SENATE

Monday, June 14, 1993

The Senate met at 1.00 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have been advised that His Excellency the President has appointed Dr. Kenneth Ramchand, a temporary senator, with effect from June 14, 1993 and continuing, during the absence from Trinidad and Tobago of Sen. Prof. John Spence.

I have also been advised that His Excellency the President has appointed Dr. Eric Baldwin Anderson St. Cyr to be a temporary senator, with effect from June 11, 1993 and continuing, during the absence from Trinidad and Tobago of Sen. Everard Dean.

OATH OF ALLEGIANCE

Mr. President: Hon. Senators, two temporary senators are required to take the Oath of Allegiance today.

Because of the change in time, Dr. St. Cyr might have been confused. If he arrives a little later, I will get him to take the Oath of Allegiance, at an appropriate time. However one temporary senator is here. I invite all of you to stand while he is taking the Oath of Allegiance.

Sen. Dr. Kenneth Ramchand took and subscribed the Oath of Allegiance as required by law.

ST. JOSEPH'S CONVENT PORT OF SPAIN PAST PUPILS' ASSOCIATION (INC'N) BILL

Bill to amend the St. Joseph's Convent Port of Spain Past Pupils Association (Inc'n) Act, 1991; brought from the House of Representatives *[Sen. Jean Elder];* read the first time.

PAPER LAID

Report of the Auditor General on a Comprehensive Audit of Each Community Helping Out (ECHO) Programme. *[The Minister of Planning and Development (Hon. Dr. Lenny Saith)]*

ORAL ANSWERS TO QUESTIONS

T&TEC

(New Generating Units)

70. Sen. Wade Mark asked the Minister of Public Utilities:

Could the hon. Minister state:

(a) how T&TEC's Management intends to raise the moneys to purchase new generating units?

(b) the precise cost of these new generating units?

The Minister of Public Utilities (Hon. Morris Marshall): Mr. President, it is to be noted that the whole issue of the expansion of the nation's power supply is now before the Energy Committee of Cabinet. However, T&TEC is capable of making a 10 per cent downpayment to purchase new generating units for the next stage of its generation programme. The Commission intends to seek financing for the balance of payments required for its generation expansion programme.

T&TEC proposes to invite tenders on a selective basis for the supply and installation of a new generating plant. After tenders are assessed the Commission will be in a better position to determine the precise cost of the new generating units.

Sen. Mark: Could the hon. Minister indicate whether there is an estimated overall cost for the purchase of these generating units at this time?

Hon. M. Marshall: I do not have the details before me, but my memory tells me that T&TEC indicated some time ago, that as it relates to normal growth, they were talking about TT $1 billion.

Sen. Mark: Can the hon. Minister indicate how many new generating units are involved in this whole arrangement?

Hon. M. Marshall: Mr. President, I would prefer not to talk about units, but increased power supply. For the figure I quoted a while ago, they were talking about 150 megawatts or thereabout.

T&TEC

(Venezuelan Interconnection)

71. Sen. Wade Mark asked the Minister of Public Utilities:

Could the hon. Minister state whether T&TEC's Management is pursuing the Venezuelan interconnection for electricity and precisely what will this project cost the country?

The Minister of Public Utilities (Hon. Morris Marshall): Mr. President, the Minister is aware that T&TEC's report on the Venezuelan interconnection for possible supply of electricity is at present receiving the attention of the Government. It is not yet known precisely what the project will cost since a total feasibility study has not been performed, nor have tenders been invited to determine cost.

It is to be noted, however, that the whole issue of the expansion of the nation's power supply is now before the Energy Supply Sub-committee of Cabinet.

Sen. W. Mark: Could the hon. Minister indicate what were some of the reasons for this particular proposal, in the first instance, in terms of this interconnection of electricity from Venezuela? What was the thinking behind the Government's action insofar as this proposal is concerned, particularly when account is taken of our huge and abundant supply of natural gas?

Hon. M. Marshall: It is not a matter of the thinking of the Government. It is part of the whole package that is coming before us and we are looking at all the details. The matter is still before the sub-committee. The Government has taken no decision on this particular matter.

Sen. W. Mark: Can the hon. Minister indicate what impact this arrangement would have on the national security of our country?

Hon. M. Marshall: Quite obviously, I do not think the Member would wish me to respond to that. He is, in fact, proceeding much faster than we are. No decision has been taken on the matter.

T&TEC
(Former General Manager)

72. Sen. Wade Mark asked the Minister of Public Utilities:

Could the hon. Minister state whether the former General Manager of T&TEC has been retained by the company as a consultant?

If the answer is in the affirmative, could the Minister state:

(i) the rationale for this development, and the precise cost to the taxpayers of this country?

(ii) the length or period of the contract of the consultant and the costs involved?

The Minister of Public Utilities (Hon. Morris Marshall): Mr. President, I wish to advise the Senate that the former General Manager of T&TEC has not been retained by the Commission as a consultant.

1.10 p.m.

The following question stood on the Order Paper in the name of Sen. Carol Merritt:

Maloney Government Primary School
(Overcrowding)

86. (a) Is the Minister of Education aware that there is a chronic overcrowding problem at the Maloney Government Primary School?

(b) If the answer is in the affirmative, what steps will be taken to alleviate this problem both in the short term and long term?

The Minister of Planning and Development (Sen. The Hon. Dr. Lenny Saith): Mr. President, I would like to seek leave of the Senate to have the answer to this question deferred for one week, please.

Question, by leave, deferred.

The following question stood on the Order Paper in the name of Sen. Muntaz Hosein.

BWIA
(Leased Aircraft)

87. Could the Minister of Trade, Industry and Tourism state:

(a) the names of the persons and/or organizations from whom BWIA leased aircraft?

(b) the exact value and duration of each contract?

The Minister of Trade, Industry and Tourism (Hon. Brian Kuei Tung): Mr. President, I sought and obtained leave from the hon. Senator to have this question deferred for one week.

Question, by leave, deferred.

ADJOURNMENT MOTION
(LEAVE)

Sen. Wade Mark: Mr. President, a severe and critical natural gas shortage has gripped the nation's energy-based industries and threatens to undermine and ultimately destabilize—

Mr. President: Before you go any further, you are seeking leave to do what?

Sen. W. Mark: Yes, Sir, I am seeking leave under Standing Order No. 11(2) to raise a matter of urgent definite importance.

Mr. President: What is the matter?

Sen. W. Mark: The matter deals with a severe and critical natural gas shortage at the Point Lisas Industrial Estate, Sir, which at the moment threatens to destabilize and undermine our national economy.

Mr. President: Before you go further, Sen. Wade Mark. You submitted your reasons, I discussed the matter with you, and as you used the word "threatens," you realize that it will have a little difficulty qualifying under "definite". As I advised you, this is a matter which you had sufficient time to raise properly on the motion for the adjournment. I think the headline in last week Wednesday's paper brought out something and you submitted it by Thursday. I would be quite prepared to let you raise the matter on a motion for the adjournment but at the next sitting.

Sen. W. Mark: Mr. President, I think if you would allow me to indicate briefly, for instance, why I consider the matter to be of definite urgent public importance; I think that would suffice.

Mr. President: Yes, but you cannot do all three at the same time, and if it falls on one, you are only being academic in going through with the other motions on the adjournment.

Sen. W. Mark: You are saying, Sir, in terms of this crisis, it is not a definite matter and so on of importance at this time?

Mr. President: You are speaking of something that is threatening. We discussed this.

Sen. W. Mark: Yes, Sir, but I thought that what is required here is to inform the Senate and the country as to why this matter is urgent at this particular moment.

Mr. President: No, if the Senator grants leave for you to raise the matter, at the appropriate stage, you to proceed, you will then go into the pros and cons. So I am telling you to save this for when you raise it on the motion on the adjournment.

Sen. W. Mark: So you are guiding me, Sir, that as far as your assessment is concerned, it is not definite?

Mr. President: It would not qualify under the Standing Order which you are seeking to have it qualify.

Sen. W. Mark: So you are saying what I should do is seek leave under Standing Order 10 in an effort to raise this?

Mr. President: On the motion for the adjournment.

Sen. W. Mark: I shall be guided by your ruling, Sir.

TAKING OF HOSTAGES BILL

The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith): Mr. President, I beg to move that the second reading of the Bill to give effect to the International Convention against the Taking of Hostages opened for signature at New York on 18th December, 1979, be deferred to the next sitting of the Senate.

Bill, by consent, deferred to next sitting of the Senate.

FINANCIAL INSTITUTIONS BILL

[FOURTH DAY]

The committee of the whole Senate resumed its deliberations on the Bill.

[Chairman: Mr. Joseph Emmanuel Carter]

Mr. Chairman: Before we commence the consideration of the several amendments we have before us...

Sen. W. Mark: Confusing amendments, Mr. Chairman.

Mr. Chairman: Well, I am trying to "deconfuse" them. Did all Senators receive a copy of the amendments over the weekend? Does every Senator have a copy of the amendments with nine pages to be moved by the Minister of Finance?

Sen. Daly: What is the date?

Mr. Chairman: The date is June 11. These amendments will supersede those that were given out during the Minister's reply to the debate. So you can put aside the amendments that were given out last Tuesday.

Sen. W. Mark: What was the reason for these rapid changes?

Mr. Chairman: The Parliament Department only distributes amendments when it receives notice, be it from the Opposition or the Government.

The amendments proposed by Sen. Michael Mansoor and Sen. Martin Daly still stand as they are. I believe Sen. Daly has some modifications. Sen. Daly has an additional amendment to revise his original amendment to clause 22. Those are the amendments that we will be dealing with at this committee stage. Since they are all based on the cyclostyled copy, I suggest that we stick to the cyclostyled copy, notwithstanding the fact that the printed copy is now available.

1.20 p.m.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Sen. Huggins: Mr. Chairman, I beg to move that clause 2 be amended as follows:

Insert after the definition of "banking business" the following definition:

> "Board" means the Board of Directors of the Central Bank as defined in the Central Bank Act.

Question put and agreed to.

Clause 2 as amended ordered to stand part of the Bill.

Clauses 3 and 4 ordered to stand part of the Bill.

Clause 5.

Question proposed, That clause 5 stand part of the Bill.

Sen. Mansoor: Mr. Chairman, I beg to move that clause 5 (4) be amended in by substituting $6 million for $15 million. My amendment has to do, not with banks as such, but with financial institutions, non-banks; and it has to do, essentially, with the question of the capitalization of these non-bank financial institutions. The Bill suggests that the required share capital of banks and non-bank financial institutions should be not less than $15 million. And, as I argued in my contribution to the debate, I believe that there is an essential difference between a normal bank as such and a non-bank financial institution in terms of the kinds of businesses that a non-bank financial institution may get involved in. I

argued that the amount of capital that would be required for a non-bank financial institution may, in fact, be considerably less than that required by a bank as such.

With that background I suggested that instead of $15 million for a non-bank financial institution, we use $6 million, which approximates US $1 million as things go today. That is the basis for the suggested amendment.

Question put.

Sen. W. Mark: Mr. Chairman, if this is done, it means that a number of amendments which have been proposed by the Minister would also have to fall in line with that?

Mr. Mottley: Mr. Chairman, we have a difficulty in that we agree that there are non-banks now and provisions are made for them, despite the fact that they do not have that $15 million to be qualified and to be licensed. But the concept is that this is the area where we have had the most trouble. We want to guard against too easy entry into this field in the future and, generally, we are moving towards a unified system wherein you will be licensed and could graduate to the full functions of a bank in time. We, therefore, must view any of these non-banks as having the potential to qualify as full banks and, therefore, especially in the light of our very, very unhappy experience, we would like to stick to this, bearing in mind that those who are already under and into this business, will be allowed to continue.

Sen. Mahabir-Wyatt: Mr. Chairman, could the Minister advise me whether or not that would include cambios? Because if it does, it would mean that cambios cannot be established without $15 million.

Mr. Mottley: No, cambios are not in this class at all.

Sen. Mahabir-Wyatt: They would not be included?

Mr. Mottley: No.

Sen. Daly: May I inquire, Mr. Chairman, in the light of what the Minister has said, whether under subclause 6, it does not suggest in its present form—I accept what he is saying—that the existing institutions may, nevertheless, be required within a specified period, which is not itself specified, to raise to $15 million; and therefore they have an exposure different from what the Minister is intending?

Mr. Mottley: Yes, Mr. Chairman, it is clearly implied that if the Central Bank feels that under $15 million there is unnecessary risk, they could limit the kinds of business they are doing and the risks they are taking.

Sen. Daly: So the $15 million could be made to apply to existing businesses?

Mr. Mottley: Yes.

Sen. Mansoor: Mr. Chairman, I do not know if I could just, perhaps, extend the argument a bit. I think it will be very difficult. I would ask the Minister to tell us whether or not, in his opinion, the failure of these non-bank financial institutions arose because of a lack of capitalization, or whether it arose from what, effectively, was cavalier banking and a lack of monitoring on the part of the Central Bank, whether it was possible within the legislation, or not. What we have now done is we have given the Central Bank a lot of necessary power to deal with these institutions on a day-to-day basis. They can now give them "cease and desist" orders. So that what went wrong was not that these institutions were under-capitalized. At any level of capital they would have done the same mischief. We now have a situation where the Central Bank can intervene at short notice and if they do this job of monitoring properly, a very necessary job, we should not have these failures.

So I would ask the Minister to consider that, by putting such a high threshold for new entrants into this business, we are essentially saying to Trinidad and Tobago, you have to be big or else do not get involved in business. The Central Bank now has the power to monitor and deal with these institutions on a day-to-day basis. The situation is different.

Mr. Mottley: We are saying just that—that for this kind of business that deals with depositors' funds, unless you are of a certain size, we are not encouraging it. That has been our experience and that is properly reflected in the Bill. You must put your money up there and have it at risk with the vast amounts of leverage depositors' funds that you are playing with.

Sen. W. Mark: Mr. Chairman, is the Minister of Finance saying that banking is now going to be confined to big business? You see what is going through my mind is, if you have some small operators, non-bank financial institutions, and they cannot fulfil that $15 million requirement, what would, in fact, be taking place is that they would be brought under the control, virtually, of the Central Bank pending their ability to reach a certain level. Now what I am thinking about is, what kind of psychological and other impact is that going to have on the small business community that may be associated with these institutions in one way or the other?

1.30 p.m.

You see, I am wondering, if you are not thinking about a tier system where, for instance, the banks in question, like the existing commercial banks, would qualify for the $15 million, but those other small non-bank financial institutions, you would have another tier for them, having regard to all the other elements that go to make up their operation. If what you advance here is carried out, then what you would probably have in effect is a wiping out of those institutions that currently exist in that area of our economy.

Mr. Mottley: Mr. President, the Central Bank is guided by what happened when we introduced the financial intermediary legislation back in 1985 or 1986, whenever it was. I do not remember. The long time that we gave to come up to certain minimum capital positions and so forth, that is arguable.

Sen. Mansoor raised it as to how much you attribute blame to Central Bank in terms of how they manage, how much you attributed to management capabilities and standards of these institutions. Wherever and however they apportion the blame is now history, but the history shows that none of those institutions really worked at building their capital bases and that, when the crunch came, was the significant cause of the problems thereafter. I do not want to say that that was 100 per cent of the cause, but they had very little cushion to fall back on.

Sen. Daly: Mr. Chairman, accepting all that the Minister says, the fact is that subclause (6) to which I pointed a little while ago, does not even specify the grounds or the reasons why the Central Bank might require an existing institution to raise its capital. So accepting all that the Minsiter says, that is still a difficulty that I have, assuming you leave it at $15 million, it does not really specify what would provoke the intervention of the Central Bank under subclause (6).

Sen. Capildeo: Mr. Chairman, may I just add one more and it is directed to the hon. Minister. Does your research show, and do you envisage, that a clause like this would completely eliminate any financial institution coming up now, save and except what exists? Is that the intention behind this clause? Or, does your research show that the possibility exists, however remote, that new financial institutions, if they do come into being, could meet this limit of $15 million? Does your Central Bank office research show you that, because I am of the opinion that with this clause in existence, it seems to me it is drafted in such a manner that you anticipate that there will be no new finance councils coming up.

Mr. Mottley: There are other forms of finance business that can be spawned at lower levels of capital. We talked just now of cambios. But where people's deposits are concerned, we feel this is absolutely necessary.

