SENATE

Tuesday, July 20, 1993

The Senate met at 1.30 p.m.

[MR. PRESIDENT *in the Chair*]

PRAYERS

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave to Sen. the Hon. Joan Yuille-Williams to be absent from today's sitting of the Senate because of illness.

SENATOR'S APPOINTMENT

Mr. President: I have been advised that His Excellency the President has appointed Mr. André Maloney to be appointed a temporary Senator with effect from July 20, 1993, and continuing during the period of illness of Sen. the Hon. Joan Yuille-Williams.

OATH OF ALLEGIANCE

Sen. André Maloney took and subscribed the Oath of Allegiance as required by law.

PRIVILEGES COMMITTEE REPORT

Presentation

Sen. Ainsley Mark: Mr. President, I beg to present the report of the Committee of Privileges of the Senate (1992—1993 Session).

ORAL ANSWERS TO QUESTIONS

Mr. President: Hon. Senators, there are a number of questions filed by Sen. Wade Mark which are due for answer. According to the Standing Orders of the Senate, a Senator is allowed only three questions for answer on any single Order Paper. There are already three questions down in the name of Sen. Wade Mark on the original Order Paper, questions Nos. 91, 92 and 93. I am seeking leave of the Senate to suspend the provisions of that Standing Order to allow questions Nos. 94, 97, 99, 100 and 101 standing in the name of Sen. Wade Mark to be placed on the Order Paper for today's sitting of the Senate.

Leave granted.

Mr. President: The questions will be put on the Second Supplemental Order Paper.

Compressed Natural Gas Tanks
(Necessary Standards)

91. Sen. Wade Mark asked the Minister of Energy and Energy-based Industries:

(a) Is the hon. Minister aware of the serious danger faced by motorists and the public over the use of compressed natural gas tanks which do not meet required necessary standards?

(b) In an effort to avoid a human catastrophe, could the Minister state whether he intends to introduce regulations governing the required standards in respect of compressed natural gas tanks (CNG) and, if so, when does he intend to so do?

The Minister of Energy and Energy-based Industries (Sen. The Hon. Barry Barnes): Mr. President, the Minister of Energy is fully aware that compressed natural gas tanks, and indeed, all ancillary CNG conversion equipment, must be designed and manufactured to strict engineering standards in the interest of public safety. Further, the Minister is also aware of the necessity to ensure the proper installation and testing of CNG conversion systems in motor vehicles.

During the current development stage of National Petroleum Marketing Company's CNG commercialization programme, designated personnel from National Petroleum Marketing Company and the Ministry of Energy and Energy-based Industries make inspection visits to each facility that undertakes CNG conversion installation to ensure the maintenance of the required standards of equipment and installation.

It is Government's intention to introduce appropriate regulations which will govern CNG operations. Draft CNG regulations are with the Standing Committee on Energy for review prior to submission for Cabinet's approval. Government expects the CNG regulations to be fully in place before the end of 1993 when the current development phase of National Petroleum Marketing Company's CNG commercialization programme is scheduled to be completed.

Sen. W. Mark: Mr. President, could the hon. Minister of Energy and Energy-Based Industries indicate why it has taken so long for the regulations governing CNG standards to be, in fact, promulgated in this country, particularly, when

account is taken of the fact that these regulations have been outstanding for some years?

Hon. B. Barnes: Mr. President, there are two factors involved here. Firstly, we get the reminder from time to time within this very Senate, that the country is perhaps replete with regulations that are not being enforced. As we embarked upon this commercialization programme, we have taken the opportunity, by training and development, to produce a cadre of people with sufficient technical capability and administrative skill, so that when, in fact, the regulations are in place we will have the administrative mechanism to ensure that there is adherence. That is one aspect

1.40 p.m.

The second aspect is, as we know, CNG is a fairly recent development worldwide in the Americas. Canada is probably the country with the greatest experience; they introduced it 15 years ago. We now have a situation in which the technology is developing very rapidly. One or two years ago we would have said CNG tanks must be all steel. We now have aluminium tanks, and carbon fibre synthetic materials. It may be a little too precipitate to specify rigid standards at a time when developments are moving very rapidly. So we have had to look at the regulations again, and modify them in terms of the realities of what is happening in the CNG development.

Sen. W. Mark: Mr. President, could the hon. Minister indicate to us whether the Government has made any projection whatsoever in terms of encouraging and converting the vehicle population in Trinidad and Tobago today, to CNG? Is there any projection by the end of 1993/1994 or to the year 2000 in terms of Government's perspective on the conversion to CNG?

Hon. B. Barnes: Mr. President, what I can say is that CNG was first introduced into Trinidad on a pilot project basis in 1985. The best information available to us was that seven years after, in 1992, there were just under 40 vehicles converted. Between April 1992 and today we have over 900 vehicles converted. We have said before that one of the very necessary requirements of encouraging the conversion is to make the stations available, to make the product available, on a fairly widespread basis. At the end of the current phase in which we will have 14 stations by the end of 1993, we will get a much better feel for the speed at which the conversions are, in fact, taking place.

Enron
(SECC Stake)

92. Sen. Wade Mark asked the Minister of Energy and Energy-based Industries:

Could the hon. Minister state:

(a) What was the basis for the 95 per cent stake granted to Enron in the South East Coast Consortium (SECC) as it relates to the Kiskadee, the Oilbird and the Ibis?

(b) The economic cost involved in the production of 1000 cubic feet of natural gas in the Kiskadee field?

(c) Whether the 3-D seismic survey reported to be conducted by Enron has been completed and at what cost?

(d) The extent of the reserves of gas and condensate in the Kiskadee, Oilbird and Ibis fields?

The Minister of Energy and Energy-based Industries (Sen. The Hon. Barry Barnes): Following the failure of the Trintomar Pelican Project in 1991, the state-owned companies, in 1992, entered into a farmout arrangement with Enron Gas and Oil Trinidad Limited, by which Enron has obtained a 95 per cent interest in the exploration and production licence for the Kiskadee, Oilbird and Ibis fields. Under the farmout agreement Enron is committed to, *inter alia*:

(1) Fulfil the SECC's obligations to Government with respect to royalties and taxes and additionally to pay an agreed overriding royalty to the SECC companies.

(2) Undertake a field-development programme over a five-year period which will require the installation of a minimum of three platforms, one each on the Kiskadee, Ibis and Oilbird fields and the drilling of 30 wells, at an indicative cost to Enron of US $250 million over the five-year period.

(3) During Phase I of the above development programme, undertake at a cost of US $50 million to Enron:

(i) 3-D seismic survey of the SECC area (including the Pelican field) based on the acquisition of some 13,500 line kilometres of data.

(ii) A minimum drilling programme of seven wells in the Kiskadee field with two wells to be completed by the end of 1993.

(a) The Kiskadee field is not yet in production and the cost of producing 1,000 cubic ft. of natural gas from this field can only be realistically determined after the field has been fully developed and gas production has been established.

(b) Enron completed the acquisition of 13,339 line kilometres of 3-D seismic data in April 1993 at a cost of US $3 million approximately. Processing of this data and analysis and interpretation of the geological structures are in progress and are estimated to cost an additional US $1 million.

(c) On the basis of 2-D seismic surveys conducted in the period 1974/1975 and the results of a limited number of exploration wells drilled in the SECC area over 1975/1977, the natural gas and condensate reserves were assessed at that time as follows:

No. of Wells		**Date Drilled**	**Reserves**	
			N/Gas (Bcf)	**Condensate Million bbl**
Kiskadee	2	1975—1977	210	1.1
Oilbird	1	1977	39	0.46
Ibis	3	1975—1977	106	1.08
Pelican	3	1975—1976	441	13.3

Sen. W. Mark: Mr. President, could the hon. Minister indicate what is the value in dollars and cents of these reserves of condensate in, say, the Ibis field? Can he provide the Parliament with the value of the reserves that he has mentioned in terms of condensate?

Sen. The Hon. B. Barnes: Mr. President, I regret that I must fall back on what is an old oil man's axiom: Reserves in the ground have no value. Those reserves have been there for the last two billion years: they only have value when they come out of the ground. At the present time, the reserves in the Ibis field are still very much underground.

Sen. W. Mark: Mr. President, I will not pursue that matter because it will take a debate, but I ask my good Friend whether he is aware of a UWI report, the Ramlal Report, which states that the cost of producing 1,000 cubic feet of natural gas, even before it comes out, will result in something like US $5.00 per 1,000

cubic feet. Is he aware of this, and if so, could he indicate to us whether that is a realistic assessment made by the committee in terms of the Kiskadee and the extraction of natural gas from it?

Hon. B. Barnes: Mr. President, in respect of the Ramlal study, my understanding is that it was undertaken as a Masters Thesis by a student at the university and, as such, therefore, I think it would be most inappropriate for me to comment on it.

What I can say, however, is that Enron which is the leading, or one of the leading gas producing companies in the United States, an international company, has come to Trinidad with full knowledge, spending its money to drill and produce natural gas which it is committed, guaranteed and contracted to sell to the National Gas Company, and without wishing to go into price, under US $1.00 per 1000 cubic feet.

I have a difficulty if the hon. Senator wishes me—when a company like Enron comes in prepared to do that—either as the Minister, or the Government to say, "no, no, we cannot agree to that, because Ramlal say"—I am very sorry, Sir.

1.50 p.m.

Sen. W. Mark: Mr. President, could the hon. Minister indicate to this House whether the reserves as outlined by himself a short while ago in the various fields—the Pelican, Kiskadee, Oilbird and Ibis—when brought to life, extracted and translated, whether Enron Gas and Oil would have a 95 per cent stake in those reserves when they are brought from the ground onto the land?

Sen. The Hon. B Barnes: The 95 per cent farmout says that you undertake the cost of the production and you are entitled to 95 per cent of the proceeds. In the particular case, the gas and, indeed, the condensate, are under contract to the NGC at an agreed price.

Sen. W. Mark: Mr. President, is the Minister saying that 95 per cent would be enjoyed at the end of the day, when those things are extracted, both the gas and the oil? I am trying to get clarification.

Sen. The Hon. B. Barnes: Ninety-five percent of the gas and oil that is produced is going to be sold by Enron and they are going to collect the revenues, having paid the total cost of the production, having paid royalties, not only to the Government but also an overriding royalty as a rental to the companies and also having to pay income tax and SPT and so forth. That is the arrangement.

Mr. President: Before we proceed to the next question, I would just like to remind Senators that at 2.15 p.m. questions that have not yet received an oral reply will have to get a written reply. There are five more questions that I have been able to get the Senate to agree to put on the Order Paper. We have only covered two of the eight so far.

Enron
(Co-generation)

93. Sen. Wade Mark asked the Minister of Energy and Energy-based Industries:

(a) Whether Enron is involved in the business of co-generation?

(b) Whether Enron has been earmarked as one of the companies involved in the generation of electricity in Trinidad and Tobago?

If the answer to (b) is in the affirmative, could the Minister also state where would Enron source its gas and at what cost?

The Minister of Energy and Energy-based Industries (Sen. The Hon. Barry Barnes): Mr. President, the Enron Company in Trinidad and Tobago, Enron Gas and Oil Trinidad Limited is a petroleum exploration and production company. However, its parent company, Enron Corporation of the United States of America owns Enron Power Corporation which is among the largest, private, independent, electricity generating companies, having ownership and operating interests in electricity generation plants in five countries with a total capacity of 3,300 megawatts, that is to say, 3.3 million kilowatts.

All natural gas producers and potential natural gas producers in Trinidad and Tobago have been asked to indicate their companies' capabilities and interests in the generation of electricity using natural gas. These companies include Amoco, Texaco, Enron, British Gas, the National Gas Company and Conoco *inter alia.*

I thank you, Mr. President.

Sen. W. Mark: Mr. President, could the hon. Minister indicate whether there is a commitment on the part of the Government of Trinidad and Tobago to enter into an arrangement with Enron Gas and Oil to generate electricity in Trinidad and Tobago?

Hon. B. Barnes: Mr. President, I can assure the Senator that there is no such commitment that I know of. I thank you again, Mr. President.

Natural Gas Consumption

94. Sen. Wade Mark asked the Minister of Energy and Energy-based Industries:

Could the hon. Minister outline, in detail, the total consumption of natural gas for the period 1990 to the present time—and could the Minister further provide the supply source, in detail, over the same period?

The Minister of Energy and Energy-based Industries (Sen. The Hon. Barry Barnes): You are making me work for my living.

Mr. President, I think it would be easier if I do it year by year.

1990—Total consumption (and this is in million cubic feet a day) was 446 million cubic feet a day. The supply was:

1. Amoco—303 million;
2. Trintomar—50 million;
3. National Gas Company (out of their compressor stations)—92 million; and
4. Trintoc (out of Mahaica—three small wells)—1 million.

1991—Total consumption was 490 million cubic feet a day supplied by:

1. Amoco—343 million;
2. Trintomar—58 million;
3. National Gas Company—88 million; and
4. Trintoc—1 million.

1992—Total consumption was 508 million cubic feet a day supplied by:

1. Amoco—375 million;
2. Trintomar—36 million;
3. National Gas Company—96 million; and
4. Trintoc—1 million.

For 1993, we can give you figures up to June 30. The total consumption was 489 million cubic feet a day supplied by:

1. Amoco—368 million;
2. Trintomar—21 million;
3. National Gas Company—99 million; and
4. Trintoc—1 million.

I thank you, Mr. President.

ILO (Debate on Reports)

97. Sen. Wade Mark asked the Minister of Labour and Co-operatives:

a. Could the hon. Minister state why reports, ratified or unratified, on Conventions and Recommendations have not been tabled and debated in Parliament as outlined in Articles 19 and 22 of the Constitution of the International Labour Organization?

b. Could the Minister further state when the Government intends to table such reports in Parliament for debate?

The Minister of Labour and Co-operatives (Hon. Kenneth Collis): Mr. President, the Ministry of Labour and Co-operatives last tabled reports on Conventions Nos. 160, 161, 162, 170, 171 and 172. These reports were tabled on Friday, April 2, 1990 in the House of Representatives, and on Tuesday, February 6, 1990 in the Senate.

The reports covered the 71st and 72nd sessions on the International Labour Organization Conference held in June 1985 and June 1986 respectively.

Arrangements are being made to submit to Parliament the outstanding reports covering sessions 73 to 80.

