Minister began to wind up. My amendments, certainly—you asked the question, with respect, Sir, whether they were based on amendments that were put before. My amendments have been in circulation for two or three weeks, and we got this a few minutes after the Minister started winding up.

I would do the best I can, but I do not know that it is fair or it is a good practice to operate on that basis.

**Sen. Saith:** Mr. Chairman, I would suggest that we deal with it. I would ask that the Senate meet at 1.30 p.m. tomorrow—

**Sen. Capildeo:** Mr. Chairman, we have, at least, to be given the opportunity to look at the amendments and place them in context with the Bill; then we have to study them, and then we have to go back to the people who advise us and get their inputs. It will take some time. Some of us are geniuses, but we still need some time.

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**Mr. Chairman:** Before we go into too much more detail, I think the best thing at this stage is to suspend the sitting, and behind the scenes certain suggestions and discussions can take place, and when we resume we would decide what would be done.

**Mr. President:** The sitting will be suspended for 45 minutes. We will resume at 4.45 p.m.

**4.00 p.m.:** *Sitting suspended.*

**4.45 p.m.:** *Sitting resumed.*

#### BUSINESS OF THE SENATE

**The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith):** Mr President, I beg to move that the committee stage of the Financial Institutions Bill, 1993 be taken at the next sitting of the Senate on Monday June 14, 1993 at 1.00 p.m.

*Question put and agreed to.*

#### ORDER OF BUSINESS

**The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith)** Mr President, I beg to move that the Private Motion by Sen. Wade Mark dealing with the Immigration (Amdt) Regulations be taken at this time.

*Leave granted.*

#### IMMIGRATION (AMDT.) REGULATIONS

**Sen. Wade Mark:** Mr. President, I beg to move, the following motion:

*Be it resolved* that the Immigration (Amdt.) Regulations 1993 which were laid in the Senate on May 4, 1993, be annulled.

Mr. President, we have a very important amendment to the Immigration Regulations 1993 which were laid in the Senate on May 4, 1993 and issued on April 2, 1993.

In the *Express* of Saturday, March 20, 1993 on page 3, there is an article headed "Up to 30 days no work permit". I shall quote this section of the article:



"Any person coming into Trinidad and Tobago to work for a period of 30 days or less will no longer need a work permit or be required to obtain a written exemption.

This was announced by Minister for Public Administration and Information, Gordon Draper yesterday.

He said Cabinet agreed to amend the Immigration Regulations to facilitate gainful occupation of non-nationals and agreed that upon promulgation, the Order would be implemented by the Chief Immigration Officer at the ports of entry into Trinidad and Tobago.

Draper said Cabinet took the decision after consideration of the fact that the country was at the stage where continued employment of restrictive immigration practices in the field of commerce, art, culture and sports cannot be allowed to continue. In addition, Government recognised that several skills needed were not available locally..."

I repeat:

"Draper said Cabinet took the decision after consideration of the fact that the country was at the stage where continued employment of restrictive immigration practices in the field of commerce, art, culture and sports cannot be allowed to continue."

This was Saturday March 20, 1993.

Subsequently, we had an amendment being made to the regulations under the stamp of Sen. Russell Huggins, Minister of National Security. This amendment has come against the background of the Government's commitment to fully liberalize our economy. They have become fully intoxicated by the spirit of liberalization. What has happened is that many decisions have been taken and this particular decision will have serious consequences for our nation's sovereignty, integrity and independence. I believe that the Minister, as one former Commissioner of Police said, "means well, but he is knowledgeable".

Mr. President, I believe if we examine what has happened in our country over the last 18 months, we would understand why this Government has taken the decision to free-up the immigration rules. When we read the newspapers, as was referred to earlier, we see that it is free-up everything; trade liberalization, the flotation of the dollar, the sell out and privatization of a number of state enterprises; the threat to destroy the nation's entire agricultural sector.

What we are dealing with is an issue in which the Government of Trinidad and Tobago has actually amended the immigration regulations of this country to permit foreigners—be they Philipinos, Americans, Japanese, Chinese or wherever they may come from—to come into this country to work for 30 days and under without obtaining the relevant work permit that the Immigration Act, Chap. 18(1) says they must obtain.

Mr. President, do you know what is even more disheartening about this experience that we have recently had? The hon. Minister of National Security, in his normal 'Rambo' style—the arrogance and insensitivity of the man is unbelievable. Absolutely no consultation with the trade union movement. Those who operate in the marine industry, the small contractors, were not consulted by the Minister of National Security. The Cabinet took a decision, unconscious of the existence of a number of important organizations that are going to be directly or indirectly affected by it.

Mr President, I have in my possession a number of pieces of correspondence that were written to the hon. Minister of National Security by the Seamen and Waterfront Workers' Trade Union, seeking an audience with him, and, as we speak today, not a single meeting has been held; they literally begged the Minister. It did not end there.

**Sen. Huggins:** Read them! Read them!

**Sen. W. Mark:** You have already read them into the record. Mr President, the hon. Minister, in his normal style would have his opportunity to speak. I want to indicate to this Senate that the National Trade Union Centre had to intervene in an effort to try to represent the Seamen and Waterfront Workers' Trade Union, the union having been ignored by the hon. Minister of National Security. I am the Assistant General Secretary of NATUC, that very important body in this country.

**4.55 p.m.**

This letter is dated May 13, 1993 and it is addressed to the hon. Minister of Finance—who has left us here already. I want to read this one for the record [*Interruption*] 'Rambo' take your time. It reads:

"Dear Sir,

I refer to preliminary discussions that were held last Monday between your good self and the delegation of the National Trade Union Centre of Trinidad and Tobago (NATUC) in respect of the negative effects of the amendment of the Immigration Act, Chap. 18:01 and cited as Immigration (Amendment) Regulations, 1993.

The National Trade Union Centre has two (2) of its principal affiliates, the Oilfields Workers' Trade Union and the Seamen & Waterfront Workers' Trade Union, whose members are engaged in the Maritime Sector and more particularly in the Offshore Drilling and Pipe Laying Operations. A number of these offshore operations are of short duration and over the years both affiliates were able to secure job opportunities for nationals of Trinidad and Tobago on Seismic Survey Vessels, Pipe Laying Barges, Construction Barges, Crew Boats, Drilling Platforms, etc.

The Problem which exists at the moment is that foreign companies do not need work permits for their manager or any other worker outside of Trinidad and Tobago, as long as they do not exceed a period of thirty (30) days.

The National Trade Union Centre could not perceive therefore, that it was the intention of the Government to impose a new regulation, which will deprive hundreds of our Nationals job opportunities, that they have been performing over the last twenty-five (25) years.

It is in this regard, that the National Trade Union Centre wishes to meet with you at your earliest convenience to discuss and hopefully resolve this problem."