Sen. Capildeo: Is the limit placed to prevent the establishment of new institutions? That really is the heart of the question.

Mr. Mottley: It is not. I mean, it recognizes prudence. In the old days, a bank started in the west with a shingle outside on a dusty street, and we have long since gone past those days.

Sen. Capildeo: Mr. Minister, sometimes outside in the city, I get the impression we are in the old days out there.

But the real heart of the question is, does your research give you an indication that it will be enormously difficult for any new body to come into being to meet this requirement, and if so, that is why we are putting the $15 million?

Mr. Mottley: No.

Sen. W. Mark: Mr. Chairman, I find these things to be contradictory, because on the one hand, the Minister of Finance later down the road is granting five years to people who have unsecured credits, but in this instance where you may have existing institutions operating in this country, you are saying that these people have to pay $15 million and if they cannot pay that $15 million, they are going to come under direct Central Bank rule and control. You mentioned also, about depositors and you are promoting their interests. How does that coincide and how does that synchronize with what you are proposing later up the road?

Sen. Saith: Mr. Chairman, I do not think we are talking about any one thing, you know. What this seeks to do is say if you want to create a finance company, you find $15 million as capital as your shareholding in the business so that when you take people's money, your $15 million is there as well and therefore you have an incentive to manage, because if the thing goes bust, you lose your $15 million.

The question of whether it prevents small—there is nothing for three small people getting together and putting $5 million each and starting a finance company. It is the threshold that one is setting to ensure that the people who go into this business, whether it is 50 small people putting $300,000 each or one person putting $15 million, is that you come up with some cash to put in this business, so that there is an incentive for this business to be properly managed. If it is not properly managed, you will lose your money. You could argue about

whether it should be 5, 10, 15, 20, 25, 30—one can have an endless argument. But it is not that somebody is asking you to come and deposit $15 million with the Government. It is money that is going to be used in the business for the business. I think what we are attempting to do here is, at least, to set the level that people who are serious and have money at risk will come into the business.

What happened previously is that the capital requirement was so low that if I wanted to start a finance company, I could just go and start it, put very little of my own money into it so that when it "run bust", well, then it "run bust". I lose very little. I do not really believe that setting a limit of $15 million in order for people to now come into the business of taking people's money and using it, is too high.

Sen. Daly: What about transition provisions for existing businesses? Assuming that that is so in relation to business in the future, the way that the Bill stands at the moment, an existing NFI that does not have $15 million can be directed under subclause (6) without the benefit of a transition period. I think the point that Sen. Wade Mark is making is that if the value of a transition period is being seen in other sections of the Bill, there may be a case to be made here for a transition period given the rigours of subclause (6).

Sen. Saith: I thought we were dealing with the amendment.

Mr. Mottley: What is the amendment proposed?

Sen. Saith: Well, I am saying as far as clause 5(4) is concerned, I think there is an argument for keeping it at $15 million. Now, if lower down you want a transition period, one could deal with it, but if we are dealing with clause 5(4), the question is whether we should leave it at $15 million or whether we should—

Sen. Capildeo: That could be the course.

Sen. Saith: I am saying that if we want to come into the business, bring some capital and put it at risk.

Mr. Mottley: Do not come into the business with half a million dollars and borrow and take people's deposits of $40 to $50 million dollars.

Sen. Mansoor: If I may just come into the business saying the real control here has very little to do with the amount of capital. The real control is the amount of deposits you allow an institution to take. The current rule which is perpetuated in this Bill says you take deposits 20 times the amount of your capital, so the argument as to whether it is $5 million or $15 million in terms of taking $40

million, that is determined by the amount of the other rule, where you have a ratio of deposits to capital.

1.40 p.m.

If you have a $5 million institution, it would only be able to take deposits of $100 million. A $15 million institution would be able to take $300 million. So that the real control is not the absolute amount of base capital, the real control is the ratio between deposits and capital. I rest my case. I think we have, perhaps, exhausted the argument, but I will only make that last point, that if you are concerned about someone putting up $500,000 and taking $40 million worth of deposits, that is taken care of already. He cannot do that. Because he cannot take more than 20 times his capital and statutory reserve fund and deposits. So that in many ways the only purpose that is being served by putting this threshold is by saying that we cannot have financial institutions below a certain size, because you already have the ratio control.

Question, on amendment, [Sen. Mansoor] put and negatived.

Mr. Chairman: Sen. Daly, do you have amendments to clause 5?

Sen. Daly: Only because it is repeated in the cyclostyled copy. I think the same clause is printed twice. It is a clerical error. It is probably corrected in the printed copy.

Clause 5 ordered to stand part of the Bill.

Clause 6.

Question proposed, That clause 6 stand part of the Bill.

Sen. Daly: Mr. Chairman, I beg to move the following amendment:

"Delete subclause (1) (c).

I had raised a question about clause (1) (c), and I appreciate that the Central Bank has properly had control over the establishment of branches. Well I could understand some point about a representative office. I am not quite sure that is different from a branch. But I wonder what is the justification for the Central Bank having to approve the formation of a subsidiary by a licensee. They have always had control over the establishment of branches and I accept that, but I do not quite know what is meant by "a representative office." Why should a licensee, if he wants to form a subsidiary, have to get approval? It may have nothing to do with finance, he may want to—

Mr. Mottley: Quite often, subsidiaries can be formed, especially abroad, or even locally, and funds siphoned off to establish them. We have even had a practical instance, for example, where one particular bank set up a subsidiary abroad and the Central Bank did not know about it, and then the regulatory authorities in that country in which they set up, called the Central Bank for information and virtual guidance as to whether it should be allowed to be set up in that particular country and so forth, and the Central Bank, in the first instance, knew nothing about it, except through the back door that this information came.

So that for those two reasons, one, a matter of prudence *vis-a-vis* the capital base of the parent company, and to avoid instances such as had happened, we feel that it is necessary.

Question, on amendment, [Sen. Daly] put and negatived.

Clause 6 ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Clause 8.

Question proposed, That clause 8 stand part of the Bill.

Mr. Mottley: Mr. Chairman, I beg to move the following amendment to clause 8(4):

"Insert after the word "Gazette" the words "and a daily newspaper."

This is to meet some of the criticisms raised by Members on the other side.

Question, on amendment, [Mr. Mottley] put and agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

Clause 9.

Question proposed, That clause 9 stand part of the Bill.

Mr. Mottley: Mr. Chairman, I beg to move a consequential amendment to clause 9(3):

"Insert after the word "Gazette" the words "and a daily newspaper."

Question, on amendment, [Mr. Mottley] put and agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Clause 10.

Question proposed, That clause 10 stand part of the Bill.

Sen. Daly: Mr. Chairman, I beg to move the following amendment:

"In subclause (1), insert between the word "revoke" and the word "a" in line 1, the words "or restrict".

Mr. Chairman, I had some dialogue about that and I am withdrawing my amendment.

Amendment withdrawn.

Mr. Mottley: Mr. Chairman, I beg to move the following amendment:

"A In subclause (1) delete the words "Central Bank' in line 1 and substitute the word "Board".

B In subclauses (2), (4), (5), (8), (9) and (10) delete the words "Central Bank" in each place that they occur and substitute the word "Board".

That is to make it clear that the Board must participate in decisions. These are to meet comments about collegiate decision-making.

Question, on amendment, [Mr. Mottley] put and agreed to.

Clause 10, as amended, ordered to stand part of the Bill.

Clause 11.

Question proposed, That clause 11 stand part of the Bill.

Mr. Mottley: Mr. Chairman, I beg to move the following amendment:

"Delete the words "Central Bank" in each place that they occur and substitute the word "Board".

Mr. Chairman, in clauses 11 to 16 we have the same thing: "Central Bank" and "Board". I point it out from now although we have to take them singly.

Question on amendment [Mr. Mottley] put and agreed to.

Sen. Daly: Mr. Chairman, I beg to move the following amendment:

"Delete subclause (1) and renumber subclauses (2) to (5) as (1) to (4)."

Mr. Chairman, I withdraw my amendment.

Amendment withdrawn.

Clause 11, as amended, ordered to stand part of the Bill.

1.50 p.m.

Clause 12.

Question proposed, That clause 12 stand part of the Bill

Mr. Mottley: Mr. Chairman, I beg to move that clause 12 be amended as follows:

Delete the words "Central Bank" in each place that they occur and substitute the word "Board".

Question put and agreed to

Clause 12, as amended, ordered to stand part of the Bill.

Clause 13.

Question proposed, That clause 13 stand part of the Bill.

Mr. Mottley: Mr. Chairman, I beg to move that clause 13 be amended as follows:

Delete the words "Central Bank" wherever they occur and substitute the word "Board".

Question put and agreed to.

Clause 13, as amended, ordered to stand part of the Bill.

Clause 14.

Question proposed, That clause 14 stand part of the Bill.

Mr. Mottley: Mr. Chairman, I beg to move that clause 14 be amended as follows:

Delete the words "Central Bank" wherever they occur and substitute the word "Board".

Question put and agreed to.

Clause 14, as amended, ordered to stand part of the Bill.

Clause 15.

Question proposed, That clause 15 stand part of the Bill.

Mr. Mottley: Mr. Chairman, I beg to move that clause 15 be amended as follows:

Delete the words "Central Bank" wherever they occur and substitute the word "Board".

Question put and agreed to.

Clause 15, as amended, ordered to stand part of the Bill.

Clause 16.

Question proposed, That clause 16 stand part of the Bill.

Mr. Mottley: Mr. Chairman, I beg to move that clause 16 be amended as follows:

Delete the words "Central Bank" wherever they occur and substitute the word "Board".

Question put and agreed to.

Clause 16, as amended, ordered to stand part of the Bill.

Clause 17.

Question proposed, That clause 17 stand part of the Bill.

Mr. Mottley: Mr. Chairman, I beg to move that clause 17 be amended as follows:

(a) In subclause (1) insert after the word "Gazette" the words "and a daily newspaper".

(b) In subclause (3) insert after the word "Gazette" the words "and a daily newspaper".

Question put and agreed to.

Clause 17, as amended, ordered to stand part of the Bill.

Clauses 18 to 21 ordered to stand part of the Bill.

Clause 22.

Question proposed, That clause 22 stand part of the Bill.

Mr. Chairman: Before the Minister moves his amendments, Sen. Mansoor, do you have an amendment?

Sen. Mansoor: Mr. Chairman, can I ask, perhaps, that my amendment be considered at a later stage, because I may very well withdraw it depending on what happens.

Mr. Chairman: Sen. Daly, do you care to move your amendment?

Sen. Daly: Mr. Chairman, I beg to move that clause 22(2)(i) which is on the revised list of amendments which was circulated on June 14... actually, in my original list, I have an amendment to (h), and that is in relation to unsecured borrowings.

Under the existing legislation, the limit on unsecured borrowing is an aggregate of 10 per cent of the paid-up share capital and statutory reserve. It is being halved in this Bill before us, and I do not know what is the justification for halving it. *[Interruption]*

Clause 22(2)(h), on page 22 of the cyclostyled copy which reads

> "(h) grant unsecured credit facilities to any one person or borrower group exceeding in the aggregate five per cent of its paid-up share capital and statutory reserve..."

Under the existing legislation 10 per cent is the limit and it is being halved in this Bill, and for much the same reason I had advanced in the debate on the secured lending side, I am proposing that the existing 10 per cent in relation to unsecured remain. The proposal is to delete "five" and replace it with "ten". We have not been told that that has caused any difficulties under the existing legislation.

Mr. Mottley: Mr. Chairman, the five per cent is in accordance with international standards for unsecured lending. This, we feel is reasonable and, furthermore, it is subject to the transitional arrangements that we are trying to put in place.

Sen. Daly: I have not had the advantage of seeing this. We constantly have this reference; and we are going to run into this problem. We are told it is consistent with international standards. I do not know where those are precisely collected—if there is a bible we can look at. But much more importantly, the point has been made repeatedly in the debates, by the Minister himself, that we do not want to shock the system into a convulsion. And this is a halving of the requirement. I do not know what in our banking history requires that.

Mr. Mottley: Mr. Chairman, the international standards distillation of the experience of both the developed and developing countries, and we constantly make particular and specific reference to the Bhal agreement. I think most, if not all of the banking fraternity are entirely familiar with these standards. I do not think they have heard anyone object to the validity of the standards as they are accepted in international finance. What we have agreed with the Independent Benches on is how we get there is a different matter. For those reasons, once we accept that those are international standards—I do not think anybody has disputed that and certainly the bankers who are in the business know that to be a fact. It is, however: How are we to get there. That is where, I believe, we may have a more fruitful discussion.

Perhaps, since we are having some discussion, I want to signal where we are tending, since Sen. Mansoor had indicated that his amendments are temporarily withheld, waiting on furthe information.

On the transitional period, I want to further amend what we have in our published amendments and give, instead of one year, a two-year moratorium in the first instance. So that the ultimate timings remain valid, but there be up front, a two-year moratorium before any of the provisions come into place, whereas, as we stated here, it is one year from the date of commencement of this Bill.

Secondly, the ultimate goal of 25 per cent, which again, conforms with the international standards that we are talking about in view of the great amount of distance that some companies and banks will have to go, I would like to relax that to 30 per cent in the case of borrower groups only. So that they have, in fact, eight years to get there, down to 30 per cent instead of the 25 per cent which is in our circulated proposals and, in addition, they have that two-year moratorium.

2.00 p.m.

Sen. Daly: I am very much obliged to the Minister for that signal. I am sure it will help us. May I ask whether that is likely to be the position in relation to both secured and unsecured lending?

Mr. Mottley: Yes.

Sen. Mansoor: If we can just go back to clause 22 (h). The unsecured credit facilities as it is in the Bill, is five per cent of the paid-up share capital and statutory reserve fund. That is a departure from what is promulgated in (i), which is the capital base. Would you consider, for example, having the unsecured credit facilities as five per cent of the capital base?

Sen. Saith: It will be less then.

Sen. Mansoor: No, it will be greater. The capital base includes the share capital, the statutory reserve fund and whatever other retained earnings the banks may have.

Mr. Mottley: Mr. Chairman, in response to Sen. Mansoor's proposal we are really trying to structurally limit unsecured credit facilities. The way it is now written with the five per cent, means that unsecured credit facilities up to $10 million could be presently granted to a director, an officer or an employee—and these are real dangers. If we hold it to five per cent as we have it written in the Bill, we feel that we can better police that and control it. If you extend it to the capital base, then it becomes possible to do certain kinds of manoeuvering on those figures that might make it more difficult for the Central Bank to police in an area of unsecured lending which could become highly problematic. We would really prefer to very tightly control that one.

Sen. Mansoor: Mr. Chairman, if I may respond. I would be at one with the Minister with respect to unsecured lendings to one person. I accept that. But to borrower groups, we are dealing with a different kettle of fish. If it is we are going to say that the calculation of the capital base is subject to manipulation with respect to (2) (h), surely it would be subject to the same manipulation with respect to (2) (i). The capital base in (2) (i) is a number for each bank. I find it very difficult to imagine how a bank, especially a bank that is a public company can manipulate its capital base. Capital base is a number and if it is good for (2) (i), why would it not be good for (2) (h)?

Mr. Mottley: We are really saying we are prepared to take more risks with secured credit than unsecured credit.

Sen. Mansoor: One has to remember the test of this thing is that unsecured credit has a place in commercial activities and to limit it from 10 per cent, to halve it, as Sen. Daly has said, and then to introduce share capital and statutory reserve fund as opposed to capital base, which you have in (2) (i) seems to be saying that unsecured credit is not allowed in Trinidad and Tobago's business adventures anymore. We have to remember, Mr. Chairman, through you, that when restrictions are placed on the ability of the private sector to raise capital, we are essentially placing restrictions on business activity. The level playing field—the argument that has been advanced by the Minister of Trade, Industry and

Tourism—is being made more and more unlevelled because, we are saying that Trinidad and Tobago's business, all of a sudden, we cannot access capital which is what generates jobs and what generates activity, without following a set of rules which have been put upon us by the metropolitan world, that does not have the same problems that we have. What we are doing is putting more and more strictures on business and at the same time we are saying that the private sector must create jobs and do all sorts of things. Why are we insisting on making the life of the private sector more and more difficult? That is the effect of this.

I accept fully the concerns about the depositors, but where we seek to impose these extremely ultra conservative draconian measures, one has to come to the conclusion we are saying that we do not want private local business to succeed anymore.