Thank you, Mr. President.

Sen. W. Mark: Mr. President, could the hon. Minister indicate to us whether the Government is obligated to lay in this Parliament, on an annual basis, those said reports that he has outlined? Secondly, could the hon. Minister indicate to us why the Government has taken so long—1990 being the last reports tabled—to table in this Parliament the reports for 1991 and 1992?

Hon. K. Collis: Mr. President, as regards the report for 1992, we are still on time; we have a time limit of 18 months. For 1991, remember that we came into

the Government in December 1991; the Conference was held in June of 1991. In checking over the ILO files, I realized that the reports for 1991 and before that going back to 1986, were not laid. We are now making preparations to have those reports laid in the House.

2.00 p.m.

Sen. W. Mark: Mr. President, would the Minister indicate when those reports are to be laid in the Parliament, and when they are laid, whether they are subject to fullscale debate, or are they merely being tabled in the Parliament?

Hon. K. Collis: Mr. President, the reports will be laid soon. As regards to the full debate, I do not recall that this is part of the constitution of the ILO.

Estate Constables (Retrenchment of)

99. Sen. Wade Mark asked the Minister of Public Administration in the Office of the Prime Minister:

> Could the hon. Minister state whether there is any intention on the part of the Government to retrench workers currently employed as estate constables in the public service?

The Minister of Public Administration in the Office of the Prime Minister (Sen. The Hon. Gordon Draper): Mr. President, there is no intention on the part of the Government to retrench workers currently employed as estate constables in the public service.

Sen. W. Mark: Mr. President, could the Minister indicate whether the Government has taken any decision to re-deploy estate constables employed in the public service? If they have taken such a decision, could he indicate to us where these people have been re-deployed?

Hon. G. Draper: The Government has taken no such decision, Mr. President.

Estate Constables (Contracting of Services)

100. Sen. Wade Mark asked the Minister of Public Administration in the Office of the Prime Minister:

a. Could the hon. Minister state whether the Government intends to contract out to another agency of the Government, the services currently being performed by the estate constables?

b. If the answer is in the affirmative, could the Minister indicate what would be the position of the hundreds of estate constables currently employed by the Public Service Commission?

The Minister of Public Administration in the Office of the Prime Minister (Sen. The Hon. Gordon Draper): Mr. President, the Government has no such intention at this time.

Sen. W. Mark: Mr. President, does the Government intend, at all, to contract out the services to another agency, either in Government or out of Government, to perform the services of estate constables? Does the Government have any such intention in the future?

Sen. The Hon. G. Draper: Mr. President, there have been some instances in the recent past when a decision has been taken to award tenders for security services and maintenance services in some government buildings.

Sen. W. Mark: Mr. President, could the hon. Minister indicate whether retrenchment of estate constables is, in fact, possible?

Sen. The Hon. G. Draper: Mr. President, I have already said that the Government has no intention at this time to retrench estate constables.

T&TEC
(Fuel Cost)

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

Could the hon. Minister outline the quantum of fuel cost as a percentage of generation and operating costs of T&TEC for the period l980 to l993?

The Minister of Energy and Energy-based Industries (Sen. The Hon. Barry Barnes): Mr. President, the Minister of Public Utilities wishes me to convey his sentiments to Sen. Wade Mark and to request permission that I should answer on his behalf.

(a) The quantum of fuel cost as a percentage of generation costs is 47.2 per cent

(b) the quantum of fuel cost as a percentage of operating costs is 19.7 per cent.

This is over the period l980 to l993.

Sen. W. Mark: Mr. President, could the hon. Minister give us a breakdown as requested here, over the period l980 to l993, the quantum of fuel cost as a percentage of generating, on the one hand, and operating costs, on the other?

Sen. The Hon. B. Barnes: Mr. President, the question, in fact, asked for an outline over the period. If, however, Sen. Wade Mark wishes an individual, year by year percentage, this is going to be difficult to read, but I will try.

YEAR	% OF FUEL TO GENERATION COSTS	% OF FUEL TO OPERATING COSTS
1980	43.0	13.6
1981	40.2	12.8
1982	53.3	17.6
1983	46.2	16.2
1984	39.9	13.7
1985	44.9	14.9
1986	46.2	17.8
1987	46.4	18.7
1988	49.3	21.6
1989	50.7	22.4
1990	51.3	22.7
1991	49.8	22.6
1992	43.0	21.4
1993	47.5	23.8

I thank you, Mr. President.

Sen. W. Mark: Mr. President, could the Minister indicate to us the implications of those figures for the consumers in Trinidad and Tobago, having regard to the fact that the fuel cost is denominated in US dollars? Now that our currency is floating, could he tell this Parliament what is the implication for the consuming population of electricity in Trinidad and Tobago, given the constant rise in fuel cost as a percentage of both operating and generating?

Sen. The Hon. B. Barnes: Mr. President, just to correct the first impression, certainly from my reading of the figures, I do not see the constant rise. The second part—and perhaps I should not even be answering this—I think it is common knowledge that there is a fuel clause in terms of the rate structure of the Commission. I would ask the Senator to recognize that I am a substitute batsman and there is only a certain amount of information that is available to me in terms of T&TEC.

Sen. W. Mark: Well, when you are batting, you have to bat.

Could the hon. Minister indicate to us whether the Government has any plans to put in place a reasonable gas price arrangement, having regard to the amount of natural gas available in Trinidad and Tobago, so that the population could have a more reasonable cost of electricity?

Sen. The Hon. B. Barnes: Mr. President, I am indebted to the newspapers myself to know that an organization of which the Senator is, indeed, a renowned member, has met with a task force which Government has appointed to look into the overall electricity question. I am quite sure, on the basis of what I have read, that the Senator himself may be better informed than I am as to exactly where that is. I must pass on the question otherwise.

Sen. W. Mark: Mr. President, is the Minister indicating to us that he cannot answer the question? I am trying to get a response from him. It is either he can or he cannot. Can he answer the question? He is not a member of the task force.

Sen. The Hon. B. Barnes: Precisely.

FINANCIAL INSTITUTIONS BILL

House of Representatives Amendments

The Minister of Finance (Hon. Wendell Mottley): Mr. President, I beg to move,

That the House of Representatives amendments to the Financial Institutions Bill listed in the appendix be now considered.

Question proposed.

Question put and agreed to.

Clause 22:

House of Representatives amendment read as follows:

"In subcluase (6)(c) delete the words 'in the case of subsection (2)(i)' and the word 'state' in line four and substitute for the latter the word 'Minister'."

2.10 p.m.

Mr. Mottley: Mr. President, I beg to move that the Senate doth agree with the House of Representatives in the said amendment.

Question proposed.

Question put and agreed to.

Clause 51:

House of Representatives amendment read as follows:

Delete clause 51 and substitute the following:

"51(1) Where an agreement has been entered into for the guarantee of payment to a transferee or other licensee of the amount by which any credit facilities granted by the transferee or licensee exceeds the limits in section 22 (2)(h) or (i) the transferee or licensee may apply to the Minister to be exempted from all or any of the provisions of section 22(2)(h) or (i) and the Minister may, by Order, on the recommendation of the Central Bank exempt the transferee or other licensee from complying with those provisions subject to such terms and conditions as may be specified in the Order.

(2) An Order made under subsection (1) may, in any case where the Minister thinks fit to do so, exempt the instrument of guarantee from the payment of stamp duty imposed under the Stamp Duty Act.

(3) Where an agreement has been entered into for the guarantee of payment to a transferee of the amount by which any unsecured credit facilities granted to any one person by the transferee exceeds in the aggregate ten percent of its paid-up capital and reserve fund and the Minister has by Order under section 27(3) of the Banking Act exempted the transferee from the prohibition in section 14(1)(e)(iv) of the Banking Act such Order shall, if in force at the commencement of this Act, continue in force subject to subsection (4).

(4) An Order which continues in force under subsection (3), shall from the date of commencement of this Act, take effect as though exempting the Bank which is the beneficiary of such Order from the prohibition in section 22(2)(h) instead of the prohibition in section 14(1)(e)(iv) of the Banking Act in respect of existing arrangements made for the provision of credit facilities in existence at the date of commencement of this Act if the guarantee which is a condition of, or set out as a Schedule to, any such Order is varied to the satisfaction of the Minister within three months of the date of commencement of this Act so as to become effective to guarantee the payment to such Bank of the amount by which the unsecured credit facilities granted to any one person or borrower group under such arrangements exceeds in the aggregate five percent of such Bank's capital base.

(5) Where the Minister has made an Order under section 27(3) of the Banking Act or under this section, he may, on the recommendation of the Central Bank after it has consulted with the licensee, terminate or vary the Order."

Mr. Mottley: Mr. President, I beg to move that the Senate doth agree with the House of Representatives in the said amendment.

This is really a substantial change to what had originally been agreed by the Senate. It went back to the other place and after a substantial amount of discussion, both inside and outside that Chamber, we have brought this amendment back here. It is an important subclause of the Financial Institutions Bill, which is now before the Senate, since it provides that any transferee or licensee could exceed the limits as provided in section 22(2)(h), with the approval of the Minister, acting on the advice of the Central Bank.

Section 51(1) allows all licensed financial institutions, both local and foreign controlled, to make use of a guarantee as a basis for the exemption of compliance with clause 22. It is important that we understand why, after further consideration, we would like to have this incorporated in the Bill.

We believe that in allowing all banks the capacity to be exempt from the relevant section of clause 22, whereby the Central Bank gives advice to the Minister, that guarantees of a parent company or of a substantial financial institution for a particular pool of loans, it is an important matter for Trinidad and Tobago at this stage of our development in particular. We believe that we should

not seek to so circumscribe the power of guarantee as to preclude financial institutions in this country from granting loans at this time.

We especially draw the attention of the Senate to the energy sector that is rapidly developing; even here we heard mention of very substantial sums in US dollars that were required to develop our natural gas resources. And, if we rule out the capacity of, shall we say, foreign substantial institutions, to give guarantees for loans down here, then we would be removing the possibility of a very large amount of loan money being used in this country.

The way we have brought this amendment allows the Central Bank a great deal of flexibility in considering the matter and it allows discretion. The matter of the guarantee of foreign institutions is, in the view of the Central Bank and the Ministry of Finance, a substantial security. The guarantees of companies such as City Corp, Bank of Nova Scotia, or Barclays are substantial guarantees. All of these companies have double or triple A ratings which are better than the investment rating of the Government of Trinidad and Tobago.

The history of banking in recent times has shown that where there have been serious problems in developing countries, those institutions which had the capacity of guarantees from substantial banks in the major metropolitan centres were able to avoid some of the major problems that applied to other financial institutions.

I will quote from a book entitled *Banking Crises, Cases and Issues,* edited by V. Sundar Rattan and Thomas Bolino. It is an IMF publication and in one instance, on page 91, it cites a case in Argentina where the institutions that were considered solvent were those backed by the Government at any level or by a foreign parent institution. On page 151, there is a similar experience with regard to Chile. Therefore, citing these reasons and the particular instance of Trinidad and Tobago at this time, where we are seeking substantial loans to develop our energy industry and not wanting to rule out the inflow of those loans at this time, and also because we want to develop Trinidad and Tobago as a financial centre for the region, we believe that the inclusion of this expanded clause 51 is an important and progressive step.

Question proposed.

2.20 p.m.

Sen. Martin Daly: Mr. President, may I begin by complimenting the Government on the course which this very important legislation has taken.

Speaking for myself, the Minister and the Government as a whole have been very receptive to suggestions made in the course of the debate about this legislation. Since they have indicated that other major legislations such as the Companies Bill, a new Securities Industries Act and other pieces of legislation would be coming to Parliament, this augurs very well for the type and soundness of the legislation that would be put on the books of this country.

Without qualification, I compliment the Government for the way in which it has been dealing with this particular piece of legislation and showing itself receptive, as I indicated, to suggestions which had been made in the course of the debate and outside of Parliament. I do not have much experience with the passage of legislation, but I would be surprised if the track record that this Government has established over this Bill could be bettered by anyone dealing with previous substantial legislation.

However, I very much regret that in relation to clause 51 (1), I must detain my colleagues in the Senate as briefly as possible to point out one thing which I think is quite wrong. I would explain that in a moment. I agree entirely with every word that the Minister has uttered in support of clause 51 (1). The amendment which I would be moving—I assume this clause would go to committee—attempts to deal with the one flaw as I see it in clause 51 (1).

I emphasize that I have no problem with the concept of clause 51. I think it is quite right that the previous exemptions that were contained in the Banking Act, which was the predecessor of the Financial Institution Bill should be maintained. I have no problem with the fact that that exemption is going to be expanded to include the different limit in the Financial Institutions Bill and, of course, the stamp duty exemption. It is a matter for the Government if it wishes to give up that revenue.

I say that to emphasize that I think the way in which the concept of an exemption in relation to unsecured facilities has been dealt with in subclauses (2), (3) and (4) of this amendment is very laudable. I repeat that I agree entirely with everything which the Minister has said.

We have spent a tremendous amount of time already on this Bill in order to separate the dangerous relationship between a financial institution and an affiliate. Indeed, the Government has—even as it made the generous concessions to which I referred—reminded us at every turn, that in the modern financial world, we must

separate the relationship as far as possible with prudent business sense. We must separate the relationship between the financial institution and the affiliate.

The flaw in clause 51 (1) is—and the Minister has brought it out in his presentation—that there is no expressed limits as to the amount for which a guarantee may be taken as part of the exception in relation to the unsecured facility. As I said, the Minister has brought it out in the open. He has referred to foreign banks and parent companies. That is precisely the source of my objection.

I have no problem, in pursuit of the Minister's objective, that any bank whether it is local or foreign should be able to obtain a guarantee in order to receive an exemption by an order of the Minister from the limits in clause 22 (i). My problem is that if you allow any bank, particularly in this case a foreign bank, to get a parent company guarantee, in any amount and you can keep getting these guarantees without limit or cap, then in my respectful view, we are doing something which is self-defeating. That is to say we are perpetuating the very relationship between financial institutions and affiliate, in this case parent company, that we have been striving so hard to separate. Clause 51 (1), in my respectful view, can be properly categorized as self-defeating.