Respectfully yours

NATIONAL TRADE UNION CENTRE OF T&T

Signed/Francis Mungroo

for/Mr. Albert Aberdeen.

PRESIDENT (AG)

Mr. President, this was dated May 13. We have not had the courtesy of even an acknowledgement from the hon. Minister. So the National Trade Union Centre, a very important stakeholder in the stability of this country, has not even received an acknowledgement.

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The Seamen and Waterfront Workers' Trade Union was simply sidelined by the hon. Minister of National Security, Sen. Russell Huggins. Absolutely no consultation. I have a whole hour before me and I would imagine, Sir, if you guide me—

I would like to advise that this kind of Gestapo approach to very serious national matters has to stop. We demand consultation and we believe that the workers of this country, after 25 and 30 years experience in that field, ought to be given the kind of respect that they deserve. The effect of this amendment—and this is why it was said that Sen. Russell Huggins means well but he seems to be knowledgeable. The hon. Minister continues to harp on the fact that the Immigration Regulations that he has amended have not been abused as yet, and if you have evidence bring it to him. So I have to police the place to bring evidence for the Minister of National Security.

This particular amendment has affected scores of workers in the OWTU and the SWWTU. So far we understand that because of our intervention, some 20 anchor handlers who were supposed to come in here on a particular barge have now been held back, and they are now calling on the Seamen's union to supply a couple, maybe about four or six. And it has to do with the pressures that we are unleashing at this level.

That has to do with the workers. What about the small businessmen who are operating out there? There are hundreds of small operators in the offshore industry. That industry employs over 5000 people. We feel that the Government has not taken this matter seriously. We know that very shortly—I think it is on Monday—a barge is expected to come into this country, a barge that I understand is going to be carrying 256 foreigners, and they are here to do phase two of a job they started in 1992. They are going to continue the installation of a platform and the laying of pipelines in the Flamboyant Field and the SEG field on behalf of Amoco. I refer to a company from Italy called SAIPEN which will be coming down here on Monday.

Mr. President, the hon. Minister must know that in June last year SAIPEN advertised locally for diving support that was equivalent to US \$1.5 million. Three major small local diving companies tendered for the projects and they all failed. SAIPEN awarded SAIPEN the contract. So they advertised and they awarded themselves the contract at the end of the day. Only about US \$40,000.00 was

awarded in jobs to a local operator. So a foreigner came into the country and went out of the country with US \$1.5 million.

Some thirty foreign divers were involved in the project, and we have divers right here. Those people were all granted work permits by the Minister of National Security. With the lifting of the restriction to allow foreigners to come and work for 30 days and under, a massacre is going to take place now. The experience out there is that you work for 28 days on and 28 days off, and the Minister of National Security has amended the regulations to allow foreigners to come and work for 30 days. So it is no big thing. They bring a barge with 250 men. They work for a certain period of time in gangs and they go back home for 28 days, and return 20 days after. And we have nationals here who are qualified.

The name of the vessel that is going to be arriving shortly on the second phase of this project is the *Castaro Otto* of Italy—I have the listings too and I know the names of the persons and their nationalities: 256 foreigners are coming to invade our country on Monday. Just as how the Yankees brought 5,000 recently and invaded St. James. Mr. President, I understand you could not get a room.

**5.05 p.m.**

What we are saying is that this second phase of the project is going to begin shortly, and we want to draw to the attention of the Minister of National Security that that is in fact taking place out there at the moment. Very shortly there will be a number of people in this country.

What we are concerned about, and maybe the Minister of National Security would let us know, is how this Work Permit Committee functions. We understand that in the past there used to be seven persons on it. This time we understand there is one man. It is a one man committee headed by himself.

**Sen. Huggins:** Who is that?

**Sen. W. Mark:** We understand it is he. He should tell us if it is not he. We understand there is a lady who is the secretary to this one man committee. I would not call her name. I know her name very well.

We also understand that whenever foreigners come here and there are no locals to do the jobs they are going to do, once they apply for a work permit it is supposed to be advertised so that nationals can have an opportunity to apply. We

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understand no advertisements have been placed in the newspapers over the last few years. The Minister can correct me if I am wrong. Two years has passed without any advertisements, still permits have been issued by his ministry. We want to know what is going on. Is it "bobol"? What is going on? He must tell us that. This is a serious breach of the country's national interest. We want to know who is in charge here.

The old PNM attempted to dot the i's and cross the t's. It is not so with this so-called new PNM. This regime seems to know the price of everything and the value of nothing.

The Minister must let us know the quantum of revenue that is going to be lost to this country, because we understand that the average cost of a work permit is between \$2,000 and \$4,000. We understand millions of dollars are realized by the Treasury of this country as a result of that work permit arrangement. Now that the Government has eased the restriction on entry, the Minister must let us know how much revenue we are going to lose as a result.

This Minister has been calling for names. He wants names of foreigners who are operating in our waters. I have many names for him, but I would introduce him to a small number today. I want him to investigate those Americans who are now operating on a barge called *Ocean Builder I* without any work permits. They are divers and helpers. We have qualified nationals in Trinidad and Tobago who are divers and helpers and have been sidelined.

This barge was here in 1977 performing a similar job. The only difference is that when they were here in 1977, there were nationals who were diving contractors at that time. That was under the old PNM, but under this wicked new PNM there is a new arrangement where this same barge is here, in 1993. The only difference is that there is a foreign invasion.

There are six Americans operating as divers on the *Ocean Builder I*. I have the names of the following people which I would pass on to the Minister of National Security. These Americans that I have investigated are operating on the barges—

**Sen. Daly:** Mr. President, I wonder if the Leader of the Opposition Senators would give way. I am trying to follow this closely because it is always a difficulty with negative resolution. For us to make any intelligent contribution to this debate, I think it is important that the Senator let us have precisely the names or

such other information so that we can judge whether this law is being abused, whether we should support the amendment, or seek to have it amended. It is important to have that information.

**Sen. W. Mark:** Yes. Mr. President, as I said, there are ten foreigners operating on this barge, six as divers and four as helpers.

<b>Names</b>	<b>Occupation (<i>Ocean Builder I</i>)</b>
Robert Golly	Diver

The Minister of National Security can go out there and meet him and deal with him.

Wayne Cooper	Diver
Len Cobbs	Diver
David Archer	Diver
Claude Holsted	Diver
Joe Guerra	Diver

Then there are four helpers operating in this country without work permits:

<b>Names</b>	<b>Occupation (<i>Ocean Builder I</i>)</b>
Andrew Wilson	Helper
Bill Jacobson	Helper
Brian Cotton	Helper
Richard Hermes	Helper

I am going to pass those names on to the Minister of National Security for him to investigate and take action on this matter, because it is a very serious matter. It involves our national interests. These are just the initial numbers. *[Interruption]* You have Sen. Rooks in the back there. He is in the industry as well. He can give you more.