Sen. Daly: Mr. Chairman, may I say something so the Minister could perhaps deal with these things at the same time? The Minister has already given us a signal in relation to (2) (i) that he is prepared to make separate considerations to a person on the one hand, and borrower groups on the other hand. I understand him to be saying that when we get to (2) (i) that a certain concession will be made in relation to borrower groups. I make the same appeal to him. I take the point he has made entirely. We do not want borrowing to directors to reach any more summit. That is fine. But, in relation to borrower groups, is there not logically and sensibly a case to be made for having some separate consideration being given under the secured section? So that his point about persons and directors, maybe, is well founded? Let us conceive that. But, can we make some concession to borrower groups in the unsecured section as it is likely to be made for the secured section?

Mr. Mottley: I think if we stick with the secured section we will be on safer ground. The fact is, we have to understand that, generally, there is a recognition, too, in Trinidad and Tobago that businesses go to banks for too much of their capital requirements. That is generally a fact.

2.10 p.m.

We are trying to reform all of that. Shortly will come legislation on venture capital. We are trying to encourage businesses to go out and use the bond market. There are other avenues in which businesses recognizing the exposure that they have at the moment can move to. We have the transitional arrangement. Then also, do not forget that we can change the five per cent, “of such greater

proportion thereof as the Central Bank may from time to time approve;" so that we have that flexibility.

We must clearly understand that this is the kind of new standard that we want to introduce. I am in fact uncomfortable about relaxing that for the unsecured creditors. I tried to meet some of the objections on the secured lending, but this exposure is of greater concern to me.

Sen. W. Mark: We have a difficulty with the principle of unsecured credit. We do not know if that is a class structured arrangement, but certainly, on our side here we are concerned about depositors, and of course, we would also be concerned about shareholders in this whole scenario.

I have seen where the Minister is indicating that there is a two-year transitional period and he also proposed about six years to bring those unsecured credit facilities down to a level playing field. We on this side find that to be an extremely generous arrangement. We have some difficulty in extending this, as well.

Sen. Mansoor advanced his viewpoint on this matter. We have to be concerned about depositors too. What happens in the event of this period of eight years? Somebody who has $2 million or $3 million—and we do not know. As we speak here, Mr. Chairman, we do not know as a Parliament, how many millions of dollars are out there unsecured. For instance, that is why we have had a period where so many banks have had to write off many large non-performing loan portfolios, and shareholders cannot get dividends and depositors cannot get the type of interest when they put their money in the banks.

We feel that is an area that ought to come under some degree of scrutiny. If that practice used to take place, then let us move towards reducing it and eliminating it completely, because when I put my money in a bank, I do not want any friend to come and borrow my money on the basis of a friendship, and my money could be jumping up outside there because it is unsecured. That is madness. It cannot be a proper principle for us to adopt in Trinidad and Tobago. If it used to go on in the past let us try to move away from that principle. Unsecured credit is a dangerous thing.

If Sen. Mansoor is saying that is a practice that has been going on in the country for years, it is really serious. We have some difficulty on our side with this matter.

Sen. Mansoor: Mr. Chairman, if I may respond to Sen. Wade Mark's strident remarks. Unsecured credit is a financial tool that people can use all over the world. The important point is what the Government, quite rightly, is seeking to do. It is to put a limit on it. It is basically saying you cannot lend unsecured more than five per cent, not of your capital, but of an amount even smaller than the capital.

All I am arguing is that it would seem to me that if we are going to reduce it from 10 per cent to five per cent, it should be on the capital base, not the statutory reserve fund and the share capital, because, what you are essentially doing is reducing the amount of movability in terms of doing business. The more strictures you put on business, it would mean that if you wanted to get into a new venture, and you did not to have secured facilities to do it, you would limit it not to the 10 per cent of your share capital and statutory reserve, but to five per cent.

I am suggesting that if you are going to move from 10 to five, have the five per cent, but have it as of your capital base as opposed to your share capital and statutory reserve fund. There is room in this world for unsecured credit. It has nothing to do with depositor's funds. You are pegging it to the amount of your capital.

Sen. Daly: Having heard Sen. Mansoor and the Minister, I would not pursue it if the Minister could be persuaded. As Sen. Mansoor suggested, if we have to place it on the same footing, that is capital base, I would not want to take up any more time.

Mr. Chairman: Let him formally move the amendments he is proposing and if there are any corrections or amendments to these amendments, he could state them now so we could discuss the whole thing.

Do you have any changes to make?

Mr. Sobion: Mr. Chairman the proposed amendments to clause 22 which differ somewhat from those that have been circulated over the weekend are as follows:

In respect of subclause 22(2) (i), we are proposing to delete the words, "or borrower group" in line 2—

Mr. Chairman: Are you changing the whole thing?

Mr. Sobion: Parts of clause 22.

We are dealing with the proposed amendments to clause 22 which appear on page 3 of the circulated amendments. There are some changes which would appear before we get to (A). There are two additional changes.

In clause 22 (2) (i) delete the words "or borrower group" in line 2 and insert after the word "base", in line 4, the words, "or to a borrower group exceeding 30 per cent of its capital base."

Sen. Daly: Are you saying 35? I am sure I heard 35.

Mr. Sobion: You are mistaking 25. You are joining 25 and 30. I am sorry. I was using the cyclostyled copy and that apparently was causing a problem.

Sen. Mansoor: Is it "or to a borrower group exceeding 30 per cent of its capital base "? Are you going to repeat the words, "of its capital base"?

Mr. Sobion: Yes. "Or to a borrower group exceeding 30 per cent of its capital base." We are deleting "or borrower group" in line 2 and in line 3 after the word "base" we are adding "or to a borrower group exceeding 30 per cent of its capital base."

2.20 p.m.

Mr. Chairman: I will read out the final proposed amendments one by one

The first amendment proposed by the Minister of Finance is to sub-clause (2)(i). He wants to delete the words, "or borrower group", appearing in line 2 and insert, after the word "base" in line 4, the words "or to a borrower group exceeding 30 per cent of its capital base".

Sen. Mansoor: I have every reason to believe that when the Minister invokes international standards, he is doing so correctly and accurately. I am, however, informed that it is a more usual standard to have 40 percent.

I do not want to enter into debate again, but what we are doing—if I may repeat—is that we are substituting the judgment of commercial bankers for a loan, and we are doing that in a way that inhibits business. I have access to figures with respect to borrower groups. What will have to happen is that we will have to dismantle security from one bank to another. If that were being done, in a situation where there was economic logic to it, it would be fine, but when one looks at these percentages as they relate to the total assets of the bank, the amounts are very small.

For example, 40 per cent of your capital base is equal to 2.8 per cent of your total assets because a bank is allowed to borrow from the public 20 times its share capital in statutory reserve funds. What we are saying is that a bank in Trinidad and Tobago will not be able to lend to a borrower group, on a secured basis, more that 2.8 per cent of its total assets. When one looks at it in that way, one begins to realize that to argue between 30 and 40 per cent, really we are making life difficult for business on which jobs depend, and we are doing so very arbitrarily. So, I am invoking again the consideration of the Government.

Sen. Daly: Mr. Chairman, let us, for argument sake, say that there is broad agreement that the unsecured should take the bigger and more violent cut, then there is another limb to the argument being put forward by Sen. Mansoor, granted the long transition periods, in the short term one of the things that is likely to happen is that the first step in a strategic plan of a bank and a borrower group would be to try to convert some of its unsecured lending into secured lending. That is going to compound the difficulty if the percentages that you are allowing in relation to secured borrowing are too low. You will have a flight, in the first instance, away from unsecured into secured and you need to have a generous margin there to accommodate that before you then get to the next stage of the strategic plan, which is dismantling the excess.

2.30 p.m.

I want to make the point, against my professional interest one has to consider that much of this borrowing that has to be dismantled is on the basis of debentures and mortgages over periods of time that are much longer than eight years. There are going to be significant costs attached to the dismantling of all the security. For example, if you have to leave the bank that you are accustomed dealing with and go to a consortium situation, you need to have releases and new mortgage and debenture documents at great cost to the people trying to do business. That is another thing which you have not really put on the table until now, that you are dismantling long-term arrangements in the form of debentures and mortgages. The cost of doing that dismantlement is going to be very, very high, because the person who is engaged in the dismantlement would need to have the existing security release, would have to enter in to new security documents, at fairly considerable sums of money, and incur not only professional fees but stamp duty. So this is another cost that is being imposed on the cost of doing business. I would like the Minister to consider that as well.

Sen. Capildeo: Mr. Chairman, may I take Sen. Daly's argument one step further. I listened with great academic interest to what is going on, but what happens if somebody decides to challenge 22 (1) (i) and says it is offensive to the Constitution for you to interfere with my business like this? Has any thought been given to that? That this thing offends the Constitution? That you cannot interfere with my business via my banker with this type of clause. So I am extending Sen. Daly's argument logically one step further. Has any consideration been given to that? Because what I fear will take place is that this thing will be passed into law and somebody is going to challenge the constitutionality of this Act if their finances are being squeezed as a result of this. We are going to have severe problems with the banking industry. We are going to have a collapse of the industry. Has any thought been given to that? I take Sen. Mansoor's point completely—it is going to destroy probably half the businesses in this country.

If the Minister would understand our position here—we are speaking without a background of facts and information. We have to take your word that the relevant research has been done and the research is what has allowed you to put forward these figures to us. We are not privy to the kind of documentation and reseach that the Central Bank would be providing you to have this sort of figure. Notwithstanding that, has any thought been given to the point that if a financial group or an individual large enough considers that he is being prejudiced by clause 22(1)(i), I am of the view—and I would like it recorded—that that person or that group can go to the High Court and seek a declaration that this clause is unconstitutional. It will throw the whole Act into chaos and it will probably cause the industry to collapse. That is my position as it stands now.

I listened to all the arguments and to my mind they are of an academic interest that has absolutely no relevance once this clause exists, and as we go on you will see clauses that will have to be deleted from this Bill. That is what I have to say, Mr. Minister. You see, we are arguing from a disadvantage here. We do not have the facts; we do not have the figures before us. Sen. Mansoor has given an inclination as to what sort of capital base and what percentage of that is required. If you tell me now that X company has an overdraft now of four hundred million dollars and you put a clause like this into effect, what is going to happen to that company? We do not know. How many companies have overdrafts of such a nature that they will need eight years to eliminate that? How many companies? In what categories do they fall, and how many individuals have it? We do not know. We are just coming here and talking by guess. I am of the impression that if you

squeeze somebody big enough to challenge this piece of legislation it will be challenged. I could sign my name to that, it will be challenged. If by chance the court rules that this is unconstitutional, then what?

Mr. Sobion: Mr. Chairman, if I may respond to the constituional point as opposed to the data point raised by Sen. Capildeo; we have given serious consideration to the constitutionality of this entire Bill and specifically clause 22. On the best advice that we have, clause 22 is merely regulatory and we are of the view, based on that advice, that it does not offend the constitutional position. So that insofar as it may appear to be offensive to the property provisions of the fundamental rights section of the Constitution, we are satisfied, based on the best advice available to us, that it is not so offensive to the Constitution.

Sen. Daly: May I say, Mr. Chairman, that is what one would want to avoid. If a few percentage points are going to make the difference, I think it is worth the concern. It is going to be a very unseemly battle if it takes place. It is certainly going to retard the country's progress in terms of how people view it as a business centre. And despite the confident protestations on the other side, this is one of the most difficult points in the public law. I think it is a fine view that one should make it attractive to both the banking community and the business community to try to avoid. I just throw that in for what it is worth.

Mr. Sobion: Mr. Chairman, I do not think it is so much a percentage question. If it offends the Constitution, it offends the Constitution, whether it is 20, 25, 30, 35 or 40; in our view it does not offend the Constitution and I do not think that by making it attractive one would remove the possibility of a challenge to the section. We can do so much and no more in this forum. I mean, if anyone feels any particular section or any particular piece of legislation is unconstitutional, then all we can do at this stage is to give it our best review, and once we are satisfied it is then a matter for the courts. But I do not think that by making it more attractive that we are going to remove any question of a possible challenge.

Sen. Daly: Mr. Chairman, I am always careful not to cross the road, literally or metaphorically, but if the best advice the Attorney General has had is that the percentage points do not matter then he needs to revisit the advice. Clearly, in drawing the very, very thin line between regulatory and confiscatory, it must be relevant the number of degrees; how far the regulation goes. If that has not been considered in the the advice that they have received, then they should revisit the Australian banking case. I do think the percentage points matter both to the

constitutionality and, as I say, the fewer people who are dissatisfied with this Bill the less likely you are to get a challenge. That is a simple practical piece of advice. But more importantly, I do not think, with the greatest respect, that the Government have been well advised, if they have been told that the number of percentage points do not matter, because a few percentage points may make the difference between the thin line of regulatory and confiscatory.

Mr. Mottley: Mr. Chairman, on the point that was made that we were perhaps pulling 25 per cent out of the air, the Basle Committee has certainly recommended a range; they are very unhappy at their 40 per cent upward end of the range. One Caribbean country that has adopted that is now seeking to have that reviewed downwards. I shall just quote for hon. Members where some of the other countries are: Australia, 10 per cent; Austria 15 per cent; Belgium, 20 per cent; Canada, 25 per cent; Germany, 15 per cent; Greece, 20 per cent; Italy, 20 per cent; Japan, 20 per cent; United States, 15 per cent. Mr. Chairman, those are a few of the numbers.

Sen. Daly: We are not of the seven countries.

Mr. Mottley: No, but we hope to get to 30 per cent in the year 2000 and something.

Mr. Chairman: We have quite a number of amendments. Could we take the first one that was proposed; that subclause (2)(i) be amended as proposed by the Minister of Finance in the list?

Sen. Mansoor: Mr. Chairman, just one last argument. I have before me a publication put out by the Central Bank which has to do with the operating of the financial system.

2.40 p.m.

The data is for 1991. On page 14 of this document, Table A3, the total capital of all the commercial banks, the consolidated total capital base, is $853 million. If we say 30 per cent, we are talking 30 per cent of $853 million. That, in a situation where the dollar is devalued, where a lot of business has to access equipment from abroad is a small number and I am asking, again, that consideration be given to realize that the total capital base of banks in Trinidad and Tobago is less than TT $1 billion. When we invoke the Italian and the German experience, TT $1 billion is not much money. So we are seeking to import into our system constraints to the operation of business that are going to shoot us in the foot.

Mr. Mottley: Mr. Chairman, I was told OECD countries alone, but I see here Bolivia 20 per cent; I do not know if we want not to be in league with Botswana at 25 per cent, Sri Lanka, 30 per cent. It looks as though we want to horse trade. I will compromise at 32 per cent and leave it there.

Sen. Mansoor: Well, Mr. Chairman, if two minutes of pleading gets us 2 per cent, can I plead for eight minutes?

Chairman: Question proposed that subclause (2)(i) of clause 22 be amended, as proposed by the Minister of Finance, that is, to insert after the word "base" in line 4, the words "or to a borrower group exceeding..."

Is it 30 or 32?

Mr. Mottley: 32.

Chairman: "...thirty-two per cent of its capital base."

Question put and agreed to.

Mr. Sobion: Mr. Chairman, I beg to move the following amendment:

In subclause (6) delete the words "Save that in relation..." in line 14 to the end of the paragraph.

Question put and agreed to.

Mr. Sobion: Mr. Chairman, I beg to move the following amendments to clause 22(7):

Insert after the words "subsection(2)" in line 9 the letters "(h) and (i)" and delete the words "within a reasonable period of time" in lines 9 and 10 and substitute the words "and in accordance with subsections (8) and (9)."

Mr. Chairman: There will be no change to the list of amendments circulated over the weekend.

Sen. Daly: I am not sure of the procedure, but in my list of amendments my (h) was removed without my having the pleasure of withdrawing it graciously. I would not like my 22(7) to go unnoticed, which is that I had suggested that the words—if you look under D, Sir, that is what I am pursuing. There is no need for any direction by the bank again. I explained that, because the statute now directs the way in which the reduction must take place. I was suggesting that it might be smoother and more harmonious, if the words "Central Bank shall direct the licensee" were removed and the words "licensee shall" put in. So the clause would read—

"...and the licensee shall take such measures as it considers necessary to reduce the excess credit facilities granted within the limits laid down in subsection(2) ...in accordance with..."

So I do not know whether I could have that small comfort.