What I am seeking to persuade the Minister to do is simply to divide the ability of a financial institution to obtain a guarantee as the basis for an exemption into two parts. That is to say, to provide that where it is taking a guarantee from an affiliate, whether it is a parent company or some other bank with which it might be otherwise affiliated, that the amount of money is limited in those circumstances. If it wants to get a guarantee beyond a certain limit, then it must go to some other institution, other than an affiliate.

I emphasize in the case which the Minister has indicated some financial institution with which it has no relationship. That is all I am seeking. I have no problem with the amendment and the guarantee being for any amount, because I accept what the Minister says about the need to access in particular foreign capital. It is self-defeating not only in theory. I would not detain the Senate in trying to make a point that is academic. I do not intend to call any names.

The Minister has mentioned certain banks which he said had a triple A rating. I would deal with triple A ratings in a while. I believe that it is important because what we are really saying is that because these banks are foreign, large, or operate internationally, they are bound to be good for the sums for which they offer a guarantee. I reject that.

I am saying that if you are going to get a guarantee from a parent company, the amount that you can go to a parent company for to get a guarantee to use as the basis from exemption must be subject to a certain limit. The limit that I am suggesting is the capital base of the particular institution; above that you must then go to some other institution to obtain the guarantee, not an affiliate or parent company.

I say that because it is very well known that even the mighty institutions to which the Minister has referred are institutions which in very recent times have themselves been in very deep financial trouble. In fact, one of the institutions to which the Minister has referred, we would say in local parlance, is still under heavy manners, from the Federal Reserve Board in relation to what it can and cannot do.

2.30 p.m.

I am not going to identify any of these institutions by name, but for my purposes, I am not impressed with the names which the Minister has mentioned. In fact, as recently as the issue of *Fortune* of July 12, 1993, one of these parent companies was the subject of an update as to where it was on the come-back trail. In the course of that analysis, the authors of the article were making the point that this institution was still under a particular set of dictates from the Federal Reserve Board.

It refers to the fact that the Federal regulators—and I quote from the issue of *Fortune* which I indicated—had the bank:

> "...pinioned under a Memorandum of Understanding, or MOU, which puts it in a virtual straightjacket."

It talks about the very fact that it is an international bank:

> "Its operations span the world, which is good in a global economy, but bad from the stand-point of control."

It is critical of the way in which this parent company has managed its credit and its operations.

It is always a very real pleasure to hear the contributions of my Friend, Sen. Ainsley Mark, who spent some time seeking to persuade us to support the Financial Institutions Bill with the ratios that were contained in there. He spent some time in his contribution also quoting from *Fortune,* in that case of April,

1992, and from other sources, to indicate the type of difficulties that some of these giants mentioned by the Minister were having in the United States and the United Kingdom.

Having cited his various sources, *Fortune, The Economist, Euromoney* and all these different presentations, he cited one article that talked about one of the banks mentioned by the Minister as having been:

> "...ripped apart by credit risks that it gleefully embraced and woefully assessed."

He then went on, and I quote:

> "I am making the point that the major banks in the United States, the United Kingdom and Japan have been and continue to be affected by over-exposure in certain industries and certain regions...
>
> Some of the money centre banks in New York are reeling under the pressures from some of the leverage buy-outs that they effected a few years ago."

I do not know whether or not the ratings of these financial institutions are currently triple A. I know what their track record has been in recent—times and I will tell a little story, very briefly, about what can happen to a triple A rating overnight.

Another institution that was mentioned by the Minister—and these are all banks that have now or have had connections with this country—the same one that was ripped apart in the quotation given us by Sen. Ainsley Mark, is still trying to come to terms with provisions that it has had to make for £12.5 billion worth of debts, the recovery of which is doubtful.

I would not be impressed to find that financial institutions, affiliates or parent companies that are in that kind of state are permitted the facility of giving guarantees to their local entities, in order to obtain this exemption. That is why I am asking that some cap be put on it. There is no problem if they go to some other independent institution that is not an affiliate and obtain the guarantee.

Of course, that is what the local banks would have to do. Those that are fully localized and have no parent company any more will have to go into the market and obtain a guarantee from someone who is independent, and is not an affiliate and they will have to do so at a certain cost.

That is the first of my objections, Mr. President, that the very persons whom we can foresee, and the Minister has named as the institutions which might be giving these guarantees, are not themselves worthy of *carte blanche* approval by this Parliament. A triple A rating can disappear overnight, so I am not overly impressed by that.

In fact, the story is told in one of the many books dealing with the craziness in Wall Street in the past few years, of the firm of Kravis that dealt with all those huge leverage buy outs, that on one occasion their downfall began because while they were negotiating with a bank, it came over the computer screens that are in all these offices, that a 31-year old economist on the Federal Reserve Board had just reviewed their triple A rating and had dropped it substantially. The Mighty KKR, as they were popularly known, for Kohlberg, Kravis and Roberts, who made all the banks in the United States tremble when they arrived in the office, quietly were shown the door as a result of their triple A rating being lowered in the course of a negotiation they were having for the biggest of the big of the leverage buy-outs they were doing. That is why we must keep faith with the legislation as we have passed it already and not give a completely open-ended ability to affiliates to put down guarantees as a basis for an exemption under the Act.

It is also self-defeating for another reason, that is, you can have a situation where—and this is where the foreign banks will have a considerable advantage—a subsidiary of a foreign bank may be operating here with a very small capital base, as small as the smallest of our banks. Nevertheless, if it has unlimited access to a parent company guarantee, it will never have any incentive to increase its capital base in Trinidad and Tobago, which is one of the declared objectives of the Act that we have spent so long on. Moreover, I see incentives for not only dividends, but for fees being paid to parent companies for guarantees leaving the country rather than any of the profits or earnings of the banks being retained in order to improve their capital base.

It seems to me that the Central Bank authorities are not in a position, as was the officials of the Federal Reserve Board in the United States with access to all the information, to monitor the progress of these large international institutions. As in the case of BCCI, we may get the news as someone who has given a guarantee, long after the debacle has taken place or is in train.

So, it is for that reason that all I am asking the Government to do is to divide up the ability to guarantee and to do so, firstly, because it is important not to give

institutions that themselves might have their rough times, unlimited ability to guarantee their local operations. Secondly, because I believe there will be some element of advantage to foreign-owned banks that run operations here with very small capital base. They will have some element of advantage as opposed to the local banks.

Thirdly, I am concerned about the ability of the Central Bank to monitor the progress and the conditions that give rise to the ratings.

2.40 p.m

Fourthly, I am concerned about a lack of incentive to build up capital base, in the case of the local operation. I am also concerned about the way clause 51(1) is framed because it is going to be very difficult for anyone to know what deals are being struck—that is what they will be, deals—between the Central Bank and any particular applicant. That is another thing that concerns me—I suppose the Minister or the Attorney General may be able to enlighten us. I do not know whether these orders that the Minister will make, providing for an exemption, are orders that are going to be published, so that there are going to be any means of monitoring the deals that are being struck in relation to these guarantees.

It would not take very much—particularly, as this Act has been passed without a special majority—for someone to make some capital out of the fact that the guarantee arrangement that was made with bank "A", was more favourable than some guarantee arrangement it sought with itself. For those reasons, I do not like the way in which clause 51(1) is framed, in that it permits this very wide and unrestricted ability of the Central Bank to strike these guarantee deals.

I have tried as far as possible to indicate what my reservations are in brief. I am a realist. I understand that in another place certain things have happened. My information is that certain things are going to happen after today. Assuming they are inclined to see some merit in what I am saying, I do not want to put the Government in a situation where this Bill will have to go unconcluded for much longer.

The probabilities are that I would not insist on having any amendment considered simply because I think time is against the consideration of any further amendments. I think it is very important in life but particularly, in Parliament, to know when to take the hint, and I understand the difficulty of entertaining more amendments at this stage. What I would ask the Minister to do is to consider whether there is any merit in what I am suggesting and he may or may not want to

give, as he has done in more recent times when time was against us, some sort of indication or undertaking as to how these guarantee deals are going to be controlled. That is at the heart of my objection. How are these guarantee deals going to be controlled? How are we going to know who has received a favourable rating from the Central Bank; whose applications have been accepted and whose have been rejected?

Indeed, Mr. President, it is not a matter to which I have given mature consideration but I am not sure on the *vires* question, whether the regulations that are going to be made under clause 38 relate to prudential criteria, which are described as including a variety of things. It may be that this matter of the parameters within which the Central Bank would operate and strike the deals could form part of the regulations, and I ask whether the Minister might consider laying down some general guidelines.

I have suggested what I would like to see—not only as realistically, but as meekly as possible. Of course, I would not want anyone to think that my meekness is induced by anything other than the realistic circumstances about which I spoke, but I am very concerned, that without any published guidelines—presumedly, without even after the fact—we will not know the type of guarantee deals that have been struck. For those reasons, I would like some guidelines to be indicated and some undertaking to be given or if there is a case for it—it may be that it cannot be done in the regulations—some guidelines to be published.

Mr. President, I have tried to put the case as neutrally as possible. For better or for worse, at the behest of the predecessors of this Government, there are banks that are fully localized, there are banks that have stood the pressures of the predecessors of this Government fully, to localize. I think it is very important, whether it is real or imagined, that there is no sense of injustice in those who have no affiliate readily available from whom it can obtain a guarantee, not to feel that this exemption—and I do not suggest that by officials—but by the granting of the exemption, there can be some manipulation around the provisions of the Act.

There must be some way—I am quite sure if I were an accountant or a financial analyst I would be able to offer the service in no time—in which you can manipulate your financial statements or your dealings so that under the exemption that is granted under 22(i), you can in fact gain some advantage in relation to the secured side of things. That is something else that concerns me, whether it would be possible, I do not have the knowledge but I sometimes have to defend the good

ideas in other disciplines. I feel sure that there may be some creative analysts who may be able to take advantage of this exemption in order to gain some advantage in relation to the secured side of things.

These are my misgivings about clause 51(1) in its present form and I ask the Minister to consider these points and at the very least, to give us some very clear, unequivocal idea of how these guarantee deals are going to be struck, and within what limits are these deals going to be done. I ask the Minister to consider these matters to see whether my misgivings about some of these things could be removed. I ask that we look at clause 51(1) against the background of those misgivings.

2.50 p.m

Sen. Wade Mark: Mr. President, while we on this side understand the logic of the proposed amendments to clause 51, we are concerned about the mechanisms for monitoring this particular clause that is being introduced. The Minister said that he had wide-ranging discussions inside and outside of this Parliament. We would hope that in those discussions he would have taken into account the national interest.

The Government has committed itself to opening up this economy and to transforming Trinidad and Tobago into what it has described as the "financial centre of the region" and "gateway to Latin America". We believe that this amendment is on target in this regard, to open up the economy, particularly the financial sector, in order to accomplish that particular goal that it is seeking to accomplish.

However, we believe, Mr. President, that this amendment is going to further open up, as I said, the financial market to foreign influence and, ultimately, control, in an effort to accomplish that particular mission of the Government. The amendment suggests unlimited access to international credit by three foreign banks located here: City Bank, Nova Scotia of Trinidad and Tobago Limited, and the bank of imperialism and commerce, Canadian Imperial Bank of Commerce.

Now, we have to be extremely realistic. We live in a world of high finance capital and we understand the point that has been advanced by the Minister. We read in the papers yesterday, in fact this morning, that City Bank has extended a loan of US $96.5 million to Trintomar for re-finance. That is part of the arrangement because certainly their capital base here would not have allowed them to reach that limit. So the guarantee is external and we recognize that. What we are concerned about, Mr. President, and I think that the Minister ought to give

consideration to this matter, is the possible emergence of a monopoly situation down the road in Trinidad and Tobago. He would not be Minister of Finance forever. His term will come to an end in 1996. But what about the new Minister of Finance who takes over? It could be me. I do not know. I do not want to be saddled whatsoever—*[Interruption]* No, my colleagues are joking in the back. But, quite seriously, Mr. President, we have to recall Nello when we take over from the PNM to give him some justice.

The hon. Minister of Finance may have good intentions, but I think there is need for him to examine the possibility of a kind of intervention that can result in a monopolization of our economy. I know that Dr. Lenny Saith does not care anything. He has too much. In fact, I read something in the newspapers on Sunday where someone said that they had so much, it was sickening. Money for so! But, Mr. President we will come to that at another time. What we want to deal with here, Sir, is a situation in which the banking population could be affected and we want the Minister to revisit this approach completely.

We would not comment too much on Sen. Daly's proposed amendment. He has already withdrawn it. I see before he can fight he has conceded, so I really would not want to comment on that. I thought he was going ahead with this amendment. Have you withdrawn this Sen. Daly? *[Interruption]* I know your amendment is based purely on self-interest, so I do not want to pursue that matter at this time.

Mr. President, I want to make it very clear that we recognize the question of investment in the energy sector. We also want to make it absolutely clear that investment is not going to be only in the energy sector, and this is where we believe that the Government has to be extremely careful on this matter. We believe that clause 51 places too much power in the hands of the Minister of Finance. Sen. Daly referred to the Central Bank, but in this amendment, if one looks at it carefully, we see in clause 51(1)—

> "Where an agreement has been entered into for the guarantee of payment to a transferee or other licensee of the amount by which any credit facilities granted by the transferee or licensee exceeds the limits in section 22(2)(h)...the transferee or licensee may apply to the Minister ..."

"May apply", it is not "shall apply". There is where the corruption, the nepotism, the deals can take place. You see, we have to safeguard the national

integrity of this country. It goes on further, Mr. President, to say these people may apply to the Minister—

> "to be exempted from all or any of the provisions of section 22(2) (h)... and the Minister may..."

Again, "may by Order, on the recommendation of the Central Bank...Not "shall", Mr. President, "may".

So what is the role of the Central Bank in this whole matter? Suppose the Minister does not agree with the recommendation of the Central Bank, what is going to happen there, Mr. President? We should, in fact, advance a clear and categorical role for the Central Bank in this matter.

Mr. Sobion: Different argument this time.

Sen. W. Mark: So what we are saying, Sir, is that this is a matter in which too much power is being vested in the hands of the Minister. As I said, he is a person who looks as if he means well, but you never know, Sir. We are dealing with a vicious Government, desperate, and anything can play. Therefore, we want to ensure that this particular clause reflects the true role of the Central Bank in this issue. We feel that the Central Bank is a very important player in this whole matter and, therefore, it ought to be playing a more decisive role. When we talk about parliamentary reform this is what we mean, because somebody has to oversee the Central Bank as well.