I am making a contribution in terms of some immediate effects of the amendment to the regulations. I am providing the Parliament with information for the Minister of National Security to take action because what we are dealing with is an amendment that is going to impact on our employment levels in this country. This is what we are concerned about: the immediate and the potential.

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I want to indicate as well that when we deal with the effects of this amendment, we have to concentrate as well on the issue of training because the transfer of technology, the leakage of foreign exchange and the impact on Government's revenue are areas that will have consequences for our society. As you are well aware, the question of training is very important. A few years ago you would have brought down foreigners whom we did not have, or whose skills we did not possess, and we would have nationals working side by side with these foreigners.

What is happening is that you have foreigners coming down here and nationals are unable to work side by side with them because they are coming down here and working for 30 days and under and getting out. You also have the question about the absence of the transfer of technology. Again, because of the fact that these people are working for 30 days and under, we are not able to benefit. You also have a leakage of foreign exchange which we badly need today. A number of local companies face the possibility of being wiped out because of this amendment that the Government has instituted.

I indicated that the impact on the Government's revenue must be told to this House. The Minister of National Security has the information. Let him tell us what will be the impact of this particular piece of legislation on Government's revenue.

The Immigration Act Chap 18:01 gives the Minister of National Security, under section 44 (a), the authority to make regulations for carrying into effect the purposes and provisions of this Act, and in particular to make regulations respecting a number of areas that have been outlined.

Section 44 (1) (h) states:

"the prohibiting or limiting of admission of persons by reason of unsuitability having regard to the economic, social, industrial, educational, labour, health or other conditions or requirements existing, temporarily or otherwise, in Trinidad and Tobago;"

**5.15 p.m.**

Mr. President, when the Minister or the Cabinet made this amendment, did they take this condition into account? *[Interruption]* We are not banning people. All we are seeking to do is to protect our national interests. That is what we are



about. You are about selling out, privatizing and giving away. You have no responsibility to this country! We have!

When we look at this Immigration Act carefully, what we are seeing is that the Minister has a discretionary authority, but we do not understand how the Minister can simply, through his Cabinet, amend the regulations in a way that now allows a foreigner to come into this country without a work permit. That matter should have been brought to the Parliament of this country so that we could have debated it. Who gave the Minister of National Security the authority under this Act to unilaterally amend the regulations of this country to allow a foreigner to come here and work for 30 days without a work permit?

We are querying this. In fact, we feel that this action on the part of the Minister of National Security is illegal. We also feel that the hon. Minister has gone beyond the authority given to him in this piece of legislation.

This matter is an extremely serious one. Whilst the hon. Minister would say that he has not received any reports about abuses of this particular amendment, the reality is that the abuse has started, and I have brought to his attention evidence of it. I would like him to take action on that matter.

This amendment will affect every profession. The only people who I suspect are going to be safe are the President of the Republic, parliamentarians and judges. *[Interruption]* Lawyers are under pressure too. They will be under pressure because the amendment gives the right to any person, in any profession, in any trade or any occupation to come here and work for 30 days and under. So everybody is in trouble.

I am saying that this matter is a very serious one. *[Interruption]* All we are arguing on this side is that the amendments that have taken place without any consultation, discussion or without examining the implications on the economy of our country, on the employment levels, on the revenues—we are saying, on that count alone, the Government ought to withdraw these amendments.

We are calling on this Senate to get this Government to vote in favour of having these amendments annulled. We believe that we need proper and meaningful dialogue and consultation among the relevant parties in order to arrive at a consensus so that we can ensure that at the end of the day our national interests are in fact protected.

The Minister has a discretion to scrutinize claims by foreigners to work, and if satisfied, issue a work permit or a certificate. What the Minister has done, through

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Cabinet, is to legislate without the approval of this Parliament. The Minister, I am afraid, does not have the power to legislate. What he has done is to legislate behind the back of Parliament. Therefore, we are arguing on this side that the amendment ought to be annulled.

We believe, in the interest of our country, that the Minister has gone about his business very badly. Do not believe that because you are not seeing people demonstrating around the Parliament and there is nothing in the press, people are not affected. People are affected. I know of contractors who are affected. I have had meetings with contractors and operators who are affected.

At this point I would like to summarize and call on the hon. Minister of National Security to ensure that this amendment that we have before us is withdrawn. We are prepared to negotiate and dialogue. We are prepared to sit down and arrive at a consensus in an effort to ensure that the stability, the integrity and the national interests of this country are in fact protected, promoted and advanced.

I thank you very much, Mr. President.

*Seconded by Sen. R. Kwabene.*

*Question proposed.*

**Sen. Roi Kwabene:** Mr. President, this is a very important motion before the Senate, and apart from seconding the motion, I would like to make a contribution on the subject, if permitted. May I proceed, Mr. President?

**Mr. President:** I have to advise your leader that it is the practice in the House of Commons to take an hour and one half.

**Sen. Kwabene:** I do not want so much.

**Mr. President:** Really, that is a fair amount of time and I am sure that you would like to hear the Minister say something too.

**Sen. Kwabene:** I assure you I would not be long.

**Mr. President:** Proceed.

**Sen. Kwabene:** Trinidad and Tobago should not operate in a vacuum. We recognize the fact that Trinidad and Tobago belongs to the—

**Sen. Prof. Spence:** Mr. President, I wonder if you can clarify something important for us who are puzzled here. My understanding is that a Private Member's Motion is being taken.

**Mr. President:** It is a Private Member's Motion, but, as you know, the question of motions for annulment is very rare in the history of the Parliament of this country. Our Standing Orders, therefore, are quite silent on this. It is the practice in the House of Commons, to which we must refer when there is silence, that these motions go on for about one hour and one half. We are prepared to be flexible on this occasion—it is the first time—until our Standing Orders firm up a bit. If Members want to express opinions and it is the will of the Senate that we have it debated as a Private Member's Motion, well continue. As you would realize, we are not using Private Member's Day for this motion.

**Sen. Mahabir-Wyatt:** Mr. President, does this mean that nobody else can debate this except Sen. Wade Mark and the Minister?

**Mr. President:** No, this is not just a debate between the two of them.

**Sen. Mahabir-Wyatt:** Can no one else speak on this motion because it is a motion for annulment?

**Mr. President:** Any Senator wishing to speak may do so.

**Sen. Mahabir-Wyatt:** But within the hour and a half?

**Mr. President:** It would seem from the feedback I am getting now that many people would like to speak and that the time would exceed the hour and one half which is prescribed. It is all right with me once the Senate agrees and finds the time to continue the motion.