Mr. Sobion: Mr. Chairman, I am not sure whether we can merge the two proposals but I would have no problem supporting that specific amendment to subclause (7).

Sen. Daly: Thank you, it is the first thing I have got for the day.

Sen. Mansoor: Mr. Chairman, may I ask that with respect to 22(2)(h), the unsecured credit facilities, has any consideration been given to that?. The use of the words "capital base," as opposed to "share capital and statutory reserve fund..." If it is good for 22(2)(i), why would it not be good for 22(2)(h)? You cannot manipulate your capital base. It is a figure, subject to audits and all sorts of things.

Mr. Sobion: Mr. Chairman, I thought we had passed that stage. I did not realize we were going back.

Sen. Mansoor: Well no, it is a package.

Mr. Chairman: We have three sets of amendments and we are dealing with the Minister's amendment. If we can get those settled, if there are any further amendments from Sen. Daly's lists we will have that cleared. Is that all right with you, Senator?

Sen. Daly: I am in your very capable hands.

Mr. Chairman: Otherwise, we may all get lost somewhere along the line, and then some court action may arise six months later, and you say this is not the amendment you proposed. That has happened before. That is why amendments have to be submitted in writing and I am very particular on that. So we are dealing with the Government's amendment to subclause (7), as circulated—any changes to that—the Government amendment to subclause (7). Attorney General you have no changes to the proposed amendment?

Mr. Sobion: No.

Chairman: We will deal with Sen. Daly's after.

Question put and agreed to.

Chairman: Sen. Daly would you like to deal with yours at this particular stage?

Sen. Daly: Yes, Sir. I have an amendment in the revised version dated June 14, 1993 at B, which reads as follows:

"In subclause (7) delete in lines 6 and 7 the words "Central Bank shall direct the licensee" and substitute the words "licensee shall."

I think that is the only thing I am going to get for the day, Sir. I would like to take it now if I could.

2.50 p.m.

Mr. Chairman: I take it that (A) is finished.

"Not existing with 40 per cent."

Or would you like to move it— Anyway, we are dealing with (B) right now, Sen. Mark.

Mr. Sobion: We have no objections to that position with the licensee—what it has to do.

Question, on amendment, [Sen. Daly] put and agreed to.

Sen. Daly: I withdraw (A) and (C), sir.

Mr. Chairman: You withdraw (A) and (C). Sen. Daly withdraws proposed amendments at (A) and (C), of his revised list.

Amendments (A) and (C) [Sen. Daly] withdrawn.

Sen. Daly: Sir, I have not withdrawn (h) yet.

Mr. Chairman: We have not dealt with (h) yet. We will be coming back to that.

Sen. Mansoor, you had an amendment to paragraph (i) of subclause (2).

Sen. Mansoor: Mr. Chairman, may I ask as a favour that I withdraw my amendment tentatively. I think we should deal with the government's amendments and then I will probably withdraw my own.

Mr. Chairman: Let us go on to the next amendment.

Mr. Sobion: The next amendment appears on the revised list. We are including a new subclause (7) and renumbering as a consequence subclauses (8) and (9). The new subclause (7) seeks to set out transitional provisions for the

unsecured lending and, as the Minsiter indicated earlier, the excess shall be reduced by annual instalments of at least 33 1/3 per cent following that moratorium. It is the new subclause (8).

Mr. Chairman: There are re-numbered subclauses (8) and (9) to (10) and (11).

Mr. Sobion: That is correct, Mr. Chairman.

Sen. Daly: May I just draw something to the Attorney General's attention. It is really whether this correctly addresses his—I am looking at something there that was just handed out. A new page 3. That is what we are looking at?

Mr. Sobion: Yes.

Sen. Daly: Where unsecured facilities were referred to?

Mr. Sobion: Yes.

Sen. Daly: Proposed by that section. That is, two years shall be paid. I just want to point out here, it is an expression of intention. This reduction is taking place over a five-year period, so I think it needs, in the third to last line:

"Aggregate of the credit facilities."

At the end of that would have to be "five-year period", would it not? And then the reduction of 33 1/3 per cent. We are talking about the five-year period, not the three-year period. It is badly drafted in respect to the— What you are saying is you have to reduce excess commencing two years from the date of commencement of the Act by annual instalments of 33 1/3 per cent. Three annual instalments. It is a five-year period, so what I am saying is, it should say at the end of a five-year period within the limits imposed.

Mr. Sobion: Well, it is a difficult section to draft.

Sen. Daly: Well, I am trying to help.

Mr. Sobion: The effect of the section as it is drafted at the moment says you are, with effect from two years from the date of the commencement of this Act to reduce by annual instalments for 33 1/3 per cent, so it is quite clear that you do nothing within two years getting within the next following three-year period, a reduction of the total of 100 per cent of the excess. It cannot therefore refer to a five-year period. It is the reduction by 33 1/3 per cent and I think perhaps one thing that might be necessary is the word "a" before three-year period.

Sen. Mansoor: Mr. Chairman, at the end of five years after the commencement of this Act. To make it very clear, that would sort it out—five years after the commencement.

Sen. Daly: And included and assessed by Sen. Mansoor, but with such sense to a financier. If you look at my revised sheet, June 14, that is how I tried to put it at the very end. At the end of the five-year period from the commencement of this Act. Since it is so clear to the financier, maybe I could ask that that formula be adopted.

Sen. Hydar Ali says I got my quota for the day. I really think it would be clearer.

Mr. Sobion: Mr. Chairman, it may be somewhat repetitive by using the words "after the commencement of this Act", but I agree that it does make it clearer and if I may amend my amendments to incorporate that bit it would then read "at the end of a five-year period from the commencement of this Act within the limits imposed by subclause (2)(h).

Sen. Daly: Thank you, very much.

Mr. Sobion: You did well today.

Mr. Chairman: Delete the words "three-year period" and say—

3.00 p.m.

Mr. Sobion: So it will now read:

"At the end of a five-year period from the commencement of this Act."

Stylistically, I am thinking we should say:

"At the end of a period of five years", rather than "a five-year period."

Sen. Daly: A very elegant stroke. But you must show it to your draftsman.

Mr. Chairman: So after "credit facilities" it would read: "At the end of a period of five years from the commencement of this Act are within the limits imposed by subsection (2)(h)."

Does everyone follow the change to the amendment?

Question, on amendment, [Mr. Sobion] put and agreed to.

Sen. Mansoor: Mr. Chairman, I beg to move the following amendment:

"In paragraph (i) of subclause (2), substitute for the words "twenty-five per cent of its capital base" the words "an amount equal to the sum of its share capital and statutory reserve fund."

I am virtually certain that I would drop my amendment, but subsection 9 is very important. Just carrying on, on page 4, the next amendment, may I ask that that be dealt with first?

Mr. Chairman: Sen. Daly, you are talking about subclause (2) (h), where you wanted "five" replaced with "ten?"

Sen. Daly: I was just hoping in the new spirit that was prevailing that Sen. Mansoor's plea for capital base might be acceded to.

Mr. Chairman: We overlooked one amendment in Sen. Daly's proposed amendment to clause 22, in that his revised list dealt with everything else except "A" on his original list. And "A" on his original list says:

"In subclause (2) (h), delete in line 3 the word "five" and replace with "ten".

Sen. Daly: I am going with Sen. Mansoor's capital base, Sir, if I may. I would very much like to withdraw it. I am only asking for a very small inducement.

Amendment [Sen. Daly] withdrawn.

Mr. Sobion: Mr. Chairman, then you can assist him. He is pleading to have it withdrawn.

Sen. Mansoor: Mr. Chairman, may I ask once again, that the question of the capital base be considered? I think from the vantage point of the Bill, if we use capital base with respect to (i), I think there is a uniformity of purpose.

Mr. Chairman: The amendment to clause 22 by Sen. Mansoor is proposed.

Sen. Mansoor: Mr. Chairman, we are still on (h). The amendment I am suggesting is that:

> instead of five per cent of its paid up share capital and statutory reserve fund, that the words "its paid-up share capital and reserve fund" be substituted by the words "capital base."

Mr. Chairman: This is a new amendment you are proposing?

Sen. Mansoor: Yes.

Mr. Chairman: Could you just write out the amendment for the sake of the records, please? We will deal with it later.

Mr. Mottley: Mr. Chairman, we have looked at the actual numbers as to what it would translate into. Practically, it would increase this form of lending too significantly and I would like to stick with the Bill as it is.

3.10 p.m.

Sen. Mansoor: Mr. Chairman, the reason originally advanced by the Minister is that the figure of capital base could be manipulated and I think he is withdrawing that reason. He is now saying that the difference is too great. I wonder whether he can tell me what the numbers are? We are talking about a total capital base of the banks of, let us say, $1 billion. The statutory reserve and share capital of the banks are—what are the numbers, I do not have the numbers with me—five per cent of the capital base of the banks, less the share capital and the statutory reserves.

Given the fact that it is five per cent, my feel for the numbers is that we are not talking about a lot of money. If I may make the case again, the question of unsecured credit is a very important instrument in business. You may want to do something and need finance immediately; you do not have the time to get secured facilities. Unsecured credit given by a banker is an instrument of business that would really tie you up if limits are put on that type of activity.

Mr. Sobion: Mr. Chairman, we have considered the proposal made by Sen. Mansoor and it is an amendment which we can agree on, provided that there is a further amendment to delete the word "greater" appearing before "proportion".

Sen. Mansoor: Mr. Chairman, I understand what the Minister is saying. Maybe, he can just fill us in. Is it that the intention of the Central Bank would then be to argue for lesser proportions? I would just like to know what informs the decision?

Mr. Sobion: In the context of being able to keep some degree of control, at least in the initial stages, and see how the system works. That is the reason for the position. We have expanded the base as you requested.

Sen. Mansoor: Mr Chairman, at a first look at it I would be inclined to agree, because, in the end the Central Bank has all sorts of powers anyway. I would imagine that the Central Bank, acting in accordance with this provision, would, in most instances, unless there was really trouble, and on which I would not want to tie there hand. So, by saying five per cent of capital base or such proportion, I think that the Central Bank will not willy-nilly just... it could be greater or lesser.

Mr. Sobion: Yes.

Sen. Daly: I would like Sen. Mansoor to get something. Yes.

Question, on amendment, [Sen. Mansoor] put and agreed to.

Sen. Mansoor: Mr. Chairman, we still have the words "40 per cent of subclause (9). I think there would be some consequential amendments to the Government's draft in terms of what will happen under (9).

3.20 p.m.

If I may, when we had a floor of 25 per cent, we said that the bench mark after five years, as it now is, was 40 per cent. I think that should be increased to at least 47 1/2 per cent or 32 per cent. The difference between 25 and 32 per cent is seven, so that rather than having a benchmark of 40 per cent at the end of five years, we should now have a benchmark of at least 47 per cent to make it consistent. I advance that on the basis that the real crunch will be in the first five-year period. The difference between 40 and 32 is eight, the difference between and 40 and 25 was 15, so that it is a question of how quickly you do it.

Mr. Sobion: The two percentages would not necessarily link to each other. The idea is that by five years we get down to 40 per cent. That was always the benchmark we were using. It bore no relation to what we were ultimately going to get down to. We have added the additional feature of giving a two-year moratorium before one needs to downgrade; so that we are still sticking with that benchmark.

Sen. Mansoor: If I may plead a bit. I think that after five years moving from whatever to 32 per cent is really the easy part of it. The crunch is going to come in that initial five-year period where you are moving from whatever you are now, to 40 per cent. We are saying two years moratorium, if nothing happens and then three years. I am saying that the key percentage in this whole thing, the most difficult benchmark, is that 40 per cent. If the 32 per cent is going to mean anything, the first benchmark should be relaxed, because, what you have done is reduce by what you have already done the benchmark from 25 per cent to 32 per cent which, you have found necessary to do because of good business reasons. The most painful thing to do would be to get to that 40 per cent. I am suggesting that rather than try to bridge that gap in a big gulp at the start, we need to massage it in such a way, that in getting to 32 per cent there is not an initial bench-mark which is almost as painful as the final benchmark. I respectfully wish to suggest

that whereas 40 per cent of the capital base was the first benchmark, that that be increased to 47 per cent because of the relaxation of the 25 per cent. That is really where the crunch will be in that first period.

Mr. Sobion: Mr. Chairman, as I understood it all along the first benchmark was never a problem. The problem was always where you would ultimately get to. We have indicated that we are committed to getting at least 40 per cent in five years and that is consistent with the examples which the Minister of Finance gave in respect to other countries. It is not a concession that we can make despite the ardent plea of Sen. Mansoor.

Sen. Mansoor: Mr. Chairman, I would not take too much time, but I really would like to advance my argument. I think we have to remember that in the initial stages we are going to have to dismantle securities. We are going to have to do all sorts of things. We do not know what the capital market of this country will be like in the next five years. This afternoon we are essentially changing the way in which businesses finance their activities. We are changing that in a very fundamental way. I happen to think it is a good change that we should be less dependent on bank credit, and we should be more dependent on capital. It is a good change. I applaud the Government for that. I am asking, notwithstanding the fact that it is a good change, that we change in a gradual way so that we allow our businesses to prosper because, what will happen is that commercial banks will be going around town and saying, "that is your limit, find someone else." If credit is not available it becomes more expensive. We will have foreign banks exploiting opportunities. It is that first benchmark that is going to cause the greatest problem. Yes, the final purpose is correct but we need time, and the time is needed up front and not later on.

Sen. Hosein: Mr. Chairman, I wish to support Sen. Mansoor on this point. I think that the time factor is critical and the dismantling of this regime is going to put us into much difficulty. I feel that it is a small concession, and the Government should give serious thought to it and accede to it.

Mr. Chairman: Sen. Mansoor, let me get it clear. Do you want to put your amendment to paragraph 5 now or do you still want it deferred?

Sen. Mansoor: I have virtually withdrawn my initial amendments. That amendment is academic. I did not want to say that at this stage. I have withdrawn my amendment.

Mr. Chairman: Do you want to propose an amendment to the new sub-clause?

Sen. Mansoor: Yes. My proposed amendment would be the third line—9(a)

"In the case of borrower groups, by annual instalments of at least thirty-three and one-third per cent by which the credit facilities exceed "forty-seven" per cent of the capital base two years after the commencement of this Act."

Essentially the amendment to the Government's amendment is changing the word "forty" to "forty-seven" in 9(a).

Mr. Sobion: What about line four? "Forty" per cent appears in two places.

Sen. Mansoor: Yes, it will change in both places, from "forty" to "forty-seven."

Mr. Mottley: Mr. Chairman, unfortunately, we on this side cannot accept that further amendment.

Mr. President: Sen. Mansoor do you want to move the amendment formally?

Sen. W. Mark: Mr. Chairman, one of the problems that we have in this technical area of the discussions is that we are playing around with numbers without having a sufficiently objective appreciation of how these numbers are going to impact on the economic community of the country. If the Minister is exhausted because, he himself seems to be in some trouble, the point about it is that we have to be very careful. This is a Bill that is going to become law shortly, and we want to ensure that whatever we put on the statute books would redound to the benefit of the community and the country. I am getting the distinct impression that we really do not have an objective appreciation of what we are dealing with on the numbers. This is why we have been calling for the establishment of a joint select committee of Parliament to deal with these technical matters. This is a technical matter that we are dealing with. I am saying, for instance, that we have to be extremely careful. Sen. Mansoor is speaking from the position of authority in terms of his experience. I am saying we cannot dismiss things lightly at this point in time. We could do that at our own peril. You are in the Chair and I am just giving you our position on this matter. We cannot support these amendments.

Mr. Chairman: I am putting the amendment proposed by Sen. Mansoor which is an amendment to the amendment already accepted and proposed by the

Minister of Finance. We are dealing with the new page four, sub-clause 9 paragraph (a).

3.30 p.m.

Sen. Mansoor: If I may go on, 'at the end of the three year period' is not consistent with an earlier amendment that we made. It should be 'five years after the commencement of the Act'.

Mr. Sobion: Mr. Chairman, I was going to mention that the amended amendment needs to be further amended to be consistent, "so that at the end of a period of five years from the commencement of the Act" should be inserted in place of the words "three year period" at line 7.

In line 7 "at the end of a period of five years from the commencement of the Act."

In the penultimate line in subclause (9) (a) it should read, "at the end of a period of three years," instead of "at the end of a three year period".