What we have noticed, Sir, is that the previous clause—and I read clause 51(1) of the original Bill was deleted in this place. Remember, what is happening is that they are re-introducing the same clause 51 under a different guise, so I am just making reference to this particular clause, Sir. The clause stated then:

"Where, on the occasion of an application to the Minister under this section..."

There is no such inclusion in the new clause. What we have here is:

"...where an agreement has been entered into."

So the Minister is a rubber-stamper. He is a rubber stamp Minister.

3.00 p.m.

Mr. President, this is looseness and slackness and we cannot support that kind of arrangement. We do not want our Minister of Finance to be a rubber stamp Minister of Finance. We want an application to be made formally to the Central

Bank and the technicians must go through that application with a fine tooth comb, in order to determine and verify the ability, suitability and veracity of what is being applied for or proposed.

We feel that this amendment, as proposed, does not give those persons who are going to apply any real commitment from the outset to do what they are supposed to do in this instance. Maybe it is an oversight on the part of the Minister or the drafters, but I think they ought to re-draft this matter. It needs re-drafting in an effort to ensure that the national interest is protected. Therefore, we are saying that an application must be made, and it must be identified in this amendment, before we can talk about an agreement. Application first, agreement after. Not agreement first and then deals at the same time, because the deal will take place with the agreement. Therefore, we want the guarantor in question to submit an application to the Central Bank. That is what we want.

We feel that this clause could open, what we call, the floodgates. The party in power has a history of corrupt activities; it lives and feeds on that. Therefore, what we are advancing here is, that in order to reduce the level of nepotism, corruption and possible favouritism, we need to ensure that there is a clause in this particular amendment to reduce that element. That is why we do not want the Minister in this instance. *[Interruption]* Take your time, you will be the general secretary next. Why are you rushing? They have promoted you to be the acting—

Mr. President, what we are saying at this time is that we need to have a provision in this amendment under which the Central Bank of Trinidad and Tobago would have a more decisive role in this question. We are not happy with the role given to the Central Bank. Too much power is in the hands of the Minister. Therefore, we have an amendment here, we want to deal with a joint select committee of Parliament. Do not feel that we are giving power to the Central Bank and we are not monitoring them. We are going to monitor them. You all are anticipating me on that side.

We want the Minister to tell us what is the verifiable criteria that he would use in determining an exemption. He must have a set of criteria. One cannot operate on the basis of "vaps" when talking about international guarantees. There must be a verifiable criteria that is used. We want to know those criteria. Bring them here. That is what we want to know, Sir. We are not seeing them here.

We understand what the Government is attempting to do—I want to make it clear—but there are loopholes, deficiencies and shortcomings in what is being proposed here and we want to plug them, otherwise we are not going to support it.

Mr. President, we would like to know—sometimes people can obtain a contribution, people can, in fact, approach the Minister of Finance for an agreement and once he can be guaranteed some commitment, there is the possibility that that could be granted.

In Latin America, there is a term called "kleptocracy"—management by thieves. That is what has taken place in Latin America: a "kleptocratic" regime has emerged in Latin America and that means management by thieves. We want to ensure that our colleagues on that side do not get into that particular syndrome of "kleptocracy". That is what we want to avoid. That is why we want the loopholes in this particular matter to be plugged. That is what we want to assure, Sir.

We want the Minister to explain to us—this is a very important amendment that has been proposed here in clause 22(2)(j) of the original Bill. This was passed in this Parliament so I have to make reference to it because it is referred to in this amendment, so I do not want to believe—

Mr. President: We have dealt with the amendment to clause 22 already.

Sen. W. Mark: I am saying that, for instance, in clause 51(1), Sir, reference is being made to clause 22(2)(h) and (i).

Hon. Senator: Subclause (i) is out.

Sen. W. Mark: Well subclause (i) is out. We are dealing with clause 22 and that is what we are on here. I want to find out from the hon. Minister whether (j) was deliberately left out and if it was deliberately left out, why was it not stated. Because clause 22(2)(j) says:

(2) A licensee shall not directly or indirectly—

(j) acquire or hold in the aggregate any part of the share capital of any commercial, agricultural or industrial undertaking; not including a financial institution, in excess of one hundred percent of the licensee's capital base and such shareholding shall not, in respect of any one such undertaking exceed twenty-five percent of the licensee's paid-up share capital and statutory reserve fund."

I thought banking was supposed to be an exclusive economic activity.

Mr. President, the fact of the matter is that once you have an unlimited guarantee of funds flowing into this country, you can have an unnecessary kind of development taking place where a number of banks could suffer. This is where,

for instance, Sen. Daly's initial amendment, in terms of trying to safeguard, not only Royal Bank but all those banks that are being merged into one—the National Commercial Bank, Workers Bank and the Co-operative Bank of Trinidad and Tobago—could be applied. Those are local banks, too. They are localized. Republic Bank is also a localized institution. So what we should be focussing on is not any one entity in this matter, we should be trying to defend the national integrity of all these local institutions in Trinidad and Tobago.

That is where the Central Bank plays a very important role in this matter. If the Central Bank is the policeman to ensure that there are no deals taking place, it does not mean that there would be no activities that could probably be described as "questionable" taking place there; but at least there would be an institution with technical people who are professional and very competent and, therefore, we believe that they would look after the national interest. In order to ensure this, we need a joint select committee of Parliament on banking and finance to oversee the operations of the Central Bank. That is what we need in this instance.

Mr. President, what we are arguing, very simply, is that in the instance of clause 22(2)(j) we would like to suggest to the Minister that he specify very clearly that (j) is exempted. We think that he needs to specify that. We feel, for instance, that there could be some room for misinterpretation on this matter. You may have a conflict of interest arising in this matter. We want to ensure that does not take place.

If we are not careful, in the absence of a monopolies commission, in the absence of anti-trust laws in this country, what we could well witness is finance capital in its fullest glory in Trinidad and Tobago where the banks would own—you have interlocking directorates already in this country. You have that. Neal and Massy was on the board of NCB at one time. So what you have is a conflict of interest. In this Parliament and in this Government, there are many conflicts of interest which we will deal with at the appropriate time.

3.10 p.m.

What I am dealing with here is a very important principle, that you cannot have bankers being involved in commercial, industrial and agricultural activities in the way that it is being proposed. If you have a blanket cheque, what can take place is that bankers who are involved in those activities can, in fact, deny their competitors access to important credit facilities.

Mr. President: The debate on the general principles of the Bill took place at the second reading. We are dealing with very specific amendments at this stage.

Sen. W. Mark: Mr. President, I respectfully suggest that there is a link between clause 22 (j) and what the Government is proposing. There has to be a link. This is a technical piece of legislation and I could understand your problem, because I, myself, am experiencing some difficulty in dealing with this matter. It is a very technical and complex amendment that the Minister has brought here. It is not simple. This is why I am trying, in my brief contribution, to make a link between clause 22(j), because there are implications for our country, and we cannot run away from that. We are here to serve the interest of Trinidad and Tobago.

Mr. President: If you need a consequential amendment to clause 22, please state it. That is all I am saying. We are dealing with specific amendments at this stage, not general principles of the Bill.

Sen. W. Mark: Mr. President, we would like to propose an amendment to 51(1), not in the line of Sen. Daly's amendment, but ours would take care of his.

We want to suggest that in clause 51(1) include after the word, "Minister" appearing on the last line of page 1, in an effort to ensure transparency, accountability and lack of corruption, the following words:

> "shall present the Central Bank report and other pertinent documents and information to a Joint Select Committee of Parliament for determining whether to exempt the transferee or other licensee from complying with those provisions, subject to such terms and conditions as may be specified in the order to be issued by the Committee."

We are not rejecting this particular amendment, we are simply trying to substantiate it in a very serious way so that there can be greater accountability and transparency in this matter. I know that the hon. Minister is committed to transparency and accountability and should find no problem with this particular amendment that we have proposed. It is all in keeping with the objectives of the Government’s agenda in terms of attracting more foreign investment.

Is it appropriate that we can move that amendment in an effort to tighten this particular clause?

Mr. President: As long as you give it in writing to the Chair.

Sen. W. Mark: I am going to do that shortly, Sir.

We want to propose a second amendment. We will set up, what we call, a crime and economic crime unit under our government to investigate—

Mr. President: I do not think you are being relevant in this case.

Sen. W. Mark: We have to investigate a number of Ministers on that side. We want to see how they got all their wealth in such a short time—19 months—five houses, four cars. We want to know where they got that from.

Mr. President: You are dealing with irrelevancies. I would have to ask you to take your seat, you know.

Sen. W. Mark: Mr. President, I am going to make my final amendment.

Sen. Kuarsingh: Mr. President, on a point of order. I refer to Standing Order 35(4), and I ask for your guidance. Where does three cars and four houses come into this debate? I seek your guidance, Sir.

Mr. President: What is your point of order?

Sen. Kuarsingh: My point of order is that Sen. Wade Mark was irrelevant and insulting.

Mr. President: Point of order sustained. He already knows that. I told him about it. Please, continue with your contribution.

Sen. W. Mark: Mr. President, there is one small final amendment we wish to make in 51(2):

> "The Joint Select Committee of Parliament will determine the quantum of taxes if any, which should be paid by the transferee or other licensee."

We want to monitor that matter. We do not want it to be left to the whimsical movements of the mind of the Minister. So we propose this small amendment to ensure that there is some degree of accountability.

What we have done essentially in these two amendments that we have advanced, is attempted to guide the Government, because this is a tired and exhausted regime, very fatigued. We understand that there could have been oversights, for instance, on the part of Government, and all we are seeking to do is to get the Government to tighten clause 51, so that there would be at least some degree of justice and fair play in this operation. If a local bank wants to approach

an international financial organization for a guarantee, we want to have some equality in this relationship. Therefore, we want to ensure that the Minister alone does not have the power to determine whether that bank can, in fact, access. We want the Central Bank to have that influence. Of course, in the final analysis, the Minister would have to be guided by the Central Bank's thinking on this matter. That is the point that we are making.

Once we are able to get the approval of the other side on these two amendments, we would, wholeheartedly, support the proposal for the amendment of clause 51. I think I was very brief. There is another matter pending, so I will pause at this time. Thank you, Mr. President.

Sen. John Rooks: Mr. President, one of the key objectives of this legislation, clause 51, is to protect depositors' and shareholders' funds—no repeat of International Trust Ltd., Trade Confirmers Ltd., Southern Finance, Principal Finance, MAT Securities. Because of this, it is important that the repayment of unsecured loans made by banks operating in this country be guaranteed by highly-rated, international, financial institutions. This form of guarantee—Bank of Nova Scotia in Canada, Canadian Imperial Bank of Commerce in Canada and Citicorp in USA—is rated at least "AA" or higher by worldwide rating agencies, for example, Moodys and Standards and Poor and is virtually equivalent to cash collateral. This form of guarantee is more liquid than the usual debentures over fixed and floating assets. The tremendous losses suffered by local banks and other financial institutions holding securities such as mortgages and receivables in the early days is evidence of this, for example, the failure of the Kirpalani Group.

3.20 p.m.

Therefore, depositors’ and shareholders’ funds are virtually assured by these foreign banks’ guarantees, so that these arrangements should be strongly encouraged rather than discouraged. It is virtually new money coming into this country if the foreign banks would guarantee four-fifths of a loan and the local banks, one-fifth. This would protect local depositors and leave local money here for further investments in the business community.

Furthermore, in order to continue to attract new capital into this country, this type of beneficial arrangement is most necessary as it allows banks to finance large projects on a timely basis, based on parent company guarantees.

I can see no benefit by limiting the amount of a parent body. It is only natural that a parent/offspring arrangement for borrowing would be better than an

arrangement between two parties which are unconnected and therefore had no experience from past transactions.

It is estimated that approximately US $3 billion is needed to finance major projects in the oil and petrochemical sectors of the national community. This amendment proposed by the Minister again facilitates this type of arrangement. The estimated expenditure for the new investments, Amoco East Coast Gas Development: US $300 million; Enron Gas Project— Kiskadee, Ibis, Oilbird: US $250 million; Exxon/Trintoc/Trintopec Southern Basin Oil: US $60 million; Texaco/British Gas Offshore Gas Development: US $200 million; Unocal: US $20 million to start.

Petrochemicals: Cabot, Amoco, British Gas, LNG Export Project: US $1.75 billion; Ferrostall Methanol Project: US $300 million; Nucor Steel Plant: US $75 million; Pointe-a-Pierre Refinery Upgrade: US $400 million; totalling US $3,345 million. Not all the banks in Trinidad put together can finance that. Therefore, I see no alternative than to have foreign banks carrying these loads with us.

Since Trinidad and Tobago has been designated the financial centre of the Caribbean and the gateway to Latin America, the Government would certainly be sending the wrong message to international investors, who have in the last two years, invested over US $300 million in Trinidad and Tobago, if retrograde legislation, such as this, is enacted.

This arrangement has worked perfectly without any loss to depositors and shareholders and has added real value to the financial system over the last 20 years and should therefore not be terminated.

The legislation as approved by the Lower House would allow the Central Bank and the Minister flexibility in granting these exemptions on an individual basis rather than fettering their discretion in the Act.

In conclusion, the legislation as previously approved by the Lower House, should be fully endorsed by the Senate in the country's interest since:

(1) It protects local depositors and shareholders.

(2) It encourages inflow of much needed capital in the country.

(3) It gives the Central Bank and the Minister the flexibility to regulate the industry in the interest of the country, given the dramatic changes that are taking place in the financial industry worldwide.

(4) It is modern legislation which will help to make Trinidad and Tobago the financial centre of the Caribbean and the gateway to Latin America.

Thank you, Mr. President.

Sen. Michael Mansoor: Mr. President, I had not intended to speak in what has turned out to be a debate, except that when I listened to Sen. Wade Mark I thought I should really rise and make a comment, because it is one of those very rare occasions when Sen. Wade Mark appears to be agreeing with the Government.

Sen. W. Mark: Mr. President, let me make it very clear, I am not agreeing with the Government, I am trying to tighten the loopholes in what it is proposing.