However, the next sitting of the Senate is supposed to take place on Monday, June 14, and I believe that the 40-day limit within which the regulations could be annulled expires on June 13, so it would be a bit of an exercise in futility. If you want to go on until very late tonight, all peace with me. Whatever the Senate decides.

The leaders of the respective parties could discuss what the feeling of the different groups and parties is and the Senate can use the procedural motion at the appropriate time and we shall continue.

**5.25 p.m.**

**Sen. Roi Kwabene:** Mr. President, as I indicated earlier, I will not be too long. I do not intend to bore the Senators, but this is a very important issue and, as I said, it should not be looked at in a vacuum. Wiht due respect to the Ministers

involved as well as those of the opposite Benches, we are living in an interdependent world, and as such we should look at the policies of the developed and under-developed countries as they relate to immigration. For instance, in Trinidad and Tobago we have a very serious problem as regards unemployment, and I am of the opinion that this amendment will, in fact, act against the unemployed people of this country, taking into consideration that we have a human resource which, I keep repeating in this House, we have failed to harness.

When one looks at the situation with Caricom, for instance, Mr. President, and I am not straying here. I agree that there may be a necessity for freedom of movement in the Caribbean and this amendment may serve that purpose to assist people who are Caribbean nationals to work in Trinidad and Tobago. However, when we see a situation arising via liberalization, when we could have businessmen/investors investing in our country at the expense of our sovereignty, and then it is masked and presented to the masses as development, Mr. President, we need to put a stop at this point. Because we realize when we look at the developing world and see what is happening with the working and poor people there and the pangs that they have suffered as a result of liberalization, I question you today: Is this the way we should go?

We look at the situation here where we can have exploitation of the regulations, as explained by my colleague, by these powerful investors who appear to be even more powerful than our Government. I think this is something that needs to be addressed. We cannot afford to have people coming here at the expense of our sovereignty and telling us what to do and having a free hand with regard to our labour situation.

Mr. President, I wish to submit here that I agree with the points made by Sen. Draper with regard to culture. I have no problem with the migration of workers in respect of the field of culture and other professions, but not at the expense of our skilled human resource in this country. Mr. President, there is a solution to this. I suggest to your goodly self that if at all we are to amend the regulations as regards immigration, please let it act in our defence. It should be in the defence of our sovereignty as a people and also the sovereignty of the Caribbean.

Thank you, Mr. President.

**The Minister of Energy and Energy-based Industries (Sen. The Hon. Barry Barnes):** Mr. President, I find myself obliged to intervene in the debate on this Motion, essentially because Sen. Wade Mark used as his examples a number

of activities that occurred, as he put it, in the marine offshore sector. I believe it would assist the Senate if I can say a bit about some of these activities.

In the first instance, the Ministry of Energy is required under law to be informed of the activities that the companies are carrying out in our offshore areas. Even prior to the passing of the amendment—and Sen. Wade Mark made reference to this as he spoke of 1992—at a time when because of an impending gas shortage in Trinidad and Tobago where the National Gas Company had requested Amoco to make special provisions to get additional gas ashore by the end of the year, Amoco did a number of things. They went into the Flamboyant field in 260 ft. depth of water to try to make a tie-in to a well that had been drilled and capped; and also to run a pipeline ashore. They did inform the Ministry of Energy of the contractor vessel—and Sen. Wade Mark is correct—which would come in here to complete the tie-in of an undersea gas line in 14 days and, above all, in terms of making the tie-in—and it was the first of its kind in 260 ft. of water—Amoco in fact brought in an international diving contractor, Can-Dive, out of Canada, a company of considerable expertise and international experience, having dived in the Arctic and down in Malaysia, and one which has developed and has taken out patents on its own proprietary diving equipment.

The Ministry of Energy, in consultation with the diving companies of Trinidad and Tobago, was satisfied that none of them was equipped to carry out this job, and that is the basis on which the thing was put together. I want to make the particular point that where such operations have to take place, where special vessels and equipment are coming in, the applications are generally supported by statements from the SWWTU in terms of how many locals are going to be employed in whatever capacity.

Let me proceed. In the international oil industry there has been growing concern, particularly in the area of deep diving, and there has been since 1977 a continual upgrading of the limitations, specifications and equipment. The US Coast Guard have come up with diving specifications—the things that they say are mandatory—and certainly the international companies that are going to be undertaking offshore work, for a lot of reasons, are obliged to ensure that the operations taking place under their aegis are meeting those international specifications.

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Indeed, in the Ministry's discussions with several of the local diving companies, they themselves have made the point—and, perhaps, I should not say this within the Senate—there are five of them who have been saying that they support the enactment of these requirements; are also expressing concern that our own state-owned companies are, perhaps, somewhat lax. The essential difference, of course, being that when we are talking about undersea lines in the Gulf of Paria—Petrotrin, Trintoc, Trintopec—we are talking 60 ft. of water. And without wishing to exaggerate it, weekend divers, young men who like diving and so forth and then get themselves employed and go through some rudimentary training—I am just quoting—are being taken on. In the Gulf of Paria, that kind of environment, perhaps it is okay, although the serious diving companies in Trinidad are telling the ministry that this should not be allowed to happen, that even then there is need to upgrade the minimum diving requirements.

When we go off the East Coast, we are talking, at the present time, of 260 ft. water depth; and as we go on with our exploration and development, we are talking of 400 ft. water depth and, quite frankly, "dat eh no joke". So our diving companies are, in fact, working with the international companies to upgrade their own skills and qualifications.

**5.35 p.m.**

But obviously, that is not going to occur in a 15-day or a 20-day diving operation, nor, really and truly, can anybody convince me that putting a man alongside somebody for 15 days is going to necessarily give him the skills. *[Interruption]* Well, how many of such jobs are you going to have? As you said, the vessel was here in 1977; it is back in 1993. It is 16 years between. The men who were trained in 1977 are like myself, old, retired and gone, and you start the whole damn thing over again. It cannot work so.

What I am really saying is that there is a measure of reality that must come into play, and certainly, of necessity, the Ministry of Energy and Energy-based Industries, for a start, monitors, assesses, discusses with SWWTU, OWTU, investigates any complaints and in the final analysis, in those areas, certainly, makes recommendations. In fact, we have a representative—

**Sen. Hosein:** On a point of order, Mr. President. I wish to be guided here. Is "damn" an appropriate word for the Senate? I wish to enquire of you, Sir, is that a parliamentary word?

**Mr. President:** Let me tell you, as a Speaker from the House of Commons said, it is the context in which a word is used that determines whether it is parliamentary or unparliamentary. I do not think the Senator intended to use the word in a blasphemous way.