Because of the way it is worded it talks about a further, shall be further reduced.

Mr. Chairman: Is it five years or three years?

Mr. Sobion: If we say at the end of an eight year period after the commencement of this Act. That is cumbersome.

Sen. Daly: It is clear and consistent with the Minister's gracious expression and intention.

Mr. Sobion: In the penultimate line we are proposing that it should now read, "so that at the end of a period of eight years from the commencement of this Act the credit facilities are within..."

Mr. Chairman: Those are subsequent amendments to subclause 9 (a) on page 4 in line 7 will now read, "after the commencement of this Act so that at the end of a period of five years from the commencement of this Act the credit facilities do not exceed forty percent..." Is that it?

Question, on amendment, [Sen. Mansoor] put and agreed to.

Mr. Chairman: The next amendment on page 5 the penultimate line of (a) would read: "end of a period of eight years from the commencement of this Act the credit facilities are..."

Then paragraph (b) lower down the penultimate line would read "period of five years from the commencement of this Act the facilities are within .."

Those are the consequential amendments to the new subclause 9 (a) and (b)

Question, on amendment, put and agreed to.

Clause 22, as amended, ordered to stand part of the Bill.

Clause 23 ordered to stand part of the bill.

Clause 24.

Question proposed, That clause 24 stand part of the Bill.

Mr. Sobion: The amendments are to provide for the Minister to make regulations instead of the Central Bank making by-laws.

Mr. Chairman: Was it circulated in the original list of amendments?

Mr. Sobion: It is in the original list as well as the revised list. I am sorry. There is a further amendment to clause 24 which appears on page 6 of the original listing. It is to renumber subclauses 4 to 6 and to include a new subclause 4 which would provide for the regulations which were to be made by the Minister of Finance, to be made in Parliament, subject to a negative resolution.

Sen. W. Mark: Make that an affirmative resolution.

Mr. Sobion: The answer to that is in the negative. It is the question of the regulation of advertisements.

Question put and agreed to.

Clause 24, as amended, ordered to stand part of the Bill.

Clause 25, ordered to stand part of the Bill.

3.40 p.m.

Clause 26.

Question proposed, That clause 26 stand part of the Bill.

Mr. Sobion: Mr. Chairman, I beg to amend clause 26 by deleting the existing subclause (1) and substituting the following:

"(1) In order to determine what steps, if any, are necessary to be taken to encourage the expansion of credit in any or all sectors of the economy, the Central Bank shall, from time to time, consult with licensees."

To bring it in line with the existing Central Bank legislation, the provision has been lifted from the Central Bank legislation.

I beg also to amend subclause (3) by inserting the words "and a daily newspaper" after the word "Gazette".

Sen. W. Mark: Is the hon. Attorney General saying that the clause in question here which reads:

> "In order to determine what steps, if any, are necessary to be taken to encourage the expansion of credit in any or all sectors of the economy, the Central Bank shall, from time to time, consult with licensees."

Is he saying that is something—

Mr. Sobion: ...existing at the moment.

Sen. W. Mark: It is existing, but we want to subject this thing to some amendment here.

Mr. Sobion: Well, proceed.

Sen. W. Mark: Mr. Chairman, we are dealing with monetary policy here. If we are going to determine, for instance, whether credit ought to be expanded in the economy, why must it only be subject to the licensees—all those people who may be involved in banking and financial services? What role is there for the public in this whole arrangement? Who will represent the interests of the population here? Not Government.

We need to look at this question very carefully. Already the Government is on a liberalization and privatization course, and what we are seeing here is a clique sitting with the Central Bank to determine, for instance, monetary policy in Trinidad and Tobago, and we have a problem with that. The population ought to have some interest in this matter. Why must just the licensees—bankers and so on—sit with the Central Bank—a group of bureaucrats—to determine our monetary policy? What is the role of the Parliament in all this? Where do the trade unions and credit unions come into the picture?

We have an objection to this matter. We believe that it is too narrow a framework when we take into account the need for greater involvement and participation.

Mr. Sobion: I have a little difficulty with trying to consider the proposal unless I get a feel for it by way of words. I do not know whether Sen. Wade Mark is saying that we add the words "consult with licensees and the people of Trinidad and Tobago". If we can get something that one can look at—

Sen. W. Mark: What we are trying to advance here is that you need to incorporate the credit unions, the trade unions and, ultimately, the Parliament of this country. We are, therefore, proposing, in this clause, the whole question of a joint committee of Parliament to deal with the matter.

We propose the amendment that this subclause be extended to read:

"from time to time, consult with licensees, credit unions, trade unions and a joint select committee of Parliament, dealing specifically with banking and finance".

Hon. Speaker: *[Inaudible]*

Sen. W. Mark: Well, the businessmen are already taken into account. They are the licensees. They are directly involved.

Essentially, what I am saying is that this has to be broadened. It cannot be narrowed in the way the Government is proposing here. If that is in the Central Bank Act, we have to amend it and have it on a wider scale. We are dealing here with monetary policy and we cannot leave it to a private sector clique, the Government or, in this instance, with the Central Bank. We need to broaden it, because they can determine policies in this country. We have a wider community of interests to deal with.

Mr. Chairman: Sen. Mark, if you have an amendment, please put it in writing.

Mr. Mottley: Mr. Chairman, I will only add, at this stage, that in consulting with the licensees, these are the institutions that have time deposits, fixed deposits, the money supply of the country, and they are the people who have hands-on knowledge as to the forces affecting the money supply—a critical element in monetary policy. We believe that the Central Bank could usefully consult with these institutions in guiding them on any necessary steps to be taken in matters concerning credit in the economy. They have an expertise that they bring to the Central Bank, and that is why this clause is written as it is. To carry it far broader than that, is to bring in institutions, some of them financial, that have

no direct bearing on the money supply. Wider than that, there are other fora for that advice to be brought to bear.

Sen. W. Mark: What other fora are you talking about?

Mr. Mottley: I think you are a member of one of those.

Sen. W. Mark: No, that forum is a talk shop. We are not dealing with that kind of thing. We are dealing with real efficacy in terms of policy and results.

Sen. Daly: While Sen. Wade Mark is formulating his amendments, can the Minister say approximately when we are likely to get the Bill to amend the Central Bank Act?

Mr. Mottley: The first draft is completed. We are looking at just a matter of weeks now.

Sen. Daly: The amendment itself raises problems about accountability for monetary policy. There was, what were the words you used, "too loose monetary policy in the past", so that there is something to be said for looking at this in a broader picture. Maybe the time is when we have the Central Bank Act.

Mr. Chairman: I propose the amendment by Sen Wade Mark to the amendment proposed by the Minister of Finance. The Minister of Finance proposed to substitute the amendments circulated for clause 26(1). Sen. Wade Mark is proposing that at the end of that proposed amendment, after the words, "consult with licensees", we add the words, "the trade union movement, the credit union movement and a joint select committee of Parliament on banking and financial institutions".

Question, on amendment, put and negatived.

3.50 p.m.

Mr. Chairman: I now put the question to the amendments proposed by the Minister of Finance to clause 26 as circulated; 26(1) and 26(3).

Question put and agreed to.

Clause 26, as amended, ordered to stand part of the Bill.

Clause 27.

Question proposed, That clause 27 stand part of the Bill.

Mr. Chairman: I take it that Sen. Daly's amendment is no longer necessary?

Sen. Daly: No, Sir.

Mr. Sobion: Mr. Chairman, there is an amendment to clause 27(3) which was inspired by statements made by Sen. Daly.

I beg to move that clause 27 be amended by deleting subclause (3) and renumbering subclause (4) as (3).

Question put and agreed to.

Clause 27, as amended, ordered to stand part of the Bill.

Clause 28.

Question proposed, That clause 28 stand part of the Bill.

Mr. Sobion: Mr. Chairman, we had proposed an amendment to clause 28(2) which I would like to withdraw. It is not necessary in this particular instance to have matters of that nature published in a newspaper.

Mr. Chairman: The amendment proposed by the Attorney General to clause 28(2) has been withdrawn.

Amendment withdrawn.

Clause 28 ordered to stand part of the Bill.

Clause 29 ordered to stand part of the Bill.

Clause 30.

Question proposed, That clause 30 stand part of the Bill.

Mr. Sobion: Mr. Chairman, I beg to move that clause 30 be amended by deleting subclause (9). This is not a necessary provision having regard to the fact that the powers to be exercised under this Act are to be done by the Board of the Central Bank. So there is no need to insulate the Inspector of Banks. So we are seeking leave to withdraw clause 30(9).

Question put and agreed to.

Clause 30, as amended, ordered to stand part of the Bill.

Clause 31 ordered to stand part of the Bill.

Clause 32.

Question proposed, That clause 32 stand part of the Bill.

Mr. Sobion: There are certain amendments to clause 32 which were also made to previous sections; the change from "Central Bank" to "the Board" for the reasons already given.

I beg to move that clause 32 be amended by deleting the words "Central Bank" wherever they occur in subclauses (1), (2) and (4) and substituting the word "Board".

Question put and agreed to.

Clause 32, as amended, ordered to stand part of the Bill.

Clauses 33 to 37 ordered to stand part of the Bill.

Clause 38.

Question proposed, That clause 38 stand part of the Bill.

Mr. Sobion: Mr. Chairman, I beg to move that clause 38 be amended as follows:

A. In subclause (1) insert before the words "The Central Bank" the words "The Minister after receiving the recommendations of".

B. Delete the word "bye-laws “wherever it occurs and substitute the word "Regulations".

C. Renumber subclauses (2) to (4) as (3) to (5) respectively and insert after "subclause (1) the following:

"(2) Regulations made under subsection (1) shall be subject to negative resolution of Parliament.

D. In subclause (4) delete the words "The Central Bank" in line 1 and substitute the words "The Minister on the recommendations of the Central Bank, by Order,"

E. In subclause (5) insert after the word "dollars" in line 3 the words "and in the case of a continuing offence to a fine of ten thousand dollars for each day during which the offence continues".

These amendments essentially, put the regulation-making power in the hands of the Minister after receiving the recommendations of the Central Bank, and to provide for the laying of those regulations in Parliament subject to a negative resolution. They appear on the list that was circulated as A to E on that list. There

is one matter which is dealt with at D. Again, the Minister, may make recommendations to the Central Bank, by order, exempt a licensee from complying with any of the criteria. That is the sum effect of the amendments to clause 38.

Sen. Daly: I repeat my request for an affirmative resolution in relation to these prudential financial criteria. My reason is that these prudential criteria, certainly when they are first promulgated—when they come to be amended, that is a different matter—I say that at the outset. But when these prudential criteria come to be promulgated for the first time, we would be doing something as far-reaching as we are with the principal legislation. I think there is room for quite a lot of debate as to what the criteria under these very far-reaching headings should be. And, therefore, I think that the scrutiny of Parliament is required for the prudential criteria, at least initially. This exercise has, in fact, borne out the need for the scrutiny of Parliament for major legislation like this. I would ask the Attorney General—I do not want to take up much time—I accept that subsequent to their initial promulgation, it may be unnecessary to have an affirmative resolution each time, but I think these prudential criteria, when they are first published in this country, never mind Japan and Italy, will require the scrutiny of Parliament, and I ask that we have an affirmative resolution, please.

Mr. Sobion: Mr. Chairman, we had given serious consideration to the proposal which, again, has been advanced by Sen. Daly. The fact is, however, these criteria are really very technical matters and we are of the view that if any Member of Parliament having seen the criteria when they are laid, should have a particular difficulty, the chance to debate it will not be lost because a motion can be brought. But we do not think that in the meantime the criteria should not become effective. I wish to say one thing further, that as the Minister signalled when he presented his Bill, there has been a lot of consultation on this piece of legislation as is going on at this point with respect to the prudential criteria. As I said, it is a highly technical matter, and while I appreciate the concern of Sen. Daly that we are breaking new ground, I do not think that he will be deprived of the opportunity to debate this matter, if, at the stage when it is laid, he thinks it necessary. But we felt that they should come into effect as quickly as possible and once they are laid they should become operative, subject to a negative resolution being moved by any Member of this Senate or the House of Representatives.

Sen. Daly: Mr. Chairman, may I ask the Attorney General--I am genuinely looking for information—if there is an instance where a set of regulations appear

not to be consistent with the philosophy of the principal legislation, are those regulations null and void? Recently we saw a case where the suggestion was made that a set of regulations were not consistent with the philosophy of the principal bill.

What happens in a case like that, I am asking for information?

4.00 p.m.

Mr. Sobion: Regulations can be made for the purposes of the Act. The instance which you cited relates to another Act where it was suggested that the Minister had no power to make such a regulation. That argument proved to be fallacious, in any event, from a legal point of view. You cannot make regulations outside of the purposes of the Act, and these criteria are being developed within the overall policy position that the Act deals with.

Sen. W. Mark: Mr. Chairman, I believe we are going into new areas. Trinidad and Tobago is now being placed on a course that we are unfamiliar with by this Government, and I cannot understand why the Attorney General would not want the Parliament of this country, in spite of the technicality of these criteria, to scrutinize and deliberate on these matters before they become law. I think that, for instance, because of what we are discussing here already, it is necessary for us to, at least, peruse those regulations before they are made law in this country; and I think that the Government owes the country and this Parliament that duty to bring those regulations before they are actually promulgated. I do not want them to come afterwards and then you tell me I have to come with some Private Member's Motion if I see something is wrong, or if I have an objection? Let us bring those things before this Parliament and deliberate on them; and if they are clean and are not going to cause problems they are going to be passed. I see no problem with the Government agreeing to an affirmative resolution of this matter.

Sen. Mansoor: If we can remember, there is some question about constitutionality. I know the Attorney General has dismissed it as not being pertinent in terms of the legal advice he has had. But it seems to me that when one is going to make bye-laws with respect to these prudential criteria, it is probably useful for the Government to have the scrutiny of Parliament. Because I am reasonably certain that at some stage in the life of this Bill, somebody is going to query whether it is constitutional. That is not a far-fetched argument. As I said in my contribution to the debate with respect to the security industries legislation, that legislation is virtually powerless: it has no value, because if you try to use the

provisions of that Act, you are told by the opposing party it is unconstitutional. So that in the case of regulations, I would have thought that the Government would have wanted to buttress its position with respect to the acceptability of the regulations to stave off the possibility of this rather untoward happening taking place in what we want to be the financial centre of the Caribbean.

Sen. Daly: Mr. Chairman, can I say what my difficulty is with the the Motion for an annulment? We had experience of it recently. If you have to bring a Motion for the annulment, you are faced with a rather barren exercise, because you are really trying to sweep away a whole set of regulations which may have valid parts. So that is my problem with a Motion for the annulment. Whereas if we get to see these regulations prior to their coming into force, the collective wisdom of everyone can be brought to bear on those regulations to see that they are technically properly drafted—that is the first thing. Secondly, there may be other concerns about their content.

You see, Mr. Chairman, I thought, really, that we had almost got over this, and I am surprised that it is still a live issue. I really do not want to spoil the atmosphere, but I want to emphasize that when you have new and far-reaching regulations like this, it is important that the Parliament not be ignored; and it is important for two reasons. First of all, you want regulations that are constitutional and that are technically sound, that is to say, they are properly drafted; and, secondly, these are very far-reaching and it is important that, just as this Bill is being, I hope, improved by the collective wisdom being brought to bear on it, these regulations, similarly.

Now, Mr. Chairman, I do not want to spoil the atmosphere that is prevailing here today, but we were given some regulations in the course of the Minister's winding-up last Tuesday; and had the good sense of the Government not prevailed on that occasion, and they had insisted that we deal—we had to fight to get that adjournment. There was talk about giving everybody 45 minutes; or 24 hours; and we had to fight very hard to get the taking of those regulations into Committee Stage, to get them postponed for a week so that we could all look at them.

In that intervening week, the Government had to withdraw those regulations and it is quite obvious why they were withdrawn. I do not want to use unparliamentary language, but God forbid that these prudential criteria are drafted by the same people who gave us those regulations at four o'clock when the Minister was winding-up. They were an absolute embarrassment to the Minister,

and that is why they were withdrawn—because they were hurriedly done and poorly drafted. I am emphasizing that, Mr. Chairman, because if badly drafted—never mind their content—prudential criteria are put down for the banking industry in this country, then all the work that we have done here with the co-operation and generosity of the Government, we could as well kiss it goodbye, and I think it is very important.