Sen. M. Mansoor: Mr. President, I was careful to say "appears to be agreeing", because it also appears that he changed mid-course from what appeared to be peace and harmony to “kleptocracy”, manipulation and words like those. It is one of those happy occasions when Sen. Wade Mark appears to have agreed, in a certain part of his contribution, with what the Government is proposing. I think he should be congratulated on that.

I have to take issue with him, however, when he said that he would have preferred if clause 51, as is now proposed, would require the guarantor to make an application to the Central Bank or to the Minister for approval of this proposed guarantee. The reason that I part company with Sen. Wade Mark on that is because I am relatively certain that the Minister, before he makes an Order, as contemplated in this clause, would require that he sees the guarantee arrangement between the foreign guarantor and the local licensee.

I would have thought that from the position of the transparency of the transaction, it would be preferable if the transaction is conducted in the way suggested by the clause, because then the Minister would have for his consideration—and for the consideration of the Central Bank—this particular transaction, he would have available to him the guarantee with all the kinds of considerations that would be in a guarantee arrangement such as; the rate of charges, limits, and other things like that.

I would suggest that the amendment as it is now couched, and the way the transaction is being contemplated, is a better way of doing it than the approach suggested by Sen. Wade Mark. I believe that Sen. Wade Mark would give favourable consideration to it. I was very surprised that he appeared again, to be

suggesting that he would be a Minister of Finance. I would have thought he would have been a Minister of Labour.

I now come to the contribution made by my good Friend Sen. Daly. Sen. Daly is indeed my good Friend and I have always known that if I had a good case to be argued in any court in or outside of Trinidad, I would seek his services. Today, I have found out that even if I had a bad case, I could seek his services. Because, notwithstanding his protestations about innocence of financial transactions, I happen to know that he is very well versed in the art of finance. I have never heard a better description of what I would call "circular economic logic" than I have had this afternoon. Sen. Daly exceeded his own ability, which is an incredible achievement.

He sought to tell us that the Government's approach was a bad one because it was possible that foreign guarantors would go bust and not be able to satisfy any guarantees they made in respect of Trinidad and Tobago liabilities. I believe that was one of the major underpinnings of his argument that for some reason Trinidad and Tobago, through its Minister of Finance and its Central Bank, would rely on guarantees of foreign financial institutions that were not worth the paper on which they were written.

3.30 p.m.

That danger exists whether or not the guarantee given is limited to the capital base of an affiliate of the local bank. That problem remains whether it is a guarantee given by the affiliate of a local bank, or by anybody else. The problem remains that the Central Bank and the Minister have to be assured that the guarantee that is given by any foreign financing commercial institution is good.

To suggest that one of the problems, in the way that the guarantees are suggested by the Governmen, is that we may end up taking a guarantee from a foreign bank that is not creditworthy, is really not tight logic. It is logic that is essentially flawed because the fact remains that the major responsibility of the Central Bank and the Minister in accepting these guarantees is to ensure that the foreign guaranteeing bank has the financial means to satisfy the guarantee. That has absolutely nothing to do with whether or not that foreign bank is related or not related to a local bank.

With respect to my good Friend, I suggest that argument is essentially flawed, especially because of the fact that the Minister has all the ammunition he needs in the proposed amendment to deal with the details of the guarantee and to make his

own recommendations with respect to conditions. Neither the Minister nor the Central Bank would be going blindly into this guarantee arrangement. The nexus of that foreign guarantor and the local bank is totally incidental, and in no way should impact upon the way this amendment is supposed to work. That is the first point I want to make about Sen. Daly's contribution.

The second point is a more general one, because I think it is a point that seems to be muddled up in some of the contributions that have been made. It is that we seem to be forgetting that a local bank is limited in its ability to accept deposits from the public or anybody else. That limitation is in clause 28 of the substantive legislation. This guarantee arrangement is in no way going to enable a local bank to have a very small capital base in Trinidad and Tobago and lend money. That is not what it is doing at all.

Clause 28 is very clear that a bank could only accept deposits from depositors up to 20 times its capital base. This guarantee is not going to put one set of banks in a different category from another. The limitation remains that a bank would only be able to lend surplus funds that arise from getting deposit liabilities up to 20 times its paid up capital.

To suggest that there would be some sort of manipulation that would miraculously give some of our banks in Trinidad and Tobago a huge advantage over others is not in accord with the financial reality.

The third point I would like to make is on the question of the availability of guarantees. The amendment as proposed allows all banks to access these guarantees and use them in instances where lendings to particular borrower groups exceed the prudential criteria that we have been talking about. So, any bank can access those guarantees.

I suggest that in this day of strategic alliances and the globilization of business, it would be indeed a very incapable or short-sighted bank that would not be able to access these types of guarantees in respect of excessive lending to any one particular borrower group or any one company. I do not take the argument that there would be a significant differential in the cost of those guarantees to a foreign bank with a local affiliate, as opposed to the cost of those guarantees with respect to a local bank with no foreign affiliate.

These guarantees cost money and even a bank that is an affiliate of a local bank would in most cases, I venture to suggest, follow established commercial criteria. They would charge for these guarantees. I do not believe that the

differential in the cost between what a local affiliate of a foreign bank would have to pay and the cost that a local bank without foreign affiliations would have to pay is significant. I venture to say that I have sufficient faith in the bargaining ability of our local banks that they would be able to secure guarantees in cases such as this to support the prudential criterion that the Bill is now imposing upon it.

For these reasons I believe that the amendment as proposed by the Government is in fact an amendment that does all the very good things about which Sen. Daly spoke. If I may get back to Sen. Daly's contribution which was a very important and good one, he sought in his amendment to limit the guarantee to capital base of the local bank.

If one thinks about it, the capital base of the local bank really is not part of the transaction at all. It is the guarantor's capital base that we are concerned about, not the capital base of the local bank. When I made the point about circular logic, I ventured to suggest that it was positive in the fact that a guarantee has to do a lot more with the financial ability of the guarantor than it has to do with a party to the transaction, perhaps a passive party in this case. I have much difficulty accepting the point that it should be limited to the capital base of the local banks.

For these reasons, I suggest that the amendment, as it now stands, would serve this country well because we must remember that the inherent purpose of this change of legislation was that the Central Bank and the Government wanted to have a situation where the commercial banks would be free to lend to the businesses in Trinidad and Tobago, provided that depositors could be reasonably certain that they would get their money back when the time comes.

The purpose of the Bill is not to establish a level playing field or any other purpose. The purpose of the Bill is essentially to protect depositors. This amendment affords a window of opportunity to businesses in Trinidad and Tobago without in any way jeopardizing the requirements and interests of depositors. If we were to limit this window—and I think that is the best way I can describe it—by the capital base of some banks as opposed to other banks, I think we would be doing this country a disservice. We already have a very significant problem in Trinidad and Tobago in that our interest rates are far too high, when one thinks about the need to create jobs and investment.

Any amendment, however well-intentioned, that serves to make the cost of funds more difficult to obtain, does a disservice to both small and large businesses

in Trinidad and Tobago. It is for these reasons that I beg to agree with the amendment proposed by the Government.

Thank you.

Sen. Prof. John Spence: Mr. President, it is very difficult for someone as myself, who has little knowledge of financial matters, to try to absorb the various arguments that have been made. I try to do so and to take as broad a view as possible.

My only concern, however remote it may be, is that some indigenous institutions may be placed at a disadvantage. It is with this in mind that I listened very carefully to the various arguments. I would ask the hon. Minister, in his summing up to address this particular problem which has been raised.

Sen. Daly seemed to have suggested that there would be this disadvantage to some local institutions. He suggested a device that would try to make the playing field more level. However, Sen. Mansoor has pointed out that by doing this, one may in fact place other sectors of other business establishments under some restriction. It seems to me that we really do have a difficulty.

3.40 p.m

Sen. Mansoor has suggested that, in fact, the local banks would not be disadvantaged. My own consultation suggests that at least some of these local banks do think that they will be. Whereas one may argue, as one did earlier on in the case of the manufacturers, that liberlization would not affect them, that they could rise above it, the same argument is being made now with local banks—that even if they have some problem in getting guarantees, they can rise above it.

I am concerned that we seem to be slowly chipping away at our indigenous institutions in the process of joining the world community—which is the argument that is being used. I would think that we should be clever enough, we should have the capability of joining this world community in all the different spheres, including finance, and yet preserve our indigenous institutions. So, I would ask the hon. Minister just to address that point particularly, and to show briefly how indeed he can keep a watch on the situation, so that even if we have to go in this direction now, if it turns out, in fact—because I do not think that anyone of us would like to end up with a situation where all our indigenous banks lose their custom and fade out because of this modern advance that we are entering.

Incidentally, the argument is being made that this legislation is in keeping with modern trends all over the world. I doubt that there would be any large countries certainly, that would enact legislation that would put their own indigenous institutions at some disadvantage. So that, this is a peculiar circumstance with a small country and I understand why we have to do it as a small country. It seems to me that we should be always thinking of some device, even though we have to go in that direction, that would ensure that our indigenous institutions survive.

Thank you, Mr. President.

Sen. Dr. Eric St. Cyr: Mr. President, I want to make a few, very brief remarks on what seems to me a matter that has been in and out—whether clause 51 is in or out or in again. In my considered opinion, it should be in very much as proposed in the amendment.

I want to come to the problem by referring to the national interest. We, in my view, did right during the late 1960s and early 1970s to go in the direction of nationalization, since we were in the process of forming a nation which had been put in place without our own doing. We needed to snatch Trinidad and Tobago and really formulate and set it in place in a proper way and establish it on good, local, national bases. That having been done, I believe we recognized that some of the things we did, really, were not in the best long-term interest of an independent nation. In particular, I want to refer to the fact that we did badly in the export of our nation. Many of the sectors, I think, were very badly run down in the process of nationalization.

If I may start with what is a very basic premise in Caribbean-type economic systems. Most of the things we use in these countries are imported. The vast bulk is consumer goods and capital goods, so that we just must, in what we produce, produce the vast bulk for export. In reconstructing any West Indian economy, we just have to get the export sector right.

Trinidad and Tobago is very fortunate in having petrochemicals and it happens that the technology there, the scale of economic operations are predetermined and set internationally. There is nothing we can do about those facts. Anything we do in those sectors, we have to do on a scale which makes economic sense. So that, we could not expect to revitalize the critical export sector using small capital. We have to put in place a system that will mobilize large capital.

Also, a great part of the capital generated in this country, for various reasons, is largely international so that all we are doing is finding a way of recycling some

of our own money. However much we are sympathetic to the institutions which are almost 100 per cent indigenous and localized and we do not want to do anything that will hurt them, in my view, in the interest of the nation—and that is the concern I have today, the wider national interest—we should do nothing that will prevent the mobilization of large sums of money for productive investment.

From that point of view, I think that the device of having the financial institutions here access the best techniques possible, international flows of funds is an absolute must at this time and I give my wholehearted support to the amendment as proposed.

The Minister of Finance (Hon. Wendell Mottley): Mr. President, I wish to thank the hon. Senators opposite for their contributions. I will come to the heart of it, in summarizing, by pointing out that the amendment to clause 51, on the first page, states:

"and the Minister may by Order".

That is the first matter I want to address. It is not "shall"; the guarantees are not bound to be accepted, they "may" be accepted.

That moves on to the second matter. If we decide to accept the guarantees, within the discretion of the Central Bank, which is advising the Minister on these matters, the Central Bank contemplates attaching conditions thereto, and two conditions are foremost in the mind of the Central Bank at this time.

First, they clearly contemplate that they will seek as a condition the incrementing of the local capital base of the existing company to which the guarantees are going to be attached. That is condition number one. The Central Bank has made no secret of that and I put that here on the table

3.50 p.m

The second, is that the Central Bank has the discretion to ask that certain types of loans be syndicated and so forth, so that we could, at the same time, address some of the concerns being addressed by Senators about the domestic institutions. Third, the exemption orders are to be published and gazetted, they are not secrets. The public in Trinidad and Tobago will have access to these orders, so that they will know what the Central Bank has advised the Minister.

We talked about the quality of the guarantees and Sen. Daly was very specific about the fact that this is a turbulent financial world and the big names could

become humbled in a very short time. We agree, but this is a general condition of financial life. I want, however, to give the Senate the assurance that we participate in meetings convened by the Basle Committee and fully subscribe to the rules and regulations of that Committee. We not only participate, but co-operate in exchanges of information at that level, which is a multilateral clearing house of information. Also, as a result of a long history, we have a particularly good working relationship with the Bank of England; and more recently, and especially in the course of our workings on this legislation, have developed a very close relationship with the Federal Reserves System in the United States and we would have early warning information as to the financial conditions of several of the world's major banks.

Mr. President, with these few words, I feel that this amended clause 51 is an improvement and would seek the approval of this House to carry this amendment.

Sen. Daly: Mr. President, I am very impressed with the Minister's first condition, that is, incrementing the local capital base of the company, but can he indicate whether any guidelines have been struck as to the proportions in relation to the amounts to be guaranteed?

Hon. W. Mottley: Mr. President, I do not have the exact figures as yet, but the Senator would remember under clause 38, a specific item there is subclause (n) which says:

> "38(n) relationship with parent subsidiary and affiliate as it affects the capital position of the licensee."

Clearly it is contemplated. The Central Bank has indicated that to me, although from this position here, I cannot say what kind of increment is being contemplated.

Mr. President: Hon. Senators, before putting the question there are two amendments by Sen. Wade Mark. The first one is the proposed amendment to clause 51(1) as follows:

> "Clause 51(1) in line 12, substitute for the words appearing after the word 'Minister', the following: 'shall present the Central Bank report and other pertinent documents and information to a Joint Select Committee of Parliament for determining whether to exempt the transferee or other licensee from complying with these provisions subject to such terms and conditions as may be specified by the order to be issued by the Committee."

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

Mr. President: The second amendment proposed by Sen. Wade Mark to the amendment of the House of Representatives to clause 51(2) is as follows:

"Delete clause 51(2) and substitute the following: 'The Joint Select Committee will determine the quantum of taxes if any which should be paid by the transferee or other licensee'".

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

Sen. Daly: Mr. President, in light of the foregoing, I wish to withdraw my amendment.

Amendment [Sen. M. Daly] withdrawn.

Mr. President: I shall now put the question that the Senate agree with the House of Representatives in the said amendment to clause 51.

Question put and agreed to

ORDER OF BUSINESS

The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith): Mr. President, I beg to move that the Senate now consider the Motion under Private Business dealing with the report of the Committee of Privileges of the Senate.