**Sen. Barnes:** In no way. Indeed, I am always happy to withdraw before Sen. Muntaz Hosein, and perhaps I should have used the more poetic form, "damned".

**Sen. Prof. Spence:** Mr. President, just to save time, would the hon. Senator not say that his arguments are really aimed at granting work permits rather than making the amendment? I cannot see the thrust of his argument.

**Sen. The Hon. B. Barnes:** With respect, what I was saying, and what I was pointing out, is that the references that the goodly Senator made, were in respect of things that had occurred when the old work permit regime was in force; that in fact, they are irrelevant to the change; they do not arise out of the change in the amendment, the monitoring continues in very much the same way and the same relationships apply in respect of the activities in the areas offshore with the SWWTU, the OWTU. That is the point I am making. With that, I will end my contribution. It was really for the purpose of clarifying the references that were being made. I am saying that that has been the case even prior to the amendment of the work permit regulations and the references, made by Sen. Wade Mark were really irrelevant to the motion.

I thank you, Mr. President.

**Sen. Martin Daly:** Mr. President, I have had a very quick look at these regulations and I am absolutely appalled at the drafting of them. I want to make it quite clear that, in principle, I have no difficulty with the relaxation of work permit requirements if it is going to assist the economy. But here we have a perfect example of why Opposition and Independent Senators always resist regulations on important matters being made subject to a negative resolution. Because the simplest, least learned person in the law would look at these regulations and say that surely this is intended to mean, "not exceeding 30 days per year." I am sure that was the intention, but the draftsman did not capture that.

Moreover, even if that were not the intention, it is my respectful view that if important regulations like these, in a situation of high unemployment, were subject to an affirmative resolution of the Parliament, the collective brains of everyone here—and we know this is a Government when its advisors and

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draftspersons permit it, is a receptive Government—would make sure that we have regulations that not only do not work injustice, but also do not appear to work injustice. Whatever is happening offshore in the energy sector, if one single—and I do not use 'ordinary' in the pejorative sense—ordinary, able-bodied seaman at the lowest rung of that type of occupation is displaced by regulations like these, it is clearly wrong. Therefore, a properly drafted set of regulations—I cannot do it now out of my head—would seek to put certain limitations on this. I would suggest, first of all, that there should be a limitation in relation to a period of one year, two years, whatever is the case, in order to stop a situation where someone could bring someone in for 30 days, send to Barbados for the weekend and then bring him back in for another 30 days. There were other limitations, if we had time to consider this properly, that we would like to see in order to prevent the exclusion of, what I have called, the ordinary able-bodied seamen.

I assume the purpose of this is to bring in specialists like the type of person that Sen. Barnes has described. It is clearly not intended—and if it were intended, I would have resisted it, if I had the opportunity—in my view, to permit persons to bring in somebody for 30 days, go to Barbados and then come back for another 30 days. If that is the intention, then that is wrong and unjust. It clearly ought not to

be the intention that someone could bring in whole crews of persons, A, B, C, D and E, comprising one crew, withdraw that crew and then bring a crew comprising F, G, H, I and J. That is clearly something that has not been catered for.

So that if we had the opportunity to look at this, as we should in these important matters, we might have introduced some limitation to deal with that. The words that sprang to my mind, because we just had groups in another connection, are that “a person or group of persons entering Trinidad and Tobago”. So that we would take care of the situation where you can abuse the law by changing the identities of the persons that you are bringing.

I would expect to see some limitation that would use words like, "not in the routine course of an employer's business". So that if, for example, you have a gas blowout or something, where these people whom they sent to the Gulf after the Gulf war are to be used and you need to bring in these well-known fire fighters and so forth, that would be not in the routine course of the employer's business. In the way in which these regulations are framed, they are capable of abuse. I have no means of knowing, on the notice that is at our disposal, and I was a little



disappointed that if there really is a case of abuse, we were not given more facts and figures.

But I say, more fundamentally, that these regulations are flawed for the reason which I have given. They are a perfect example of why negative resolution is not the right route for important regulations. Much more importantly, whatever the facts and figures, when you pass regulations like this, you create a sense of injustice. It may be ill-founded, but you create a sense of injustice. You permit people who are ill-motivated to go and tell people who are unemployed, "look, you see these regulations are stopping you from getting a job." That is what you open yourself to, and that is why a sensible government would be glad to get parliamentary help in the drafting of regulations like these.

Obviously, but for the time constraints, the 40 days, the newness of the procedure and so on, if I had the time, and the notice available, I certainly would have put up some amendments to the Government.

**5.45 p.m.**

I just want to make the point, Mr. President, that on the face of this, these regulations seem capable of abuse. I do not feel in a position to support any motion for their annulment because I do not have all the facts and figures, but I just rise to say that had time permitted, I certainly would have put forward amendments. And I would urge the Ministers concerned to recognize that these regulations as drafted, whether they are being actually abused or not, are capable of abuse and breeding a sense of injustice. I would urge them too take on board some of these points that are being made. We cannot do anything about it because of the 40-day time constraint, but take some of these points on board and consider whether on some future occasion they might not amend these regulations.

I emphasize, I have not had time to study this in any great detail, but this is a good example of the vice of negative resolution.

**The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith)** Mr. President, I thank you for recognizing me. While I, with great trepidation, seek to speak after Sen. Daly on matters of law, I want to bring a kind of layman's perspective to this. I am not sure that one could draft any regulations that are not capable of being abused. It just seems that whatever man devises, man can find a way to get around it.

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Let me just say what the Government attempted to do by passing this Order. We want to create jobs in the country. That is what we want to do. How do you create jobs? You get the economy going; get people to invest; make your means of production efficient. If I left this country and went to the US for a business meeting, I could say to the US Immigration, "I am here for a business meeting" and they would let me in. But, if somebody was coming into this country for a business meeting and said to the immigration officer "I am coming for a business meeting" the immigration officer would demand a work permit, and the procedure for getting a work permit, in addition to being cumbersome, takes a long time.

You have the situation where you are encouraging people to invest in your country and if they invest in the country and, let us say, one is a director on a board of a local company and came down for a meeting, he would need to get a work permit.

We have in our country, as in most countries, machinery that companies have imported to operate here. Whenever the machinery breaks down, there is, perhaps, not the expertise here to deal with it immediately and production is held back because you have to wait for about one week for someone to come in to repair the machinery. But the person has to wait for a work permit which may take two or three weeks or a month as the case may be.

I can give you some examples of my own experience when I was in the private sector. We got contracts to design major engineering works in the country; we formed joint venture partnerships with firms outside because we did not have all the expertise, and I would insist that we do the work here. They would say "All right, you could do the work here, but obviously we are taking joint responsibility, and we want to have the ability to have somebody down for a week at a time to work with your people and review the work". Each time, to do that, it became a long, drawn-out process; to the point where it was easier for me to agree to have the work done up there and send our people up. What we, in fact, did was move jobs back to the US or Canada.