Sen. Capildeo: Mr. Chairman, I am getting a wrong impression—

Sen. Huggins: You are always getting the wrong impression.

Sen. Capildeo: No, you listen to me, this is serious business. You are passing the most serious Bill on finance that is going to take place in this country for two decades to come. It is a very, very serious thing; and Mr. Chairman, would it not be better for Parliament to have a say in the criteria that is being proposed to avoid exactly what Sen. Mansoor has a fear of and which I am certain is going to take place, a constitutional challenge to this Bill? Would it not be far better to bring the regulations to Parliament to have a look at them and then try to avoid what is going to be a most embarrassing situation, if this Act is going to be challenged in the court?

I cannot understand what is the hesitancy, unless of course, during the course of the debate it is now expedient to pass this Bill by 4.15 p.m. I am beginning to wonder about that—if it is not that we should get through with this Bill by 4.30 p.m. It seems to me, Sir, that much is being put on this Parliament to act by guess. We are being asked to look at certain amendments here which depend on specialist knowledge; and we are being asked to pass amendments on a banking bill that is going to determine the financial life of this country for years to come. We are not provided with any statistics, any bases—nothing at all—save the Minister's word that they have looked at it. That is why we called—and it is laughed at on the other side, and it is a deadly serious matter—for a Joint Select Committee on finance and banking. You could "cheups" how much you want! We called for a Joint Select Committee on finance and banking, so that we could supervise the people's affairs. You see, what is happening, Mr. Chairman, the people are being left out of this sought of legislation. They have no input in this—and all we are saying to this Government *[Interruption]*. But you got your "PAZ-9" or what ever it is, so take it and go.

Sen. W. Mark: You fix up, what you worrying about? We have to bring this man before an economic crimes committee!

Mr. President: Order, order!

Mr. Sobion: Mr. Chairman, may I make a suggestion, that we defer consideration of this clause for a few moments?

Mr. President: The question is that we defer consideration of clause 38 while we proceed with the other clauses and come back to clause 38 later.

4.10 p.m.

Sen. Daly: Mr. Chairman, if you would help me. Can I follow the Minister's example. There are other parts of this legislation where the question of affirmative or negative is going to come up, and I would like to say that so far as I am concerned, this is the priority item. I cannot say more than that. Personally speaking, I would have wasted the four days we spent here if they can now bring these regulations, badly drafted, and we cannot look at them.

Mr. Chairman: I believe the Minister would like to check out something and while he is doing his checking, we can consider other matters.

Mr. Sobion: Mr. Chairman, save perhaps to say that the concession that one can make on a matter like this, I just want to make it clear that it has nothing to do with the quality of legal drafting.

Question put and agreed to.

Clause 38, by leave, deferred.

Clauses 39 to 41 ordered to stand part of the Bill.

Clause 42.

Question proposed, That clause 42 stand part of the Bill.

Mr. Sobion: Mr. Chairman, I beg to move that clause 42 be amended as follows:

Delete subclause (2) and substitute the following:

"(2) Every licensee shall submit on the request of the Central Bank in respect of an affiliate an audited balance sheet and profit and loss account signed by two directors."

Sen. Mansoor: Mr. Chairman, I had an amendment to clause 42 which the Government, I thought, had acted upon and it seems to be left out of the list. Is that an error? It had to do with clause 42(2). I seem to recall in an earlier version

of the Government's amendments that you had agreed to an amendment where you said that the Central Bank could request; which affiliates of the licensee and I thought that was a good compromise.

Mr. Sobion: It is at the top of page 8 of the original list that was circulated.

Sen. Mansoor: Yes.

Mr. Sobion: We are deleting subclause (2) and saying that every licensee shall submit—

Sen. Mansoor: Yes. I am sorry. You are perfectly correct. There is an amendment.

I would withdraw my amendment and the Government's amendment could be put to the vote.

Amendment [Sen. Mansoor] withdrawn.

Sen. Hosein: Mr. Chairman, I would like to ask the Minister why is there not a time limit for the submission of these balance sheets and profit and loss statements?

Mr. Sobion: Clause 42(1) says that:

"Every licensee shall within three months after the close of the financial year—"

The question is for submission to the Central Bank.

Sen. Hosein: It is kind of open ended there, you see.

Mr. Sobion: You shall publish and you shall submit a copy thereof to the Central Bank. It is covered by the same three month period. You shall within three months, publish and submit.

Question put and agreed to.

Clause 42, as amended, ordered to stand part of the Bill.

Clause 43.

Question proposed, That clause 43 stand part of the Bill.

Sen. W. Mark: Mr. Chairman, there is an amendment here. I wanted to get some clarification on clause 43(1). In this section there is something about "may reasonably require". I am trying to determine, Mr. Chairman, from the Attorney

General, when you say “reasonably require”, what time frame you are talking about because you are asking under 43(1) that:

> "The Central Bank may require a licensee to furnish within such time and in such form."

You went on further to say that “the Central Bank may reasonably require...” Now in terms of leaving this thing open ended— In other words, there is no real specific fixture. Who determines what is reasonable? The Central Bank?

Mr. Sobion: No. If someone does not think the Central Bank has acted reasonably they can take action against the Central Bank, but the initial judgement is that of the Central Bank. If you, as an individual, are not satisfied that they have acted reasonably or that the information is not reasonably required for the purposes of the Act, then you could take such steps as you consider necessary.

Sen. W. Mark: Okay. All right, Mr. Chairman.

Clause 43 ordered to stand part of the Bill.

Clauses 44 to 46 ordered to stand part of the Bill.

Clause 47.

Question proposed, That clause 47 stand part of the Bill.

Sen. Daly: I notice this is not an occasion on which the substitution of "Board" for "Central Bank" has been done, and I just wondered about it, Sir.

Mr. Sobion: Mr. Chairman, we had considered this matter together with the other sections where it was changed. We think that having regard to the fact that orders made under section 47 may be required to be made urgently, that some degree of flexibility ought to be permitted to the Central Bank in making what is really an emergency type order. So for that reason, whilst we considered it necessary to specify that the "Board" in making the more long-term decision should specifically be mentioned in the Act, we thought that some flexibility was necessary in respect of these particular emergency type orders.

Sen. Daly: Assuming that is so, I am expecting to see this as the opinion of the Board or the Inspector. The flexibility you would gain is presumably the Inspector could form this opinion on his own, but to just hang the words "Central Bank" out there, where we use "Board" everywhere else, does not seem to make a great deal of sense.

Mr. Sobion: Well, you see in any event—we have had some discussion on this matter—if you refer to the Central Bank, it is a corporate act which has to be made. Now, the Board of the Central Bank may, for instance, delegate to the Governor the right to take action under clause 47. So that is the kind of flexibility that one was looking for in relation to this particular section.

Sen. W. Mark: Mr. Chairman, could the Attorney General indicate to us who is going to hear matters of unsound practice or where you have violations of any provisions of this Bill? Who is going to hear these matters? Because in clause 47(2) a hearing is to take place, but there are no specifics as to who will hear. It cannot be the Central Bank because the Central Bank is accusing somebody of something. So who is going to hear these matters? The Central Bank? I would like to get some clarification from the Attorney General on this matter, because you cannot accuse me and then come and try me. So I would like to know who is going to hear these matters? It is not clear here, Mr. Chairman. Who is going to hear the matter? The Central Bank accuses me of being involved in some unsound practices and then what the Central Bank is going to do, call me in and be judge, jury and executioner at the same time. It cannot make sense.

4.20 p.m.

Mr. Sobion: Mr. Chairman, I do not think repetition is going to lend any greater validity to the point being made by Sen. Wade Mark. The fact is, we are dealing with a situation where the Central Bank has the overriding power to see to the operations of the commercial banks. There are prudential criteria which are going to be established; there are a number of other things that are going to come under the Act.

If the Central Bank, in its monitoring capacity of a commercial bank, feels that a commercial bank is not keeping faith with the regulations, then all clause 47 does is to permit the Central Bank to serve a notice to allow that commercial bank, that licensee, to explain what they are doing. It is not a criminal trial into any such thing. We are saying that, "look, we have regulations; you are not complying with the regulations; I serve you with a notice; come and explain your position with respect to the activities that you are undertaking in breach of the regulations." That is what any regulated body does. It is not a question of judge, jury and accuser and what not. That is in the criminal sphere. This is a regulatory body which is charged with that specific responsibility and they are the ones responsible to deal with it. You cannot send them off to some other body.

Sen. Daly: I would not be as dramatic as Sen. Wade Mark about it, but I think it is important to know who is going to hold the hearing.

Mr. Sobion: Mr. Chairman, much of the debate on this matter has tended towards a watering down, or an attempt to water down, the scope of the powers of the Central Bank. I think we are taking things out of perspective a little bit. If the Central Bank is charged with a particular responsibility, the Central Bank is constituted in a certain way; there is an Act which establishes the Central Bank and gives it certain powers, then I think that we have to have confidence in the system. The Central Bank is charged with a duty and one would expect that the officers, the Board of Directors of the Central Bank, will understand what their duties and functions are, and will exercise them. I do not think it is necessary for us to spell out in this Act, who is going to be responsible for (a), (b) and (c) in the Central Bank. The Central Bank has a board, it has officers, it knows what its responsibilities are, and I think we have to leave it up to the Board of the Central Bank to determine where they delegate and what they delegate at any point in time. I do not think that we can attempt to lead the Central Bank by the nose throughout every sphere of the functions that they must perform under this Act.

Sen. Daly: It is getting cloudy, Sir. I will take it up when we get to "delegation." It is getting too cloudy for my taste, Sir. I will not pursue it. I will take it up under clause 63.

Clause 47 ordered to stand part of the Bill.

Clauses 48 to 50 ordered to stand part of the Bill.

Clause 51.

Question proposed, That clause 51 stand part of the Bill.

Sen. Daly: Mr. Chairman, I beg to move the following amendment:

A. Delete clause 51(1) occurring on page 46.

B. In subclause (1) page 47, delete "(i) or (j)" occurring at the end thereof.

C. In subclause (2), delete "(i) or (j)" occurring in line 5.

Under clause 51, a licensee who is a transferee could get a guarantee in respect of unsecured credit facilities. If he does, he can make an application to the Minister to be exempted from complying with certain provisions. I fully understand that if he gets a guarantee in relation to unsecured credit facilities, he

might receive an exemption from that section which deals with "unsecured." I fully understand that, so I do not have any particular problem with the exemption under clause 22(h). But I do not understand how the mere obtaining of a guarantee for "unsecured" can get you an exemption under (i) or (j), (i) being the secured provision that we spent such a long time on. It just does not seem to make sense, that we have gone to all this bother to do all the things that we have said, and then by getting a guarantee in relation to "unsecured" only, you can get an exemption from your obligations in respect of "secured." I have a little difficulty with that.

Mr. Chairman: There is a repetition on the cyclostyled Bill. Clause 51(1) was repeated at the bottom of— So that is out.

Mr. Mottley: Mr. Chairman, I beg to move the following amendment:

A. Delete subclause (1) and renumber subclauses (2) and (3) as (1) and (2) respectively.

B. In subclause (1) as renumbered, delete the words "under subsection (1) in lines one and two and substitute the words "to the Central Bank".

Question, on amendment, [Mr. Mottley] put and agreed to.

Mr. Chairman: Sen. Daly, you also have some amendments?

Sen. Daly: I have said what it is, Sir. I am seeking the deletion of the references to (i) and (j), the last two letters. It is absolutely crucial, because if I am a creditor from abroad, I make an offer to an existing licensee almost for any price, and then go and get an exemption from all the requirements, and then I compete on completely advantageous terms with the existing commercial banks, on the basis of a guarantee from someone, and unsecured.

Mr. Mottley: Could you just go back step by step and let me understand the difficulty that you are foreseeing?

Sen. Daly: This is a section dealing with what it to happen if someone acquires—as I understand it; I understand that is the purpose of this part. That is the first assumption on which I am proceeding, that part 10 deals with someone acquiring an existing licensee. Clause 51 provides that if you get a guarantee for the payment of your unsecured liabilities, you can, in exchange for that guarantee, be exempted by the Minister from certain provisions of the Bill, the first of which is clause 22(2)(h). I understand that, that if you bring a guarantee for your unsecured, you can get an exemption from the unsecured provisions in clause

22(h). I do not understand why such a guarantee would permit you to have the grounds for exemptions under (i) and (j), (i) dealing with "secured" and (j) dealing with something else.

Mr. Mottley: Mr. Chairman, I think I understand the danger. I understand the point being made. Could we just defer that particular matter to get some point on this matter?

Sen. Mansoor: Mr. Chairman, the Minister may also want to consider why is it ten per cent in this case, as opposed to the five that we talked about. We have agreed five per cent of the capital base. This is ten per cent of the share capital and the statutory reserve fund. So if it is going to be consistent—

Mr. Chairman: I think this is a convenient time to take a break. The proceedings of the Committee will be suspended for half an hour. The Committee will resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. Chairman: When we suspended the proceedings in committee, we were on clause 51. We had agreed to the amendment proposed by the Attorney General as listed in the amendments circulated.

Sen. Daly: Mr. Chairman, it was drawn to my attention that the word is re-numbered; that the exemption is not dependant on a guarantee. It is not dependent on anything. It is simply that the Minister may make an order exempting the transferees. As I understand it, the section to which I was referring about the guarantee is gone, but that increases my anxiety. Because it cannot be right—I do not like words like "level playing"—if only a transferee, within the narrow terms of Part X, could get an exemption from the Minister from the provisions of 22(h), (i) or (j).

If the Minister is going to have the power, after consultation with the Central Bank, to exempt licensees from those very important provisions, then what is the logic in only this narrow class of persons, that is, transferees, being able to get such an exemption. It means that the best thing in the world to be, after this Bill is passed, is a transferee. Because you can come in; you may be able to get an exemption; then all the other banks that have not transferred their assets will be lumbered with the restrictive ratios we are talking about. It makes the constitutionality point even more urgent because it is now specifying, quite

clearly, that for free—that is no guarantee or alternative security—a limited class of persons can get advantageous treatment from the Government.

I am really concerned about this. Really, it will benefit foreigners to the detriment of the localized banks. It is very, very worrying. Now that it has been explained to me, I am more worried. I just do not know what it is for. I believe, historically, when banks were localizing, certain things could have been put in their vesting order to make the localization position easier, but we are not at that point in history.

Sen. Capildeo: Mr. Chairman, perhaps, the Attorney General should consider the complete deletion of this clause. You evidently do not have the time now to think about it.

Sen. Daly: I think so myself.

Sen. Capildeo: Delete the clause completely because, more than clause 22(i), this could lead to even greater constitutional action. Anybody can file a writ and say "I have been discriminated against", and hold up the operations of this Finance Institutions Bill. So, you should consider deleting the clause, and, maybe, while I am on that, you can delete clause 53(3) too.

Sen. Daly: Mr. Chairman, I really believe that this is a hold over from the localization days where, in order to facilitate localization when the vesting order was made transferring the assets of the foreign bank, one could have got certain exemptions. For example, you could get a guarantee from your parent company in relation to certain of your liabilities, to smooth the localization process. I do not know what this is doing in here.

I think the whole clause should be withdrawn.

Sen. Mansoor: Mr. Chairman, I am just thinking very broadly, but is it the intention of the Bill that where any bank, whether it is foreign or locally owned, produces a guarantee from another institution, it would be able to make all the negative prohibitions in clause 22 null and void with respect to borrowing and so on? If that is the intention, we should be saying in this clause that if a bank produces a guarantee from the parent bank or wherever, a guarantee would substitute for capital. I am asking: Is that the intention? That a guarantee is a good substitute for capital?

Mr. Mottley: *[Inaudible]*

Sen. Mansoor: In that case, the limitation to transferees is very onerous.

5.10 p.m.

Mr. Sobion: Mr. Chairman, what we need to achieve in clause 51 must be seen under the umbrella of all of Part X; all of Part X is the facilitation of transfers of undertakings. It is really intended to deal with a situation where you may have a merger of banks or a Vesting Order. Having heard the concerns expressed, it may be possible to solve those concerns if we delete clause 51(1) and (2). I will just read it for the benefit of Members. Also, clause 51 (3) and substitute the following as clause 51:

> "A Vesting Order made under this part may in any case where the Minister thinks fit to do so, be exempted from the payment of stamp duty imposed under the Stamp Duty Act."

That is really what we want to facilitate and it is more direct and clear-cut as to what is intended.