Leave granted.

PRIVILEGES COMMITTEE REPORT

Adoption

Sen. Ainsley Mark: Mr. President, I beg to move that this House adopt the report of the Committee of Privileges of the Senate (1992/1993) Session.

I also wish to point out that attached to this report is a minority report which has been submitted by Sen. Capildeo, which we will treat with at the same time.

Seconded by Sen. D. Ojah-Maharaj

Sen. A. Mark: Mr. President, I am, in a way, very saddened to have to stand here this afternoon to treat with a matter of this nature. From a personal point of

view, chairing this committee was a completely new experience and at times I felt I needed the training and experience of a high court judge, but, nonetheless, it was, in retrospect, a very worthwhile experience. I am really saddened by the fact, however, that as a country, as a Senate, in July 1993, we are unable to settle our difficulties in the Senate without recourse to a Committee of Privileges.

4.00 p.m.

Mr. President, the facts are clear. There was a problem in the Senate. Standing Order 41, spells out, very clearly, how we ought to treat with certain matters. That Standing Order states:

“Responsibility for Order in the Senate and in Committee

41. The President in the Senate and the Chairman in Committee shall be responsible for the observance of the rules of order in the Senate and Committee respectively, and their decision upon any point of order shall not be open to appeal and shall not be reviewed by the Senate except upon a substantive motion made after notice."

I repeat “except upon a substantive motion made after notice." It is crystal clear, but we had the very unfortunate position taken by two Members of our Senate to go outside of the Senate, hold a press conference, which was clearly in breach of that Standing Order. What was even worse is at that press conference, they proceeded to abuse, to disrespect the President and the Senate in what some might consider a most appalling manner.

Let us go to the press release that Sen. Capildeo, in his evidence to the Committee, accepted ownership of, and I quote:

"It is patently clear from what has transpired from February 9 to March 30, 1993 that the Senate has been turned into a dangerous comedy of errors by the erratic decisions of the Senate President. The Senate has been reduced to a farce."

Later down in that press release—and I quote again—paragraph 18, page 4 states:

"The Office of the President of the Senate has now been open to charges of bias, abuse of authority, misuse of authority, grave misunderstanding of the draconian powers vested in that Office by the Standing Orders. It has given rise to options such as Motions of No Confidence, Actions in the High Court,

> and even a call to the Director of Public Prosecutions to institute proceedings for misconduct in public office."

There are several other paragraphs that one can quote but, as I say, I am saddened and I would not wish to repeat them at this point in time.

Sen. Hosein, in his statement said, and I quote from one line of his statement:

> "I am convinced that the action of the President in this issue to date is calculated to muzzle the Opposition and suppress the truth."

Now, what has come out of the committee, Mr. President, is that in the minds of these two Senators nothing was wrong with their conduct. As Sen. Capildeo says in his Minority Report in paragraph 15—

> "The Press Releases are statements of fact which are true in substance and in fact and insofar as they consist of expressions of opinion, they are fair comment made without malice on the said facts which are a matter of public interest."

"Fair comment" in their view, not intended to bring the President and the Senate into disrepute.

Now, Mr. President, let me very briefly treat with each of the Senators in turn. Let us listen to Sen. Capildeo in a debate on the Police Complaints Authority Bill:

> "Mr. President, believe it or not, there was a time in living memory in this once fair land of ours, when law and order prevailed. There was a certain measure of civility in the population when a judge of the high court was looked upon in awe and a magistrate was lord over all which he prevailed; a warden was king of the county; a teacher had more parental rights than a parent; a doctor was the nearest thing to God and a policeman was a friend, confidant, adviser and protector to the district in which he served."

Later on in that contribution that day, Mr. President—and I quote again:

> "The bulwark of every democracy, the foundation pillars of every democracy moreso, in a fledgling democracy such as ours, is the rule of law and the administration of justice."

So that, we have a Senator who, almost every week that he makes his contributions speaks to us about the absolute importance that citizens of this country should respect the rules, the laws. Mr. President, the Standing Orders are

very clear on how differences in the Senate are to be dealt with, but in the view of the committee, Sen. Capildeo proceeded to breach those very rules.

4.10 p.m.

Quite frankly, Mr. President, this is inexcusable. This is quite unacceptable. Sen. Capildeo knows better. His father and his uncle served with distinction in this Parliament. Sen. Capildeo attended a high school where we knew the rules: you argued with the umpire, the next week your name just was not on the cricket team.

In the view of the committee, that breach was totally inexcusable and, without getting into the language, one can only describe the comments as scurrilous and scathing on the President and on the Senate.

With respect to Sen. Hosein's attendance at the committee meetings, he made the point that he was aware that there were provisions within the Standing Orders to treat with matters of that nature, but that they took too long and that the public had a right to know.

There were a number of other issues which we have dealt with in the report with respect to the media. They were that the media, by publication, in effect, also committed a breach of parliamentary privilege. With respect to our recommendations, three options were considered—an apology, a reprimand or a suspension.

We felt that the Senators had ample time over the several months to apologize and that having the committee recommend an apology would not have been useful. One cannot force someone to apologize. A voluntary apology carries with it a certain level of sincerity. We thought that we ought not to go that route. Sen. Prof. Spence felt that a reprimand would have been quite appropriate. Majority view, however, was that the two Senators be suspended for a period to be determined by the Senate.

With respect to the media, the committee felt that they should be warned that a breach of parliamentary privilege was committed by the publication of their reports and that their responsibility was in no way reduced because publication was informed and initiated by comments and documents provided by Members of the Senate.

There were, however, views expressed about the manner in which the committee proceeded when we examined representatives of the various media

houses and the committee recommends that no sanction be applied with respect to certain media houses.

Mr. President, I think that the last paragraph of the report really brings together all that the committee was concerned with. Let me quote it:

> "The Senate can only function when its dignity is upheld by all Members and its rules followed. Your committee considers this matter to be of grave concern to this House and to all who cherish and respect this institution."

There is one additional point that I want to treat with before I formally move the adoption of this report. We made a distinction in terms of the media between the Trinidad Publishing Company, the Trinidad Express and the Trinidad and Tobago Television on the one hand and the Trinidad and Tobago News Centre, on the other. The recommendation that the committee made with respect to the latter, the Trinidad and Tobago News Centre, is that any representative of that group be debarred from sitting at the press table of the Senate for a period, again, to be determined by the Senate.

With those few comments, Mr. President, I beg to move the adoption of this report.

Question proposed.

Sen. Wade Mark: Mr. President, this is a very serious matter that is before this Parliament. It involves some serious and very dangerous allegations made in a report that was PNM dominated in content, and I want to make it very clear from the outset, that we on this side, and I dare say all Senators, require all the necessary evidence in order to arrive at a judgment.

Therefore, under Standing Order 24 of this Senate, I move a motion that this debate be adjourned consistent with section 6(1) of the Standing Orders which reads:

> "The Clerk of the Senate shall keep the Minutes of Proceedings of the Senate and of Committees of the whole Senate, and shall circulate copies thereof to the Senators as early as practicable and, if possible, on the day following each sitting of the Senate."

Mr. President, there is an appendix to the Minority Report, and I quote:

> "Appendix A will be made available for the scrutiny of all Senators on Tuesday July 20, 1993. It comprises approximately 100 pages and, unfortunately, is much too bulky to be copied."

This is a very grave matter involving the possible suspension of two of our colleagues on the Opposition Benches and, in this instance, Sir, we move under Standing Order 24(b) that this debate be adjourned to a date to be fixed until the proceedings—all the documents and so on—can be made available, not only to ourselves here, but to all Senators in this Parliament.

4.20 p.m.

I want also to refer to Standing Order 74(2) which states:

" A report of a Select Committee may contain the opinions and observations of the Committee, and may be accompanied by the Minutes of evidence taken before the Committee."

Mr. President, in light of the gravity of this situation, I am of the opinion that the committee ought to have exercised its discretion by making available to all Senators, copies of all documents and information relevant to the proceedings. This is a very grave matter and I seek your guidance on this.

I so move that under Standing Order 24(b) this debate on the Motion be adjourned consistent with Standing Orders 6(1) and 74(2).

Seconded by Sen. Roi Kwabene.

Mr. President: May I have your amendment?

Sen. W. Mark: Mr. President, I want to make it very clear that what I am moving here is a Motion under Standing Order 24(b) to have the debate on this matter suspended pending the availability of all relevant documentation that was made available to the committee that informed its final decision. Until those documents are made available to each Senator, I call for the suspension of any debate on this matter.

Mr. President: If your Motion is simply to suspend or adjourn the debate on this Motion, I will accept it verbally. If you want everything there included, I want it in writing. I do not want to miss anything.

Sen. W. Mark: Mr. President, what is happening is that I drew reference to Standing Order 6(1) in an effort to support my argument in terms of this matter. If you are saying that I have to also refer to 6(1)—

Mr. President: If you move that the debate on this Motion be adjourned—

Sen. W. Mark: Pending—

Mr. President: Well, if you want all that, put it down in writing.

Sen. Daly: Mr. President, on a point of order. Is it possible for us to have some indication as to when this material—if it were being made available; I am not begging the question—that is the evidence of hundreds of pages, when it might be available?

Mr. President: I am afraid the Chair would not be in a position to answer that question.

Hon. Senators, Sen. Wade Mark's Motion which was seconded by Sen. Roi Kwabene reads as follows:

In accordance with Standing Order 24(b) of the Senate, I move to have this debate postponed pending availability of all documents and reports relevant to the final report of the Committee of Privileges consistent with Standing Orders 6(1) and 74(2).

Question put.

The Senate divided. Ayes: 7 Noes: 17

AYES

Mark, W.

Capildeo, S.

Baksh, S.

Kwabene, R.

Merritt, Miss C.

Hosein, M.

Oudit, N.

NOES

Saith, Hon. Dr. L.

Huggins, Hon. R.

Barnes, Hon. B.

Kuei Tung, Hon. B.

Draper, Hon. G.

Robinson-Regis, Hon. C.

Mark, A.

Callender, S.

Ojah-Maharaj, D.

Elder, Mrs. J.

Kuarsingh, Dr. H.

Rahael, J.

Gosine, R.

Hassim, A.

Maloney, A.

Rooks, J.

St. Cyr, Dr. E.

The following Senators abstained: M. Mansoor, J. Spence, H. Ali, M. Daly, E. Dean, Rev. D. Teelucksingh.

Motion negatived.

Mr. President: The sitting is suspended for half an hour. The Senate will resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. W. Mark: Mr. President, I should have indicated to you before we took the tea break that I reserved the right to speak. I wish to move a Motion under Standing Order 24(c).

Having regard to the fact that you are at the centre of the storm, the controversy that has arisen and the implications of the Report that is before the Senate, concern you directly, I would like to move that you vacate the Chair and we elect a temporary presiding officer to deal with this particular matter. I so move under Standing Order 24(c) of the Senate.

Seconded by Sen. S. Baksh.

Mr. President: The motion you are moving here, Senator, under subsection (c) reads:

> "a motion for the election of a temporary presiding officer under paragraph (1) of Standing Order No. 5..."

Have you consulted paragraph (1) of Standing Order 5?

Sen. W. Mark: Yes, Mr. President. I move, Sir, that in light of this development—and I think that we are all viewing it very seriously—I would like to move that for purposes of this particular debate, that if we cannot use Standing Order 24(c) we should go to subclause (d) to suspend the Standing Orders in an effort to ensure that there is justice in this particular matter; and that you, as the person who constitutes a very important role in this particular report which is before us, should honourably and respectfully vacate the Chair.

Mr. President: That I should?

Sen. W. Mark: I am proposing that in light of the fact that you are a party to this report which we are about to debate, you should take the opportunity under Standing Order 24(c) to vacate the Chair and allow a temporary presiding officer to be elected by the Senate—

Mr. President: You are asking me to vacate the Chair?

Sen. W. Mark: Yes, Sir.

Mr. President: On what grounds?

Sen. W. Mark: I am saying, Sir, that you are a party to this matter and therefore, there is a possibility that you can exercise some bias in this matter. *[Interruption]* Sir, I am making a contribution!

Mr. President: Excuse me! A presiding officer does not participate in the debate of any matter before the House. A presiding officer does not take any decision on any motion before the House. Your idea of who is in the centre of it and my idea might be different. What the Privileges Committee is reporting on is a matter that was referred on a motion by the Minister of National Security. *[Interruption]* Yes. *[Interruption]* For referring the matter to the Privileges Committee?

Sen. W. Mark We are simply saying—

Mr. President: I have carried out my duties as a presiding officer; I did not take a decision in any matter. The presiding officer did not decide that a breach of privilege was committed.

Just a week ago you came here to tell me that the Government was not complying with the requirements of the Standing Orders to provide copies of answers; I had to point out your misunderstanding. Today, again, you got up when we were dealing with the amendments; you did not understand the procedure. You know that I have always put you right and as long as you have followed my advice, you have kept out of trouble. You know it is only when certain people, on whose behalf you seek advice, fail to follow advice, you find yourself in trouble. I am sorry, but if the Senate wants to move a vote of no confidence in the presiding officer, it is free to do so. I am not aware of any such plan.

Sen. W. Mark: No, Sir. Mr. President, it is not a question of moving a vote of no confidence. I have the greatest of respect for you, Sir. All I am saying is that for purposes of this debate, you should take the opportunity to vacate the Chair.

Mr. President: If this is the wish of the Senate, I am quite prepared to comply, but, I am just telling you that I am not one to abdicate my responsibilities. There are certain Standing Orders that have to be complied with, and it is an important debate on which there should be someone in the Chair who would see to it that Senators comply with the Standing Orders.

For example, the conduct of any Member of the Senate or House of Representatives cannot be raised in any debate except upon a substantive motion for the purpose. There is a report before the Senate with certain recommendations for which the mover has asked that the report be adopted.

If you want to move me from the Chair, just show me under which Standing Order you are going to proceed. I mean, I would be glad for the little time-off, but at the same time, you should not deny me the pleasure of the arguments that are going to emanate this afternoon. It is a learning experience.