Mr. President, all this amendment is trying to do is to make the system easier for people to access it. I talked only about business, but we have the case of a journalist coming in for two days; a sportsman, an artiste, to go through a long rigorous system. Our country is not going to expand; we are not going to grow;

we are not going to create the jobs if we keep piling regulations after regulations on our citizens and on those who wish to come in.

We have said "less than 30 days". If there is an abuse, we will deal with it. The Immigration Department knows who is coming in, going out and when they are coming back in. The amendment has not removed the power of the Immigration Department to refuse entry, or to deal with an abuse of the system. One must not put in regulations what deals with the exception or the one or two abuses, but which hamper the overall operation. It is better that it is implemented in such a manner where 98 per cent of the law-abiding people are relieved of the problems, and deal with the two per cent that are giving trouble instead of trying to deal with the two per cent by making it difficult for the 100 per cent. That, basically, is it.

This Government is not going to sit back and allow people to come in and abuse the system. If the system is being abused, we will investigate and deal with it; but in the meantime, what we have done is make the country a better place to do business; we have made the country a better place for our own investors to access technology and technical skills; we have made the country more open. That is what is going to create jobs in the country.

**Sen. W. Mark:** Mr. President, before the hon. Minister takes his seat, could he indicate what is going to be the revenue forgone as a result of this free-up?

**Sen. Dr. L. Saith:** Mr. President, I would rather deal with it in trying to find out what is the revenue that will accrue to the country.

**Sen. W. Mark:** Well, give us that.

**Sen. Dr. L. Saith:** I do not have the figures here.

**Sen. John Rooks:** Mr. President, on a matter of clarification. A man coming in here to his local agent has no problem whatsoever; he just says that he is on a routine visit to his local agent and he comes through without any problems. I have had them stay with my company for a month at a time, with never any difficulties...*[Interruption]* No, he has come here to work with my company; he has come on a routine visit to the company; to see customers and everything. *[Interruption]* Well, it has been working ever since, and I have been in business for a long time...*[Interruption]* You are welcome to do so. There are many other

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people who come in and say that they are coming on vacation. All the people coming to me say that they have come to visit their local agent, and we have no problem. *[Interruption]* We have never had any problem with it.

However, going back several years, we had a problem here where complete drilling crews were coming in, picked up at Piarco and moved offshore, and in 28 days they are shipped out again. We also had, more recently, men coming in from Puerto Rico to do contract work, when we had fully qualified people available here. We finally got it stopped after two years of trying. They were not only bringing in supervisors, but also helpers, sprayers etc. *[Interruption]* That was during the last administration.

**5.55 p.m.**

**Sen. Dr. L. Saith:** Mr. President, perhaps I can wind up. I think Sen. Rooks' contribution re-enforces the point I have made. He is telling us that even without this amendment abuses were taking place and that the amendment is not the reason for the abuse. I am glad he raised the point about people coming in and saying they were on vacation. Because, this in fact, is what was happening. What it led to was a situation where the statistics collected at the airport about the number of visitors and businessmen coming in was totally meaningless. I go back to the point I started on, that once you make regulations—I do not know of any regulations, Sen. Daly, that you could make that are not liable to abuse. I think what is more important is that you understand when you make regulations you put in place the mechanisms which will allow you to pick up the abuse and deal with it. I think that is the way you deal with it.

Thank you, Mr. President.

**Sen. Surendranath Capildeo:** Mr. President, I am not going to abuse the hour and a half. I agree entirely with what Sen. Daly has said and I would not repeat it. I think he said it clearly and loudly.

I am disturbed not only at the use of the regulations in this Immigration Act but, also at the philosophy behind the use of regulations. I am getting very, very disturbed at the legislative agenda of the People's National Movement. I am getting disturbed over this agenda with respect to the question of this nation and with respect to the question of nationalism in this country. I am beginning to sense a kind of scorched earth policy with respect to this country. This administration in its anxiety to land loans such as the IDB and IMF loans, and to

free-up the economy is adopting a scorched earth economic policy. When it is finished there will be nothing left in this country to have a spirit of nationalism. I want to look at the amendments from that point of view because, the Government of the day in its wisdom, when it proclaimed the Immigration Act, Chap. 18:01, spelt out. *[Interruption]* I am a proud inheritor of the DLP; I make no bones about that. I sit in the same seat.

In section 44(1)(h) of the Immigration Act you have an inkling of the philosophy of the Government of the day with respect to how this Act is to be used. Section 44(i) says:

"The Minister may make regulations for carrying into effect the purposes and provisions of this Act and, in particular, may make regulations respecting...

(h) the prohibiting or limiting of admission of persons by reason of unsuitability having regard to the economic, social, industrial, educational, labour, health or other conditions or requirements existing, temporarily or otherwise, in Trinidad and Tobago;"

In other words, what the framers of this legislation had in mind was that when the Minister is making his regulations he must look at our economic, social, industrial and educational condition; he must look at the state of labour and the state of health and other conditions and then he must make regulations. What has happened is that he did so look and gave carte blanche to foreigners to come here. *[Interruption]* I am hearing noises from a depth that is beyond 400 feet from here.

When the framers made this legislation they put in section 44 (1)(h) for a purpose and that purpose was to preserve the integrity of this nation. The purpose was not to so make regulations under the power which the Minister has. There is no doubt. He has had power to make the regulations. But it is not to make regulations to give carte blanche to the foreigners to come in 28 days at a time, and to take positions in a country which is reeling economically and socially, which has industrial, educational and labour problems and whose health situation is in a total mess. Nobody on that side could tell me and could justify to me that this carte blanche amendment will bring in the kind of income the Leader of the Senate is attempting to persuade us it can.

This amendment was meant to bring in the expertise that we do not have in this country, particularly with respect to the Ministry of Energy. That is what this legislation means. But the lackadaisical, almost nonchalant way it has been framed is to bring in every Tom, Dick, Harry and Rambo into the country, and

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also it was to bring in the 3,500 sailors into the country so Jean and Dinah could have a whale of a time in St. James.

This is what I am taking issue with and it is a serious matter. It is not merely the power of the Minister to make a regulation be it under the Immigration Act or any other Act. That is not what is at issue here. What is at issue here is, what is the philosophy of the Government? What are you enunciating? Are you selling this country out, lock, stock and barrel? Is that what you are about? And when you are finished selling this country and you have packed it full with foreign workers, what are you leaving for the nationals of Trinidad and Tobago? When you tell me that you have brought this amendment because you want big corporations to be able to bring in their expertise freely without the hindrance of a work permit, and you want this to enable big business to prosper, what are you leaving for the citizens of Trinidad and Tobago? If that is your philosophy well, say so. Tell the people that. Tell the people of this country that you are prepared to sell them out and leave them nothing. And then maybe we will begin to understand why you have this sort of amendment. Maybe, we will begin to understand that, Sir *[Interruption]* I am invited to take my seat but I bet you will hear me and listen to me because your conscience will begin to trouble you. He is a fortunate 'Rambo' and whether he has choice or not he will have to sit and listen to me. The Minister would have to sit and listen to me tell him that via this legislation he is assisting in the selling out of this country.