Sen. Daly: Is it that clause 51 will now comprise only one section?

Mr. Sobion: It will now comprise only one section. There will be no need for subclauses.

Sen. Capildeo: That will remove the narrow point.

Sen. Daly: If it is only about stamp duty then there is no problem.

Mr. Chairman: Members of the Committee, we should delete the whole of clause 51(1) , (2), and (3) and substitute the following as clause 51:

> "A Vesting Order made under this part may in any case where the Minister thinks fit to do so, be exempted from the payment of stamp duty imposed under the Stamp Duty Act."

Question put and agreed to.

Clause 51, as amended, ordered to stand part of the Bill.

Clause 52 ordered to stand part of the Bill.

Clause 53.

Question proposed, That clause 53 stand part of the Bill.

Mr. Sobion: Mr. Chairman, I beg to move that clause 53 be amended as follows:

> Insert after the word "appeal" in line 4 the words "unless on an *inter partes* application or an *ex parte* application where notice has been given to the Central Bank the Court is of the view that exceptional circumstances exist that warrant the grant of a stay of any further action by the Central Bank."

This is to meet some of the concerns that have been expressed. We are providing for an avenue for a stay of the bank's directions on an appeal whilst an appeal is pending.

Sen. Capildeo: Mr. Chairman, with all due respect to the people who drafted this, it makes absolutely no sense because, you cannot legislate that a court would be of the view. A court will always be of a certain kind of view.

5.20 p.m.

The original 53 (3) states:

> "During the pendency of an appeal, orders made and decisions and directions given by the Central Bank remain in force pending the outcome of the appeal."

This proposed amendment really does nothing for the objection. The objection is that you should not fetter the parties whilst they are in court.

I would suggest again and perhaps the Attorney General could think around it in these lines, withdraw 53 (3). Just delete it completely and it would save all the embarrassment. When you analyze these words, unless on an inter parte application or an ex parte application where notice has been given to the Central Bank, the court is of the view that exceptional circumstances exist that warrant the grant of issue of any further action by the Central Bank. It really makes no sense that during the pendency of an appeal orders and decisions and directions given by the Central Bank remain in force. In any event you are going to go to court to get an order for a stay of the actions of the Central Bank. Why invite unnecessary litigation like that? Why bring in the courts into this?

My suggestion would be that you leave this clause out completely.

Mr. Chairman: What clause, Sir?

Sen. Capildeo: Clause 53(3), Sir.

You have an appeal and both parties, that is to say the Central Bank and the affected party would have equal rights to go to court if there is any problem

between them. The amendment does absolutely nothing to clear the mischief in 53 (3). My suggestion would be that should be deleted and it would leave both parties on an equitable footing.

Mr. Chairman: That is the amendment proposed by Sen. Daly, that 53 (3) be deleted.

Delete subclause (3) and renumber subclause (4).

Sen. Daly: I could live with what is being proposed. May I just make that plain. That is the result of dialogue.

May I just explain my thinking in the light of what Sen. Capildeo said. I can understand the Government's concern and Central Bank's concern about strictly ex parte applications. I think it is important that no one be able to go to the court behind the back of the Central Bank and get an order for a stay.

Sen. Capildeo: That is not going to solve the problem. It is going to complicate the problem.

Sen. Daly: It is a good clause because it prevents anyone from going behind the back of the Central Bank and getting an order. They can go ex parte but at least they have to notify the Central Bank. We are approaching the court on 'X' day at 'Y' time. I accept that there is some difficulty about ex parte injunction proceedings.

Mr. Sobion: I beg to move the following amendment:

"Insert after the word "appeal" in line 4, the words "unless on an *inter partes* application or an *exparte* application where notice has been given to the Central Bank the Court is of the view that exceptional circumstances exist that warrant the grant of a stay of any further action by the Central Bank."

Question, on amendment, [Mr. Sobion] put and agreed to.

Clause 53, as amended, ordered to stand part of the bill.

Clauses 54 to 62 ordered to stand part of the bill

Clause 63.

Question proposed, That clause 63 stand part of the bill.

Sen. W. Mark: Mr. Chairman, I think for instance under 63 (1) the Attorney General or the Minister of Finance may wish to insert "and a daily newspaper" between "Gazette" and "subject".

"The Minister, on the advice of the Central Bank, may from time to time amend the First and Second Schedules by Order published in the Gazette."

I am saying that consistent with what has gone before we want the population to be aware of those changes. Apart from the Gazette we insert "and a daily newspaper".

Sen. Daly: That is subject to negative resolution.

Sen. W. Mark: Yes. Even if it is subject to negative resolution.

Mr. Sobion: We have given serious consideration to setting up mechanisms whereby the public will have notice of certain matters contained in this Act. It is not every bit of information that we think it necessary to go that route of having a daily advertisement in a daily newspaper. This clause deals with amendments in the First and Second Schedules.

The Second Schedule deals with minimum criteria for licensing. We did not think it as necessary to go the route of advertisement in a daily newspaper particularly as well where it is going to be laid in Parliament and subject to scrutiny from that viewpoint.

In 63 (2) we have added a provision which deals with negative resolution of Parliament, but for the purposes of this section we did not think it necessary to require advertisement in a daily newspaper.

Sen. W. Mark: But how often is this going to take place. It is not going to burden the state, if you have that additional provision. I do not expect this thing to happen every other week or every other two weeks as the case may be. The population is a conscious one now and we need to educate our people at all points in time. I am saying it might appear to be simple but I think it is something that is important and I do not see a problem with it. If the Government wants to go along with this course it could go on, but we want to see that there.

Mr. Chairman: The first amendment proposed is one by Sen. Wade Mark. That is to 63 (1). Sen. Mark is proposing that after the word "Gazette" appearing at the beginning of the last line, the words "and a daily newspaper" be inserted.

Question, on amendment, [Sen. W. Mark] put and negatived.

The next amendment also to 63 (1) by Sen. Daly to substitute the word "affirmative" for the word "negative" appearing in the last line of 63 (1).

Before Sen. Daly decides on this, he wants to know if there is a position on clause 38.

Sen. Daly: I would not pursue 63.

Amendment withdrawn.

Mr. Chairman: Finally, to subclause 2. The amendment proposed by the Attorney General is to insert after the word "Gazette" the words "subject to negative resolution of Parliament".

Question, on amendment, [Mr. Sobion] put and agreed to.

Clause 63, as amended, ordered to stand part of the bill.

5.30 p.m.

Clause 64.

Question proposed, That clause 64 stand part of the Bill.

Sen. Daly: Now we have a problem. I have a proposal on clause 64.

Mr. Chairman: There is an amendment by Sen. Daly, which reads:

Add after the words "regulations" in line 2, the words, "subject to negative resolution of Parliament".

Sen. Daly: It is difficult to deal with this with clause 38 deferred because, as everyone will appreciate, "regulations for any matter required to be prescribed under this Act", arguably prudential criteria are one of the matters required to be prescribed under this Act, so we need to know what is the relationship of these two clauses. We say negative resolution here and then our good friend’s prudential criteria pop up under "any matter required to be prescribed under this Act". Could we dispose of clause 38 and then we can all go home, Sir.

Mr. Sobion: With respect to the goodly Senator, Mr. Chairman, if there is a specific provision relating to prudential criteria and there is a form of words used in that connection, it cannot be caught by this sweep-up provision because there will be a specific provision. I am afraid that I am still trying to think through the position with respect to clause 38 because of certain problems that, I am now advised, may take place. Insofar as what appeared to be an attractive compromise position, we may not be able to work it in that way. I am still trying to think through clause 38, but it is not related to clause 64.

Sen. Daly: Can we defer clause 64?

Mr. Sobion: If you want to defer 64, I have no problem.

Hon. Senator: *[Inaudible]*

Mr. Chairman: No, we are not withdrawing. I would just like to make sure that Sen. Daly's amendment is properly disposed of.

Sen. Daly: It has been deferred, Sir.

Mr. Chairman: Are we going back to clause 38 now, or are we just going to continue?

Clause 64 , by leave, deferred.

Clauses 65 and 66 ordered to stand part of the Bill.

Clause 67.

Question proposed, That clause 67 stand part of the Bill.

Sen. Daly: Sir, I have trouble with this, only because I see there is a proposal for a new clause 68. I do not quite understand why we need both.

What I am trying to explore—maybe it is the lateness of the hour—is whether clauses 67 and 68 are not doing similar things. Is it under clause 67 that, after all the trouble that we have been through, they are going to be able to revoke a licence through any one of its officers.

Mr. Mottley: Clause 67 as it stands is the usual type of provision that you would find in legislation dealing with institutions and all it really says is that the exercise of its functions can be done through any of its officers.

The new proposed clause 68, however, deals with specific delegation of board functions, which would take in all those clauses which introduce the question of the board being able to rescind and revoke licences. In the normal exercise of its day-to-day activities, the Central Bank—and this is not an unusual provision in legislation—

Sen. Daly: Can we solve the problem by saying:

"subject to this Act, the Central Bank may exercise any of its powers and duties..."

just to make it crystal clear that revoking licences is subject to the earlier safeguards?

Sen. Ramchand: I am a little confused. Is the Attorney General saying that there is a distinction between the bank and the board?

Mr. Sobion: Our view was that there was no need to have the provisions say, specifically, "the board". In our view, the corporate responsibility of the bank has to be exercised by the Board and if we say the Central Bank we would mean that. A concern was, however, expressed that one may exercise a particular power of the bank and later seek ratification of the board. So, those specific provisions dealing with the powers of revoking and restricting a licence, we made it quite clear that we are talking about the board making those decisions and that would eliminate the possibility of action being taken by one person and later being ratified.

Sen. Daly: So, would the Attorney General consider,

"subject to this Act, the Central Bank may exercise any of its powers"

to make it plain that this general normal wrap-up clause is subject to the earlier provisions in relation to "revoke, restrict". That is all I am asking.

Mr. Sobion: The difficulty I am having is that the exercise of the powers is not really subject to this Act or anything in this Act. The Central Bank has certain functions and powers which it would in the normal course of things, exercise through its officers. As I say, in legislation dealing with the establishment of institutions, this is a normal provision.

Sen. Daly: Accepted, but we have gone and created an exception where, in the case of "revoke or restrict" it has to be the board as opposed to an officer.

Mr. Sobion: There is a clear provision now dealing with those matters. Those clauses clearly say that the board must exercise. That is why we use the board as opposed to the Central Bank for the very reason I just outlined that one may not want to have a ratification situation arising.

Sen. Daly: All right, Sir. I would not pursue it.

Clause 67 ordered to stand part of the Bill.

Clause 68.

Question proposed, That clause 68 stand part of the Bill.

Mr. Sobion: Mr. Chairman, I propose that clause 68 be renumbered 69 and that a new clause 68 be inserted.

Mr. Chairman: We will deal with new clause 68 after we dispose of all the existing clauses in the Bill. For the time being, we will just deal with clause 68. *Question put and agreed to.*

Clause 68, renumbered 69, ordered to stand part of the Bill.

Clause 69.

Question proposed, That clause 69 stand part of the Bill.

Mr. Sobion: Mr. Chairman, I beg to move that clause 69 be renumbered 70.

Sen. W. Mark: Mr. Chairman, I am trying to find out when is this appointed date? If you go back to 23(2)(b), there is no specified period as to when the President will make this Order and publish it. It just says, "on a date to be appointed by the President". What I am trying to get from the Attorney General is whether we should not specify from a month after this Act becomes law, so that a specific period would be identified here, rather than leave it loosely as it is here.

Mr. Sobion: It is not loose at all. Our constitutional arrangements are such that the exercise of the powers of the President will be subject to the advice of Cabinet. The Act will be published when the Executive is satisfied that all ancillary things are in place to permit publication.

Again, you will find this legislation as a common clause.

Question put and agreed to.

Clause 69 ordered to stand part of the Bill.

Mr. Chairman: We have to return now to two deferred clauses; clause 38 first and then clause 64. After that, we will deal with the new clauses proposed by Sen. Daly; he has proposed a new Part I, and then we shall come to the new clause proposed by the Attorney General, clause 68, and finally the Schedule.

Clause 38 reintroduced.

Question proposed, That clause 38 stand part of the Bill.

Mr. Sobion: Mr. Chairman, with respect to clause 38, I want to repeat that these matters are of a very technical nature. Whilst I feel in a position where I have no choice but to agree with the suggestion that the matter be resolved by substituting "affirmative" for "negative," I just thought that I should make that point again.

Sen. Daly: I am sure the Attorney General can rely on the Senate, at any rate, not to step unduly out of its crease in relation to some of these matters.

Mr. Mottley: Mr. Chairman, in making the concession, we have some grave concerns. Not only is the matter technical—and I have some of the proposed criteria here that have been the subject of more than a year's discussion with the banks—but on top of that, as you bring these matters to Parliament time and time again, this is a business that is evolving so rapidly with new financial instruments and so forth, and with regulations that may require rapid fire to deal with the emerging problems. I am not specifically referring now to commercial bank regulations, but for instance, in the United States you had this question of junk bonds and so forth, and the havoc that they wreaked. You also get new instruments imported wholesale from experience up North and brought down here and the need to act quickly on these matters. Those are some of our concerns, even as we make this concession, that this matter does not get lost in the midst of other parliamentary pressures and so forth and which form the life of the parliamentary process that is alien to what this regulatory authority will need to discharge its responsibilities properly in a very, very rapidly evolving world. As I said, these instruments are coming down at them with pretty rapid fire. We make the concession, but as Finance Minister I have to sound that caution.

Sen. Daly: Mr. Chairman, I do not think that anybody in the Senate would step out of his crease unduly. It may be that when the regulations are brought for affirmative resolution some form of rules can be inserted into them to give a little more flexibility where new financial instruments are concerned. That is what we are here for. So maybe some exemptions can be made with respect to changes in the future. I may add that most of the people who peddled the junk bonds are in jail.

Sen. Capildeo: Mr. Chairman, I think the Minister has just made a very eloquent speech in favour of affirmative resolutions, this is why it should come before Parliament. A very powerful argument.

Mr. Chairman: Members of the Senate, the question is that clause 38 be amended as proposed by the Minister of Finance, as listed in the amendments circulated and subject to the word "affirmative" being substituted for the word "negative" in C, that is subclause (2);

> "Regulations made under subsection (1) shall be subject to affirmative resolution of Parliament."

The amendment to clause 38 as proposed by Sen. Daly has been withdrawn.

Question put and agreed to.

Clause 38, as amended, stands part of the Bill.

Clause 64.

Question proposed, That clause 64 stand part of the Bill.

Mr. Chairman: Are you withdrawing your amendment to clause 64 or are you leaving it?

Sen. Daly: Yes, Sir, I am withdrawing it.

Amendment [Sen. Daly] withdrawn.

Mr. Sobion: Mr. Chairman, I beg to move that clause 64 be amended by inserting after the word "regulations" in line 2, the words "subject to negative resolution of Parliament".

Sen. Wade Mark: Mr. Chairman, I would like to propose that clause 64 be subject to a negative resolution even though the Minister might not want to deal with an affirmative resolution at this time. I know Sen. Daly has withdrawn his amendment, but I think, in terms of the regulations, that it ought to be subjected to some kind of parliamentary scrutiny. So I would propose at this time that the Attorney General consider a negative resolution of Parliament. Do we have that?

Mr. Chairman: New page 9.

Sen. Kuei Tung: And you voted against it.

Sen. Mark: I did not know they had made that concession, otherwise I would have pressed for the affirmative resolution.

Question put and agreed to.

Clause 64, as amended, ordered to stand part of the Bill.

Mr. Chairman: That concludes the existing clauses. We now go to Sen. Daly's proposed new Part XI; he proposes to insert clauses, 53, 54, 55, and 56. Are you moving those amendments?

Sen. Daly: Sir, could we save some time as we have been doing? May I ask in relation to the Government's new clause 68, whether they would consider the committee comprising a minimum of three members of the board; whether they

would consider adding the provision "at least one of whom is a member appointed by the President in accordance with section 7"? It is still important to me and I really do not want to be difficult—I am really retreating a very long way—but where the Board has to make the decision and some independent member is part of that process—otherwise you could have a committee comprising the Governor, the Deputy Governor and either the representative of the Minister of Finance, and I think there is another ministerial appointment; so you just would not get an outside view. I really think it is very important, even my very benign proposal I would not pursue.