Sen. W. Mark: Mr. President, whilst you have guided me that we do not have a particular Standing Order to deal with this matter, I was just speaking from the perspective, not so much of disrespecting the Chair or your position. I was simply suggesting, in the cut and thrust of our debate, that it would be in the best interest of the Senate, having regard to what has transpired, and given the implications of

the report, where, for instance, the chairman of that committee told us a short while ago that you were abused. In other words, you are an important part of this whole exercise and I feel strongly that you cannot sit in your own judgment in this matter. I feel, for instance, there is need—

Mr. President: Senator, I would take objection to that! I am not sitting in judgment of any matter! The presiding officer is not a judge! You know very well that I have shown leadership in excusing myself where I felt I was involved, unlike others. You know that very well! I did not participate in the proceedings of this committee. What is before this Senate is a report from the committee. The presiding officer, whoever it is, can take no part in the deliberations; can exercise no vote, but a casting vote. But, it is the second time you have talked about biasness! It is the same thing that is in that report! I do not want to expose anybody about all that went before! I am not that kind of man! I could if I want to!

Just the refusal to adhere to a simple Standing Order is what has brought this about, and you know that better than anybody else!

Sen. W. Mark: Mr. President, as I said, I reserve the right to speak.

Mr. President: When you say you "reserve the right to speak"...?

Sen. W. Mark: On this motion, Sir.

Mr. President: Since 4.17 p.m. you got up to speak.

Sen. W. Mark: No, Sir. I was seeking some procedural guidance when I raised these matters, Sir. So, I am just indicating to you that I reserve the right to speak in this debate.

5.10 p.m.

Mr. President: But you caught my eye.

Sen. W. Mark: As you know, Sir, I have been raising merely procedural matters. I have not gone into the debate. In fact, I should have indicated that to you so that you would have known it was procedural matters I was raising. I have not gone into the debate.

Mr. President: I accept your word for it, but I am not sure I am satisfied about that.

Sen. W. Mark: Are you requesting that I should speak now?

Mr. President: Yes. A Motion is before the Senate, duly moved and seconded.

Sen. W. Mark: Mr. President, in light of the fact that one of our colleagues is directly involved in this matter, and as you are well aware, since the incident of February 9, 1993, that Senator has not had the opportunity to speak in this Senate, I move that for purposes of this debate, with your permission, that Sen. Muntaz Hosein be allowed to participate. I so seek your guidance in this matter.

Mr. President: Senator, for the last time, I call on you to speak. There is a Motion before the Senate, duly moved and seconded. I have said before the Chair needs no guidance in recognizing speakers in this House. Notwithstanding the charges of inconsistency, I will be consistent in the courtesies that I have extended during the last three months or so in this Senate.

If you are getting up to speak, speak; if you are not speaking, take you seat. Let me call somebody else. There is a Motion before the Senate.

Sen. W. Mark: I deserve the right to speak.

Mr. President: You caught my eye. I called on you to speak on the Motion.

Sen. W. Mark: Mr. President, thank you very much.

Mr. President: Half an hour has already passed.

Sen. W. Mark: Before I begin my contribution, I want to let you know that I raised some procedural matters and I did not expect that to eat into my time. I have a contribution to make on this matter that would take me my full hour.

Mr. President: You have an hour to speak?

Sen. W. Mark: Mr. President, in this debate, is there a time limit?

Mr. President: There is.

Sen. W. Mark: Can I move that the Standing Orders be suspended for purposes of this debate so that each Senator would be allowed to speak as freely as he would like to speak and not be confined to five or ten minutes?

Mr. President: I said you have been on your feet since 4.17 p.m. That is 13 minutes before the break and 15 minutes after the break; that is 28 minutes have gone.

Sen. W. Mark: I indicated to you Sir, that they were procedural matters. Under Standing Order 24(d), can I move that we suspend the Standing Orders, with your leave, in an effort to ensure that each of the Senators here is allowed the opportunity to participate freely and fully in the debate that is about to commence? I so move, Sir.

Mr. President: Before I put the question for the suspension of the Standing Orders to allow unlimited time to all Senators in this debate—you see, this is why it is necessary for someone with a certain amount of knowledge of procedures to be in the Chair—let me read Standing Order 43 (5):

> "If a Senator disregards the authority of the Chair, or abuses the rules of the Senate by persistently and wilfully obstructing the business of the Senate or otherwise, the President shall direct the attention of the Senate thereto, mentioning by name the Senator concerned. The President shall then call upon a Minister, and if no Minister be present any other Senator, to move 'That Mr.....be suspended from the service of the Senate'..."

It is my view that if you have been on your feet for 28 minutes, and have not yet begun to speak, that you are persistently and wilfully obstructing the business of the Senate here this afternoon.

I would put the question that the Standing Order be suspended.

Sen. Dr. Saith: Mr. President, before you put the question, I just want to be clear in my mind what the Senator is asking. As I understand it, without moving the suspension each Senator is allowed 45 minutes plus 15 minutes to speak on the Motion. So at the moment a Senator can theoretically speak for 60 minutes on the Motion.

The hon. Leader of the Opposition is asking that the Standing Order be waived so that each person can speak for more than one hour. Is it that?

Sen. W. Mark: I would not be talking for more than 60 minutes.

Mr. President: If you do not want more than 60 minutes, why do you want to suspend the Standing Order?

Sen. W. Mark: Mr. President, I welcomed your statement earlier but, maybe I misinterpreted your statement. The last time we were debating a particular matter, you guided me by indicating that I had a limited time. In fact, other Senators rose and you advised at that time—in other words when we were dealing with the Foundation for the Environment, I got the impression from your intervention at

that time that there was a limited time for special reports of this Parliament. This is why I simply asked. Maybe I misinterpreted your statement at that time. Mr. President, I would now make my contribution.

We on this side view this particular report that is before the Senate as a PNM-dominated majority report of the Committee of Privileges of this Parliament. We view this as a virtual declaration of war. In light of this development we have erected appropriate barricades to contain this advance.

This report has serious implications for the Constitution of this country and is laid to be nakedly a mockery of our so-called democracy. If we are not careful in this debate, and we do not place this PNM-majority report where it rightfully belongs, that is to reject it, we stand a very good chance of transforming this august Chamber.

5.20 p.m.

Sen. Prof. Spence: I would like to be assured by the hon. Senator that he is not in any way implying that I, as a member of the committee, was PNM-dominated.

Sen. W. Mark: I would like to indicate to Sen. Spence that I have noted his statement insofar as his position is concerned, but I maintain that the Committee of Privileges of this Parliament is dominated by three PNM Senators and their names are on the record. Sen. Spence is not included.

Mr. President: May I give you a little advice, generally. Sessional Committees, House Committees, Standing Orders Committees, Privileges Committees are committees that normally transcend party lines. They are there to see that proper discipline and everything else is maintained in whatever House they serve.

It is in the Standing Orders that committees always reflect the balance of parties in the House, so that it is always normal to have more Government than non-Government members of the committee. I think if you would see this committee or any committee of the House, especially sessional committees, in the light of the interpretation of the procedures, as a matter of principle, you may be able to appreciate the work of the committee. I am not here trying to do anything. You are free to criticize any findings of the committee—that is your right—but to reflect on the balance of the parties, that is provided for in the Standing Orders, that is what I am trying to draw to your attention

Sen. W. Mark: Mr. President, we have to be very clear in our minds that we have sessional committees here, but those committees are in fact vested with persons who are, in the majority, members of the ruling party, whether it be the UNC, the PNM or the NAR. You probably would not know, but this report that we are now debating was debated at very high levels in a political party. We have to understand the implications of what we are dealing with here.

Sen. Dr. Saith: Mr. President, on a point of order**.** Is the hon. Senator suggesting that the members of that committee who were members of the People's National Movement, have approached their work in anything but an objective manner, and is therefore imputing improper motives to Members which suggest that they have been directed by their political party in the way they have approached the work of the Senate? If he is, I would ask him to withdraw the statement, please.

Sen. W. Mark: This is a very serious matter before this Parliament and we are saying that in the cut and thrust of politics in Trinidad and Tobago, there is every possibility and reason to conclude—I am not saying decisively—that there is a real strong possibility that this situation could have developed. I am not accusing the ruling party, at this time, of being party to a conspiracy, but what I am saying is that we cannot dismiss reality. Whatever decisions are taken by the majority committee of three, all of whom are members of the PNM, cannot escape our attention.

Sen. Dr. Saith: I thought I was pretty clear in what I said, and I am not sure that the Senator has dealt with it. I am asking again, Sir, that if the Senator is imputing that the members of that committee who belong to the PNM have been anything but objective in their deliberations and have been directed by party in the way they have approached their business, then I am asking him to withdraw that statement. He cannot be saying that there is a possibility that it might happen, therefore he is free to make the statement. If he has evidence that it is so, then he should present it. If he has no evidence, then I am asking that he withdraw that statement.

Sen. W. Mark: Mr. President, I am not imputing anything. I am stating as a matter of fact that the three persons who are members of that committee of five are indeed members of the ruling party. That is the point I am making. I am not imputing any ulterior motives. I am dealing with the facts here. Does the Senator

want to deny the fact that Senators Ainsley Mark, Stanford Callender and Deodath Ojah-Maharaj are members of the PNM? That is the point I am making.

Sen. Dr. Saith: Am I to assume that the Senator is indicating that the only statement he is making is that these three persons are members of the PNM and that all the extraneous remarks about the matter being discussed at the highest level of the party outside and that these persons are being directed, is being withdrawn?

Sen. W. Mark: Mr. President, in continuing my contribution, I would like, first of all, to make reference to what was described as the draft report of this committee, which was submitted to Sen. Surendranath Capildeo at 6.25 p.m. on Tuesday, July 13, 1993.

It is strange that if we are dealing with objective reality that a report could be submitted at 6.25 p.m. on Tuesday and within 48 hours or less, the very contents of that report could have undergone such major alterations. This is why we cannot have a trial without evidence. That is why I moved, defeated as I was, to have produced before us all the necessary evidence so that we can come to what I would like to describe as an objective conclusion.

Mr. President: You cannot reflect on a decision of the Senate.

Sen. W. Mark: All I am saying is that, in terms of that draft report, we have a situation in which a number of inconsistencies, hasty deletions and alterations were made and, at the end of the day, whereas in the initial report—I have a copy of the final report that was submitted and in this report, the committee recommended that the two Senators in question, be suspended from the services of the Senate for a period to be determined by the Senate. Just 36 hours before this particular sanction was advanced as a recommendation, the same committee had proposed that the Senators be asked to make an apology.

Sen. A. Mark: Mr. President, I think it is necessary that I make a statement for the benefit of the Senate.

As the chairman of the committee it was my responsibility to prepare a document which would have provided some guidance for the other members of the committee. As you are aware, it is standard practice, but after some seven meetings—

Sen. W. Mark: On a point of order. Mr. President, you would note that I have given way to my colleague. I hope you will take into account my time because you have already guided me. I want you to know that I have given him time because, as chairman of the committee, he is clarifying a very important point. I would like you to take note of that, Sir.

5.30 p.m

Sen. A. Mark: I am saying, Mr. President, that after the committee had held six meetings I, as the Chairman of that committee, took the responsibility to put down my understanding of what had transpired into a document which was the basis for discussion within that committee.

Sen. W. Mark: Mr. President, the reason that I made reference to the draft report is that in the minority report of Sen. Surendranath Capildeo in the very first sentence it is stated:

> "An incomplete copy of the draft report was delivered to me in the Senate at 6.25 pm on Tuesday 13, 1993."

That matter is in reference and therefore I had to make reference to that particular report. However, an analysis of the majority report before us reveals a series of deficiencies, biases, prejudices and rank partisan politics. This is an extremely biased report and this event that is unfolding here now can be characterized as a kangaroo trial.

We on this side have no evidence, minutes, or documents before us. What we have is a 19-page report and a minority report. In the majority report, liberal references are made to discussions which took place in this committee, involving the press, Sen. Surendranath Capildeo and Sen. Muntaz Hosein but we in this Senate do not have the evidence, yet we are pursuing a trial at this time. We are making a mockery of the democracy of this country and we have to be careful that we do not transform this Parliament into the laughing stock of Trinidad and Tobago and the Caribbean.

Those who are after blood, who want to see the Senators on this side suspended, I hope they understand the course they are treading, the implications of what they are doing, I hope they do not make the mistake of transforming this Parliament into a mockery.

Mr. President, I repeat, we view this report as a declaration of war by the PNM against the UNC in this Parliament. It is a vicious and dangerous attack as well,

against the freedom of the press in Trinidad and Tobago. The mandate of the committee as outlined on page (1) states:

> "The publication and circulation of documents entitled Press Release dated April 01, 1993 and subscribed Sen. Surendranath Capildeo, Leader of the Opposition, Senate, Acting.
>
> Statement by Sen. Muntaz Hosein, dated March 17, 1993,
>
> The publications of these documents by the media;
>
> Media comments on these documents.

Where are these documents? They have a mandate and terms of reference, they come up with a kind of report, and attach no accompanying documents, but we have to consider a "terms of reference" and a report that deals with a press release. Where is the press release? But it is quoted in this document, Sir, extracts of this press release by Sen. Surendranath Capildeo! Was it in a deliberate and biased way that the chairman of that committee chose to quote certain sections? Why did he not give the Senate the opportunity to read the entire contents of that letter? Because we know, Mr. President, when matters are taken in a particular context they can be misinterpreted. That is the deliberate kind of calculated biasness that I have seen in this report.

This is why we are saying this is a kangaroo trial and we are making a mockery of this Parliament. We need to see the evidence. We want to see the press release in full, not quoted. We want to see the statement by Sen. Hosein, dated March 17, not parts quoted. We want to see the publications of these documents and comments by the media. We need those things, Mr. President, but we do not have them. Man want blood! I hope you all can drink it!

This committee met on eight occasions as outlined in this report. This report comes hastily before this Parliament. Police knocked on my door at 11.15 p.m while I was sleeping, to bring a report, because the people who comprised this committee, want a decision to be taken today, because the Parliament goes into recess, today. So they want blood, today.

On page 2 of this report, Mr. President, under "Facts", item No. 7, is a completely new inclusion. When we look at what was in the actual draft report submitted on July 12, 1993, large chunks of this report have been excised. Who

was legally advising this committee? Was it the Attorney General? We understand from the minority report, that Sen. Surendranath Capildeo did not miss a single meeting, yet this report is riddled with legal advice. If you look at paragraph 2 of the minority report it states:

> "The Draft Report contains recommendations based on conclusions of law and fact. I am not aware of any meeting of the Committee of Privileges which (a) received legal advice and as a result (b) came to conclusions and (c) made recommendations."