**6.05 p.m.**

Mr. President, let me make the position clear. This bit of legislation is in keeping with the trend of legislation that has been taking place in the last year and a half, where this administration has come with legislation that has been effectively castrating the people of this country.

Again, I ask the question: Is it that you have this scorched earth economic policy that you wipe out everything, and when you are finished with it, you leave nothing for the people of this country? As I said, I do not want to repeat the argument. When you look at the regulation under which the hon. Minister purported to act, and then you look at section 9 (2), maybe he should consider amending the amendment to fit into that section, so that the control we are speaking about—you may have some method of control, and we may not have the mere wishful belief of Sen The Hon. Lenny Saith, that look, yes, I know regulations can be abused but we believe we have some control.

What he has to do is put in the methods of control here and now, and beyond that this Government must come honest with the people. They must tell the people of this country what they are about and, so far, every bit of important legislation here has been to sell out this country. And that is what is disturbing me with this amendment.

Thank you, Sir.

**Sen. Diana Mahabir-Wyatt:** Mr. President, I really was not going to get into this debate when it all started, but I am beginning to feel that I am listening to somebody arguing about 60 sexy sirens being sent to seduce them, when in fact it is one aged cleaning woman offering a cup of coffee. All this talk about scorched earth policy and leaving nothing for local workers seems to me to be a vast exaggeration of what this provision is all about. There are three points. One is the original Act was passed in 1980. Things have changed since 1980. I assume it was not beyond our collective intelligence to realize that we have to adapt as economic and transnational conditions change, as we move into different phases of industrialization. We do in fact need to be able to move specialist people, the sort of people Sen. Barnes talked about, in and out of the country fairly easily.

I think that sort of person is what this amendment is catering for, in addition to the sort of persons that Sen. Kwabene spoke about, and I can see no objection to this whatsoever. Furthermore, I do not believe that the amendment was intended to be 30 days within one year. It does not make any sense. You may need to have a specialist come in for 25 days now, and if something goes wrong he may have to come back for 20 days in six months' time.

I think that the controls that have to be put on this obviously have got to be done through Immigration Officers to make sure that you do not get the 25 days on, visit to Barbados 25 days off abuse scenario that has been outlined.

Secondly, the only evidence of abuse we have got so far has to do with people who were here in 1977 and back here now. I do take the point that 15 days over 16 years is a little bit much to get paranoid over.

Thirdly, I agree entirely that under no circumstances should any unskilled or semi-skilled worker, or worker who has skills in this country that can be used, be displaced from a job or denied a job because of any regulation that we pass or allow to go through this Parliament.

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[SEN. CAPILDEO]

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I have been hearing this argument about work permits for the last 25 years. I think that any employer has to be out of his or her head to spend the amount of money that it costs to bring semi-skilled workers from some country abroad, down to Trinidad, provide them with transportation, payment, accommodation, food, to keep them here for limited periods and then take them back and bring them in again. It is enormously expensive and you have to be absolutely out of your head or wanting to go broke to do this when you have people here locally who have equivalent skills, can do the work and are available.

It may happen, as Sen. Saith says, in two per cent of the instances, but most of those that I have been told about, when I investigated them over the last 20 days, in fact, have been in instances where people generally could not get the skills that they needed here. I really think this kind of thing could be vastly exaggerated.

All of the abuses that we have known have taken place when the work permit system was in place. I think that the Immigration Department is more than capable. In fact, even with this in place now they are still keeping out people they should not be keeping out because, I think, they have a tendency to be paranoid as well. I just hate to see that spread to this Parliament.

While I dislike negative resolutions just as much as Sen. Daly does, and I think most of the Independent and Opposition Senators do, I recognize that we cannot have everything. If all regulations go through Parliament we would be doing nothing else, but if there are problems in terms of the drafting, I am sure it can be looked at. I really do think we should not get this terribly out of proportion, which we seem to be doing.

Thank you.

**Sen. Prof. John Spence:** Mr. President, just a few brief comments to ask the hon. Minister who I presume would respond to explain to us how the system works in the United Kingdom and the United States, where, I believe, one cannot just go in and work and which, I presume, are countries that encourage a lot of exchange with other countries, but do not cut themselves off.

In other words, surely there are systems that one can put in place which do not involve the route that we have taken, because as far as I know there is no such regulation in these other countries. Perhaps he could help us by explaining it.



**The Minister of National Security (Sen. The Hon. Russell Huggins):** Mr. President, first let me deal with the concern about the power of the Minister to make regulations.

**Sen. Capildeo:** You have the power.

**Sen. The Hon. R. Huggins:** He recognizes that I have the power, but the other legal adviser on his right did not seem to recognize that.

If you look at section 8 of the Immigration Act, it is a prohibition provision. It sets out a prohibited class of persons.

Section 9 relates to a permitted class of persons. When one looks at section 9 (1) (i) it places in the class of permitted entrants, persons entering Trinidad and Tobago for the purpose of engaging in a legitimate profession, trade or occupation. The original regulations made under section 44 simply sought to regulate how a permitted entrant could get into Trinidad and Tobago. All that the amendment did was simply to modify that procedure.

### **6.15 p.m.**

This Government, at no time, intended to make a *carte blanche* provision for entry of foreigners into Trinidad and Tobago.

The work permit requirement still remains. As a matter of fact, in January 1993, there were 173 applications for work permits; in February—112; in March—94; in April—223. These regulations came into effect on April 2. In May, there were 106 and between the period June 1 to 4—140. It is the highest so far for the year. So there is still a work permit requirement in place. Contrary to those who believe that people will come here for 28 days, spend a two days in Barbados or Grenada and come back. That is not happening. The majority of those 140 applicants relate to work permits for three months.

Why would someone apply for a work permit for three months if he can come here for 28 days. That just is not happening. I have always made it clear to my friend, Sen. Wade Mark, as long as he has facts—and when I say facts I mean facts that can be substantiated—I would look at it. Do not come to me and tell me this and that is happening, or somebody told you, or told Mr. Mungroo and Mr. Mungroo told NATUC and NATUC told you to bring it up. I cannot act on that.