5.50 p.m.

Mr. Mottley: Mr. President, what we have responded to is the potential arbitrariness occasioned by one-man decision-making, and that argument we bought and, therefore, we have extended this to encompass the collegiate concept that has been raised by honourable Senators. We feel that having done that, having gone away from this possibility—I remember in the course of the debate it was cited that one man could suffer from "moon madness" and a decision taken at full moon—we could regret it all. Therefore in extending it to three, we could hardly conceive of that occurring simultaneously among three Central Bank board members. Having done that, we think we have gone as far as we can. We do not, in this instance, want to tie the hands of the Central Bank any further.

One must remember that, certainly in some instances, the very concept of the so-called independence of the Board, in fact, could be compromising. This is a small country. We are dealing with some matters here that the Bank may need to act in its technical capacity; and we must also remember that this is recognized in other jurisdictions—the extreme power of the Governor of the Central Bank. It is the Governor of the Central Bank, the Bank of England, it is he alone that can exercise this power. So we have already gone, we think, quite some way to meet the potential difficulties that honourable Senators recognize.

Sen. Ramchand: Would the Board, after rejecting an appeal, give in writing its reasons for rejecting an appeal? Would that be part of its normal mode of operating?

Mr. Mottley: We are not dealing with appeals, we are dealing here with the decision of the so-called Central Bank acting through this sub-committee of three—

Sen. Ramchand: All right. The reasons for the decision—

Mr. Mottley:—which has, ultimately, to go back to the full Board. We are just trying to stop an urgent arbitrary decision on the part of one man.

Sen. W. Mark: Mr. Chairman, we have not really addressed the issue of accountability; and this is where we have some difficulty with the proposal. Because new clause 68 does nothing to address the issue at hand. You have a small sub-committee of the Board being established and, in the final analysis, the Board reports to the Board—himself to himself. This is why we were calling, very early, for the Board of Governors of the Central Bank to report to somebody. What you are seeing here, Sir, is the same arbitrariness. I have no difficulty with the Central Bank having powers. I want to make that clear. What we are concerned about is accountability, and we are seeing this new clause 68 as not doing anything. The Minister said that they have gone far. How far is far in terms of this question of accountability? We are not seeing accountability in 68 Sir, and we are insisting that we need greater accountability. The Central Bank must be supervised. We have proposed over and over in writing that the Central Bank ought to be reporting to a Joint Select Committee of Parliament. That is the point that we have been advancing all the time. *[Interruption]* We have put it a short while ago and his mouth was the loudest. He voted against it, so he wants me to put it again for him to vote against it? We have been saying that all along, Sir, there is no accountability here.

Sen. Ramchand: I am not really going to fight it. I think it is possible for three men to be just as arbitrary as one man. So to say that you have three people rather than one and, therefore, you obviate the possibility of arbitrariness does not really work. All I am asking is whether, in cases like this, reasons for decisions taken will be given in writing, so that if somebody wishes to appeal or dispute a decision, he knows exactly why the thing has been refused.

Sen. Capildeo: You see, Mr. Chairman, it comes back to square one, you have a “himself to himself situation”. That is the only answer. Either Parliament is Parliament and it supervises its children, which are the legislation, or it does not do it. That is the point at issue here. It is not whether they reduce into writing and then you will have a chance to appeal. The point is, do we as a Parliament have the right to supervise the legislation which is coming through this Parliament? What most of the legislation is doing, like this one, is bypassing Parliament. But they are laughing on the other side.

Sen. Ramchand: I think I would have confidence in the Board to make a decision. I am just saying, theoretically, if a decision is made that is unfavourable to me, will I get the reasons in writing so that I may dispute?

Mr. Mottley: Yes.

Sen. Daly: Mr. Chairman, I have listened to what the Minister has to say and I just say that my intention in all this is that when we make comparisons to the Bundesbank and the Governor of the Bank of England and so on, they operate in a different environment; they have different checks and balances. Certainly in the United States you have a Senate sub-committee on Banking and Finance and if they do not close down a bank or make some order, there is a big exposure. I am saying all this by way of just clarifying what my concern was and, having listened to the Minister, and having regard to the whole way in which this exercise was participated, I think it would be churlish of me to press anymore on this, so I would not pursue it, Sir. I think it is a tribute to the Minister that we have got this far and I am prepared to accept his assurance that this will work.

Mr. Chairman: You are withdrawing your proposed amendment?

Sen. Daly: Yes, Sir.

Mr. Chairman: We will therefore proceed with the new clause 68 which reads as follows:

"68 In the exercise of its functions under this Act the Board may delegate all or any of its functions to a committtee appointed by the Board comprising a minimum of three members of the Board."

New Clause 68 read the first time.

Question proposed, That the new clause 68 be read a second time.

Question put and agreed to.

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

Question put and agreed to.

New Clause 68 *added to the Bill.*

First Schedule:

Mr. Mottley: Mr. Chairman, the amendment proposed to the First Schedule is contained in the new page 9 as circulated and reads as follows:

In the activities of the Merchant Bank delete the words "Floating and underwriting stocks and shares" and substitute the words "Floating and underwriting stock, shares and bonds."

Question put and agreed to.

First Schedule, as amended, ordered to stand part of the Bill.

Second and Third Schedules ordered to stand part of the Bill

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

Senate resumed.

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

6.00 p.m.

ADJOURNMENT

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. President, I now beg to move that this Senate adjourn to Tuesday, June 22, 1993, at 1.30 p.m.

Business of the Senate

Mr. President: I know that Senators have had a hard day in Committee, but no one wants to deny Members their rights and privileges. Unfortunately at least one Member will have to be denied certain rights.

There are two matters for which leave has been granted to be raised on the Motion for the adjournment: one is by Sen. Carol Mahadeo, the other by Sen. Muntaz Hosein. Usually, we would adhere to the policy of ladies before gentlemen, but this might not be applicable in this case. The Minister of Local Government who is dealing with one of the matters has been here for the better part of this sitting and the last sitting, and because of the time he has spent with us, I would give leave to Sen. Hosein to proceed with his matter. Fifteen minutes or less you will have. The Minister would have the same time to reply.

Port of Spain Wholesale Market

Sen. Muntaz Hosein: Thank you, Mr. President. It feels good to be standing after having to sit for such a long period of time. Let me once more welcome the junior Minister of Finance. It is always a pleasure to have him in the Senate.

The motion today, Mr. President, deals with security at the Port of Spain Wholesale and Farmers Market. The history of the security at the Port of Spain Wholesale and Farmers Market has its genesis in recent times dating back to 1976 when a wholesale market was built, but this became obsolete in a short time, the size being too small, inadequate parking facilities, robberies, with and without violence became the order of the day. As a result, the farmers do not use this facility any longer.

There is a history with this government and subsequent governments that even when they are building facilities for the community, they exclude the advice and counsel of the people who have to use these facilities. As a result the facilities were badly designed and badly located, and you ended up with people not using them. This government and subsequent governments have in the past, wasted money, wasted time and energy, and courted problems from the community. As you would see, Mr. President, I hardly believe that a week goes by without some protest somewhere: if it is not a school, it is a community centre, or it is some other facility. People must protest and demonstrate in order to get some kind of redress, which, otherwise, in the first place, would have been avoided if the government had consulted with the people and built these facilities in the manner in which the people themselves would have advised.

You see, Mr. President, after having built the Port of Spain Wholesale and Farmers Market in 1976, within a short space of time, the farmers were unable to use it. Temporary space was given for farmers and wholesalers in the general market, but the problems were compounded. Last year, this matter was raised by one of our colleagues in another place on June 26, 1992, and one would have thought that having raised this matter almost a year ago, that we would have found that there would have been some improvement in the conditions at the Port of Spain Wholesale and Farmers Market. But there has been no relief for these people, and it has now been brought to my attention, and I have the unpleasant duty to come to the Parliament once again to ask that improvements be made to the Port of Spain Market.

Mr. President, the market opens at 5.00 o’clock in the morning, and the farmers gather at the market from 3.00 a.m. We are talking of thousands of farmers who come from as far as Toco in the east and as far as Debe and Point Fortin in the south—all come to this market in Port of Spain. Although a market has been built in Debe, I understand it was badly constructed and therefore it is not being used. The people are coming to Port of Spain in their thousands, and

they have to wait from 3:00 a.m. to 5:00 a.m. so that this market could be opened for them. In the interim, there are no parking facilities. Where do you put all these vehicles, loaded with all of their produce?

6.10 p.m.

What has happened is that they have to be on the side of the road. Do you know that they are subjected to the harassment of the police? They get parking tickets. These are the people who are growing the food for this nation to eat.

When the market opens at 5.00 a.m. a receipt is made out which causes more traffic and more waiting. Everyone passing through has to pay a fee, and VAT on top of that, and they have to make out a receipt, so they have to wait in line. These matters which I am bringing here were already enunciated a year ago and there has been no improvement.

The problems are compounded, because when the market is opened, you still have to wait to get into the market, and there is further police harassment and further pile-up of these vehicles. When they get into the market, do you know what happens? They have to sell their produce on the bare concrete in the market. There are no facilities for these people.

Mr. Valley: Mr. President, I wonder whether I am missing something—

Sen. Hosein: Are you on a point of order? Because I will not give way.

Mr. Valley: On a point of order, Mr. President. My understanding is that this motion is on the lack of security at the market. The Member is now speaking for well pass 10 minutes and I am not hearing him talking about lack of security. He might be talking about amenities and so on, for the farmers, but that seems to be quite different to the topic that he asked to come here to debate.

Sen. Hosein: Mr. President, if the Minister will have some patience, I am coming to that.

You see, Mr. President, these people have to sell their produce on the bare concrete of the market, in rain and in sun. When it rains, it floods, and the produce is swept away. When there is sun, there is too much sun and these people get ill. After that, when you believe that things are okay and it is not so bad, then come the bandits. I am happy that the Minister of National Security is here, so he can hear how bad his department is being run.

Sen. Huggins: Mr. President, on a point of order. The police who handle the market do not fall under the Ministry of National Security.

Sen. Hosein: As I was saying, the bandits get into the market and rob these people. They beat some of them, and these wholesale vendors and farmers have little or no security whatsoever in the Port of Spain market. There is no security. The Minister is making reference to the city police, but the problem is not only inside of the market, but outside as well, where his people have jurisdiction. There is a police station less than 100 yards from the market.

Only last week, three people were robbed inside of the market. Farmers are self-employed, hard-working people, who should be encouraged. They are not the type who are a drain on the Exchequer. They are people who should be held up in the society as an example, worthy of emulating. Treatment of the people who provide food security for the nation should be given pride of place in our society, but they are denied basic necessities.

There is a body called NAMDEVCO, that is supposed to be looking after farmers. Let us examine what NAMDEVCO had to say about the situation with the farmers. I quote:

> "For far too long the marketing and vending of food, fresh produce and livestock has been done in a manner that appears to be disorganized, unsanitary and environmentally degrading. At the same time, produce and food vending has increased significantly, as evidenced in the present economic environment, while management of wholesale and retail market facilities in the country, the responsibility of a number of Government Ministries and organizations, has not kept abreast with these dramatic changes.
>
> At present, there exists no workable mechanism for the proper administration of various activities performed by these organizations. As a result, there seems to be only visible short-term action taking place with no strategic long-term plan developed by marketeers, municipalities and marketing experts to allow for long-term organized growth in the conduct of this category of trade."

This is a Government body and this is what they had to say about what is happening right now. Perhaps the Minister can tell me what is the relationship between NAMDEVCO and Neal and Massy. You see, I am informed that NAMDEVCO rents an office in the Aranguez Plaza for some $15,000 per month, and no work is being done. Cannings, which is owned by Neal and Massy, presently occupies one of the two buildings in the wholesale market, complete

with their own guards. Perhaps the Minister can tell us what is the association. It certainly seems, on the surface, that something smells like rotten cabbage here.

I have but a few solutions for the Minister, and I want him to pay particular attention to what I am saying, because he comes to this House, he hears a motion, does not take notes and does nothing about it. I hope this is not going to be the case, because I promise him, I will be on his back for a very long time.

Mr. Valley: Mr. President, may I please inform the hon. Senator, that nobody gets on my back.

Sen. Hosein: Mr. President, I am sorry that he seems to be in a mirage, but I will wake him up. *[Interruption]* I shall not be deterred by the rudeness of the Minister.

The solutions are very simple ones and the Senate will be very pleased to hear how easy it is to solve the problem.

(a) open the market from 3.00 a.m. There is nothing so difficult in that.

(b) stop issuing receipts when farmers and wholesale vendors are entering the market. Instead, issue an ID card, valid for one year. So you make matters very simple and easy.

(c) open the market on public holidays.

This is a sign of the times. Everybody opens on Sunday now.

(d) increase the police presence in the market from 3.00 a.m. to 7.00 a.m. daily. This could be a joint effort between the City Corporation and the Minister of National Security.

Now the medium-term solution—*[Interruption]* You see, Mr. President, when we are dealing with serious issues, this is the attitude of this caring Government on the other side. They are making a big joke of it, and some of the people who come from agricultural areas, like the doctor here, ought to be ashamed of himself. Do not worry, I will go to the people with that.

The medium-term solution is to build a wholesale and farmers market in Aranguez. The land is available on the southern side of the highway. But, please, consult with the farmers before you design and build.

I am informed by the representative of the Farmers and Wholesalers, that if the Minister does not solve the short-term problems within two weeks, the whole

farming community will be coming to town with their crops and livestock in a mammoth demonstration, chickens, goats, cows, pigs and all, to further highlight their problems. It is time that this Government stop playing politics with people's livelihood and show that they really care about the people.

I thank you, Mr. President.

6.20 p.m.

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. President, the Motion on the adjournment talks about the lack of security at the Port of Spain Market. When one was preparing for this Motion, one would have thought that the Senator had some type of information with respect to crime at the market over some period of time. It seems that the Senator is more concerned with the amenities at the market, opening and closing hours.

While I have the responsibility, indirectly, because the market in Port of Spain comes under the City Council with respect to maintenance and management, it is an agricultural market, and, obviously, some of the issues the hon. Senator raised this afternoon, as to whether there ought to be a wholesale market in Aranguez, is really an issue for the Ministry of Agriculture, Land and Marine Resources.

Sen. Hosein: Would you carry the message?

Hon. K. Valley: No, you can do that.

Mr. President, let me say that with respect to the security issue, my information is that there is adequate security in the market. For example, in the last three months—the period March to June—there were three reported cases in March—and that is on the outside of the market; in April there was merely one; in May there were six cases; and from what I have heard, they were special circumstances. What happened around May 15, as you know, the vendors issue was settled in the courts in San Fernando and the City Corporation had to put every possible policeman they had on the streets of Port of Spain, thus reducing, on a temporary basis, the police presence at the market and that seems to have exacerbated the situation at the market.

I can tell you that my information is that to date, June 14, there has been no reported case of theft whatsoever at the Port of Spain Market. There are officers working there around the clock and they, of course, look at security within and in the vicinity of the market.

The other issues raised by the hon. Senator really are for the Minister of Agriculture, Land and Marine Resources. I can say that we are looking at the management of the market and other things; we are looking at the revision of fees; I have made the point here before. As you know, fee structures for markets have not been changed for over 30 years; they are still charging shillings for market stalls. Obviously, if we want to have longer opening hours or more security at the market, these things must be paid for and obviously, we have to review the fees charged, not only for the Port of Spain Market, but for markets throughout Trinidad and Tobago.

With respect to NAMDEVCO, let me also inform the Senator that we have asked NAMDEVCO to help us with out markets. As a matter of fact, at present, NAMDEVCO is doing some work for us with the San Juan Market, and they would be looking at other markets in Trinidad and Tobago.

Mr. President, I assure the honourable Senate that with respect to the security at the Port of Spain Market, that is well in hand. With respect to the other amenities, most of them would have to be dealt with by the Ministry of Agriculture, Land and Marine Resources. With respect to those that fall under my Ministry, we will obviously have to do it as we increase funding in the market.

Sen. Hosein: Mr. President, before the Minister takes his seat, since this matter was raised one year ago nothing has been done. Can he give us a reason why it has to be studied again?

Hon. K. Valley: Mr. President, I am unaware that this matter was raised one year ago.

Mr. President: Hon. Senators, the other matter that was to be raised by Sen. Carol Mahadeo will be deferred to the next sitting of the Senate.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.26 p.m.