I will not read through these letters involving the Seamen and Waterfront Workers' Trade Union again. I, like my learned friend—I have to call him now—

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have the letters and I also sent copies to him after the debate which he raised on the motion for the adjournment last week, through the Parliament office. I have them here again, I can give them to you. I would not read them because they are already in the Parliament records and they speak for themselves.

As my colleague said, the SWWTU is always involved in discussions with Navarros, Lennox and Amoco when they are bringing in people, and all of the work permit applications that have been granted insofar as Enron, Ocean Builder, El Falcon, Sans Souci are concerned— As a matter of fact, there are 4 Trinidadians employed on the barge San Souci—Eddie Sheppard, Wilson Shade, Richard David and Donald Charles. We even have alternates for them. On the barge, *Chagville*, we have Eustace Phillips, Jordan, Carlton De Freitas, Benjamin Reed. We have alternates for them too, and I can go on.

These allegations about locals in the diving industry being deprived of jobs are really unfounded. I feel satisfied up to today that that is not taking place. I cannot guarantee that it may not happen down the road, but I have made it quite clear that I have left the door open to anyone who has information to that effect. Give me the information and I will look at it.

Up to this morning I had discussions with the Work Permit Committee and this Committee is not comprised of the Minister of National Security solo. The Minister of National Security forms no part of the Work Permit Committee. The Work Permit Committee is chaired by the Permanent Secretary, Ministry of National Security. There is a representative from the Ministry of Energy; the Chief Immigration Officer; a representative of the Ministry of Trade, Industry and Tourism and a representative of the Ministry of Education. There is also a secretary, whom you know quite well.

In the past, the Work Permit Committee, I think, was comprised of about 12 persons and it proved to be extremely unwieldy. As a matter of fact, when I took up office I made representations to Cabinet to cut its size because it was very difficult for this Committee to meet. Persons were not available and that sort of thing. It is now meeting and it does it work.

My colleagues, Senators Dr. Saith and Barnes dealt with most of the other issues raised. We have come in for quite a lot of praise from people—I am sure that Sen. Kwabene would be happy to hear this—in the field of art and culture. You know boxers—sports. Boxers have been locked up in the airport overnight. They come in for one night to box 10 rounds at the Jean Pierre Complex. They do

not have their work permit. Minister Huggins is called at 11.00 p.m. because the main bout is about to start and there is no boxer. He is locked up in the airport. He has no work permit.

Poor Archbishop of the West Indies. He was refused a work permit because he had no police certificate of good character. That is what our regulations do. Our Archbishop Pantin picks up himself and goes anywhere he wants, at the invitation of anybody all over the world, and enters without being asked for anything.

**Sen. Prof. Spence:** Would not the Minister concede that this is just a bad application of the regulations. That is nothing against the regulations. If there are people on this committee who have no sense, then change them and put sensible people.

**Sen. The Hon. R. Huggins:** No, no, no. I do not think so at all. In all fairness to my ministry, they were simply following the regulations. There is absolutely nothing I can do. I cannot blame them. They are right. They are following the regulations, but it just does not make sense.

You talk about doctors. I think Sen. Kwabene spoke about the human resource. We have a situation here where we have more African doctors than locals. Do you know why? The locals do not want the work. *[Interruption]* I am not asking you, I am telling you. They do not want it because they can make more money outside.

The Government is satisfied that these regulations will not bring any hardship on citizens of Trinidad and Tobago, even citizens who are unskilled. As I said, we will monitor the situation. The Immigration Department has been doing that. We should give the thing a chance to work.

**Sen. W. Mark:** Could the Minister give us a little clarification of how the situation works in the USA and the UK in terms of Trinidadian leaving here and going abroad and getting work?

**Sen. The Hon. R. Huggins:** As far as I know, it works almost the same way. As a matter of fact, one of the first groups of people who came to me in connection with our work permit regulations were artistes. Foreign artistes coming here have to apply for a work permit. For example a band—I cannot remember their name now—of about 24 came here. They were not treated as a group. They were treated individually, so at the end of the day, yes, you ended up with a big cheque. You placed many restrictions on their performing here, but our

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artistes were then being threatened by the United States authorities: "Look, you are putting pressure on our artistes, when you come to the United States after carnival to sing, nobody insists that you must have a US artiste appear on the show with you."

**6.25 p.m.**

They are not even required to get work permits. They are allowed to come in and sing; and here we were, pressuring their artistes. So there is really not much difference in the United States and the United Kingdom. As a matter of fact, those jurisdictions were looked at before we took the decision to amend these regulations.

So, Mr. President, I do not believe that these regulations are creating the hardship as one wants to—

**Sen. Rooks:** I just want to point out that people going to the United States are not allowed to work with this clearance.

**Sen. The Hon. R. Huggins:** Yes, that has been put on my passport on several occasions and I have done business in the United States on numerous occasions with full knowledge of the American Immigration. I go in there and tell them and they still stamp that on my passport and they allow me to go in, with full knowledge that I am going there to work and earn an income. Because in some of the cases the foreign concern was paying the legal fees and I was allowed to go in and work without getting any work permit, but having a stamp in my passport that no employment is to be undertaken for a period of six months. Probably, they do not have money to make a different stamp. I cannot be blamed for that.

So, Mr. President, as I said before, I do not think that at this time these regulations should be any cause for undue concern and they should continue in effect.

**Mr. President:** You are not replying?

**Sen. W. Mark:** Yes, do you want me to say something?

**Mr. President:** I do not want you to say something, just confirming that you have nothing to say.

**Sen. W. Mark:** No, no. Mr. President, do I have a right of reply?

**Mr. President:** We have to close at 6.30 p.m.—just about time to put the question and get a decision.

**Sen. W. Mark:** You see, I wanted to respond. *[Interruption]*

*Question put.*

*The Senate divided:*       Ayes 6,       Noes 16

**AYES**

Mark, W.

Capildeo, S.

Baksh, Miss S.

Kwabene, R.

Merritt, Miss C.

Hosein, M.

**NOES**

Saith, Dr. The Hon. L.

Huggins, Hon. R.

Barnes, Hon. B.

Kuei Tung, Hon. B.

Yuille-Williams, Hon. J.

Draper, Hon. G.

Mark, A.

Callender, S.

Ojah–Maharaj, D.

Elder, Mrs. J.

Kuarsingh, Dr. H.

Rahael, J.

Gosine, Pundit R.

Hassim, A. M.

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Rooks, J

Mahabir-Wyatt, Mrs. D.

*The following Senators abstained:* M. Mansoor, Prof. J. Spence, M. Daly, E. Dean, Miss C. Mahadeo, Rev. D. Teelucksingh.

*Question negatived.*

*Motion made,* That the Senate do now adjourn to Monday June 14, 1993 at 1.00 p.m. [*Hon. L. Saith*]

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 6.30 p.m.*