He was a member of this committee. When the committee was meeting in the day, there were elements of that committee meeting in the night.

We understand Sen. Martin Daly had to clear his name here today.

Sen. Daly: Now we have a problem. Mr. President, I sat still earlier today when Sen. Wade Mark made certain remarks about me. I do not have to clear my name about anything other than to say that that is a reckless accusation. But for the records, I gave no advice to the Privileges Committee.

Now that I have made that statement, I am asking that he withdraw the suggestion that I did.

Sen. W. Mark: I am happy Sir, that you have not given any advice to the committee and if I was misled, I kindly withdraw the remarks. I have no difficulty with that. I am simply saying, Mr. President, that it is rumoured.

Mr. President: Noted.

Sen. Daly: No, Mr. President, that is not a withdrawal, with the greatest respect, it is reckless, and my learned Friend seeks to put a rumour in the records. That is not a withdrawal! It is a reckless thing to do, particularly as he never asked me about the rumour.

5.40 p.m.

Mr. President: Senator, statements in your contribution cannot be based on rumour.

Sen. W. Mark: Yes, Sir.

Mr. President: So I will ask you to withdraw all those remarks fully and completely.

Sen. W. Mark: What—

Mr. President: About Sen. Martin Daly and the rumour of his advice to the committee.

Sen. W. Mark: Could I ask, Sir, in terms of precisely what?

Mr. President: I am asking you to withdraw it fully and completely.

Sen. W. Mark: What I am saying, Sir, is that if Sen. Daly is saying that the rumour that I heard is wrong, I withdraw that statement, Sir.

Mr. President: Well that is all you have to do.

Sen. W. Mark: All right, Sir.

Mr. President, I want to indicate, as well, that under Fact No. 7 there is a statement that is made in this paragraph, yet, as I said, when we examine this report, we do not have the accompanying evidence to come to any conclusion. Mr. President, what is happening here in paragraph 7, is that it suits the wishes of the committee to make reference to a paragraph in a press release dated April 1, without providing this Senate with the full document to which reference was made.

Mr. President, Sen. Capildeo, in paragraph 10, stated—and I want to indicate that it is stated in that report, that is the Majority Report, as well as his report—that at no point in time did Sen. Capildeo attempt to bring you, the President, into disrepute; and at no point in time did he attempt to bring the Senate into disrepute; and that is a fact; it is quoted. He stated that! However, reference is made to Sen. Muntaz Hosein's statement to the effect of some confusion over what were apparently two versions of his statement. But where is the statement that is being referred to? Mr. President, we are dealing with a trial without evidence.

Reference is made in this report to double standards and double versions of Sen. Muntaz Hosein's statement, but Senators, and this Senate, are not provided with Sen. Muntaz Hosein's statement. Where is the statement? We cannot see the statement. However, the committee recommends, without providing this Parliament with the necessary accompanying evidence, with no difficulty or hesitancy, the suspension of our colleagues on this side. Not only that, it goes further; it says that the Senate must issue a strong warning to sections of the media for breach of parliamentary privilege, with the exception of the Trinidad and Tobago News Centre, which is known as the *TNT Mirror*.

They propose, as you know, Mr. President, that we take action here to suspend that newspaper for a period of time to be determined by us here. This is 1993, this is not a general council meeting of the PNM in action or in session, you know. I want to make it very clear. This is the Parliament of Trinidad and Tobago. Mr. President, "kangaroo trials" cannot take place here. They have consequences elsewhere. I want to reiterate that! "Kangaroo trials" cannot take place here and end here! They will end up somewhere else.

Sen. Hosein also maintained in paragraph 15 of this Majority Report, and I quote—

> "...at no time did he consciously seek to bring the Senate and the President of the Senate into disrepute."

He stated that. That is in the record of the Majority Report. Mr. President, it is my view that the media—TTT, *Express, TNT Mirror* and the *Guardian*—were set up by this Committee of Privileges. It appears that the media were written and told one thing and the report seems to be addressing something else. If you look at page 6, paragraphs 26, 27 and 28 of this Majority Report, Mr. President, you will see what I am speaking about. The press was summoned to a meeting and in that letter which was sent out, at no point in time was the press informed that the possibility of a breach of parliamentary privilege could be in question. I have a letter here addressed to Mr. Kenneth Gordon, Chairman of the CCN Group, *Trinidad Express* newspapers. The subtitle is “Investigation into an alleged breach of parliamentary privilege” resulting from articles published on pages 1 and 4 of the issue of the *Express* under the respective headlines.

The point I am making is that when the press came here—and we looked at some of the evidence that came out of the proceedings—one got the impression, based on the mandate that was given to the committee, that they were only involved in terms of the publication and the alleged breach of parliamentary privilege. Involving whom? Was it involving the press at that time? Or was it an investigation into the Senators in question? The press was totally confused and the evidence suggests, under section 26 on page 6 and I quote—

> "26. In her first appearance before your Committee Miss Thorne indicated that TTT was unaware that its report could be construed as a breach of Parliamentary Privilege since this issue is one of many taken into account by TTT in assessing reports before televising.

27. Mr. Gilkes advised his clients against answering certain questions which, in his opinion, could only serve to incriminate them. It was his view that the Committee's intention was to accumulate evidence against TTT."

That is what is stated here.

We go to Sen. S. Capildeo's Minority Report and I refer to section 13(i)(ii) and (iii) of this report. You see what is taking place here.

"An examination of the notes of evidence of the Committee (hereto attached and referred to as Appendix A) reveals:

(i) There was a fear that the media was being accused of breach of privilege:

Eg.: Mr. Madeira: "...If it is that the *Guardian* is being accused of a breach of privilege, then it is a completely different picture'."

So you bring the press before this Committee and you did not tell the press exactly what they were there for. So here Madeira is saying if you are accusing the *Guardian* of a breach of privilege, then it is a completely different picture.

Eg.: Miss Thorne: 'Before you do, can I ask one question here?

Sir, with all due respect we are not quite sure exactly what this meeting is all about and we would like some clarification on this...Do we take it that there is a question here of whether or not the report itself was in breach of Parliamentary Privilege?

Eg.: Mr. Gilkes**:** I wonder if you can identify the privilege which it is said that TTT has breached?"

Then you have a fellow called Mr. Ramischand. He wanted to know why in fact the publishers were invited to this meeting in the first place.

All the reports were precise reports. In the case of the *Guardian*, it was a report done from TTT. In the case of the TV report the witnesses had not seen the actual report. Mr. President, I am submitting here that the only way we can have an appreciation of what transpired between the committee and the press is to have the full minutes of the meeting held between the committee and the news media in question. That is the only way that we can make an independent judgement.

5.50 p.m.

I say so against the background of a statement made by your committee. Your committee stated in its report at page 16:

"58. Your Committee indicated to the media that the purpose of the meeting was to take evidence and if the Senate found that there was a breach of Parliamentary Privilege, the media would be so informed."

Where is that stated in the letter that was sent to the press? I am saying, Mr. President, that the media in this country were set up by the Committee of Privileges and we reject completely the sanction that is proposed: warning, or, on the other hand, a sanction against the *TNT Mirror*. We reject that out of hand.

The impression that was given in paragraph 36 of the report is that the media were wrong to publish a release and a statement. We ask the question: What is really going on in this country? Are we living in a fascist state? Has the PNM-dominated Committee of Privileges now assumed the role of dictatorship in this matter, telling people what to say and what not to say in this question? It is a question of public opinion, Sir—public interest story. The inquiry was only about establishing a matter of publication as stated in the last sentence. The committee has indicated clearly what this thing was about in terms of the newspapers.

But where are the minutes to support the statement, particularly when account is taken of section 13(i), (ii) and (iii) of the Minority Report? We are debating a matter where some of our colleagues can be suspended, but this Parliament has no evidence. We have no information before us to arrive at a conclusion. We have to depend on the goodwill of the Senators who comprised this particular committee. I put it to you, Mr. President, that you would not like that for yourself. I put it to this Senate that Members would not like that kind of "kangaroo trial" for themselves. Why subject two of our colleagues and the media to that kind of "kangaroo trial"? It is a breach of natural justice.

We want to indicate here that the conclusions of the Committee of Privileges Report beg a number of questions. It assumes a number of things that it ought to prove, but it advances its views as proof that the contents of the publications were intentional. It is stated in this committee report that the publication made by both Surendranath Capildeo and Muntaz Hosein, was intentional. How did they arrive at that? It is an opinion, Sir. That is not based on fact, it is based on opinion. What is the evidence?

If you look at paragraph 38 of this same Majority Report, it is even more skewed, biased, prejudiced and downright misleading. Paragraph 38 said:

"On any account, it would be difficult for any reader..."

They are in the minds of the readers. This committee is in the minds of the readers of Trinidad and Tobago.

> "...or viewer to accept these statements in purport and content as representing other than a clear desire to reflect adversely—without regard either to their responsibility to the Senate or to remedies available to the Senate—on the proceedings of the Chamber of which they are Members and of its Presiding Officer. The scope and range of direct publication by Members simply aggravated their offence."

What offence? This is a report that is opinion riddled. It has no facts, no fact in basis, in reality. It is the opinion of a committee and you want to condemn people on that basis, Mr. President. We reject that report completely, Sir. We want to know what offence these Senators committed. You talk about an offence, what is the offence?

The committee's comments are very unfair and calculatedly biased. In fact, this report that we have before us and some of the charges levelled against the Senators in question, I suspect, could easily be placed at the feet of many of the committee members themselves. Paragraph 41 of this report is loaded with innuendoes, biases and prejudices as well. I quote:

> "Still less can it be a matter of public interest to reflect adversely and abusively on a presiding officer and to publish literature that brings, and on its face is calculated to bring the Senate into disrepute."

Mr. President, the two Senators indicated in no uncertain terms that they had no intention, whatsoever, to deal any blow to this Senate or to your good self as the presiding officer. This report as we said, was legally doctored. Its first draft was handed in at a certain time and then the final draft was delivered with new inclusions. Many sections were revised in that report and we need some clarification from the committee as to what entered into their minds 36 hours before delivering a draft and 36 hours afterwards in revising that very draft that they, in fact, submitted.

The Committee of Privileges proposed in its recommendations that a breach of parliamentary privilege was, or has been committed by the Senators and the media and they have proposed serious sanctions. Interestingly, there is a conflict in the majority report insofar as sanctions are concerned. The bloodthirsty and vindictive PNM-dominated committee proposed suspension for a period to be determined by

the Senate. However, Sen. Prof. John Spence, Independent Senator, proposed a reprimand by the Senate. Never mind, Prof. Spence could talk about reprimand, but we, in the PNM, we want blood; we want these men to be suspended; teach them a lesson.

Mr. President, in the case of the media, the committee including Prof. Spence, seemed to be at one with the recommendations that have been advanced, warning that a breach of parliamentary privilege has been committed by the Trinidad Publishing Company, the *Trinidad Express* and the Trinidad and Tobago Television. They are proposing or recommending that the *TNT Mirror* be denied parliamentary coverage of the proceedings of this Parliament and an appropriate sanction or suspension, the time of which is to be determined by this Senate.

The issue really that we are faced with in this report, is one of parliamentary reform. We need to reform this Parliament. It is madness to have a committee dominated by loyal PNM members sit in judgment of me, on this side. How can my enemies sit in judgement of me?

6.00 p.m.

Mr. President, how can this committee be fair and unbiased in its report? It cannot be. If you need to judge me in a matter as this, we have to ensure that there is some impartiality. You have a committee of five, comprised of three PNM, one Independent and one Opposition, and the three PNM people advance a report—suspension—and they bring that for adoption here today. Do you tell me that is justice and fair play? Those PNM people across there would not like that for themselves.

It is a scandalous situation and we reject that Majority Report completely—out of hand. We want to express our deep outrage at the sanctions proposed to deal with the media houses which appeared before the Committee of Privileges.

I want to indicate that both Senators admitted—I repeat, both Senators admitted—that no disrespect was ever intended to the President of the Senate or to the Senate itself in their remarks. This is a new Senate. Apart from yourself, myself and some colleagues of mine in the back, all our other colleagues here are new. The committee did not even take that into account. They are new, and, therefore, we have to deal with inexperience here. At the first sound of error you do not bring out the hatchet on people, as you are attempting to do here. This is why we feel that there is something in the mortar besides the pestle. We believe

that this thing is not confined to this Parliament; it has implications outside this Parliament.

What could have informed the committee to change from an apology to wipe that out completely and propose suspension? That took place in 36 hours. Who advised them? We do not know. Was it, I query, a party directive? I question it. They say, go for the jugular now, they want blood. Forget Sen. Prof. Spence's advice about reprimand. Who the hell is Sen. Prof Spence to talk about reprimand? Forget Sen. Prof. Spence!

Sen. A. Mark: Mr. President, for the information of the Senate, there was no parliamentary directive, there was no party directive.

Sen. Prof. Spence: Mr. President I think, perhaps, inadvertently, the hon. Senator is misleading the Senate. There was never a draft report adopted by the committee. It was a draft report prepared by the Chairman. So the committee did not change its mind.

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

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. *[Sen. S. Baksh]*

Question put and agreed to.

Sen. W. Mark: Mr. President, I just want to correct Sen. Prof. Spence. At no point in time did I state that the draft report was an adopted report. As far as we are concerned on this side of the Senate, it is an injustice, it is unfair to have a committee sitting in judgment of fellow Senators who, politically, are always engaged in battles. It is totally unfair and we cannot contemplate fairness in that report. You see, justice must not only be seen to be done, but there must be an appearance of justice. How can one have a committee dominated by three PNM people, sit in judgment of Wade Mark? They are bound to expel me. That is what they want to do.

Mr. President, we warn the PNM today to be very careful on this particular issue. It has constitutional and legal implications for this Parliament and for this country. We advise them to tread very warily on this matter. We should think before we act hastily on this very serious matter, particularly where Senators have not been provided with the necessary information to arrive at a proper judgment.

This is unbelievable, but it is true. A document comprising 100 pages, unfortunately, is much too bulky to be copied. A trial without evidence is a "kangaroo trial". How can this Senate arrive at a judgment when it does not have the evidence before it? This is a very dangerous path that we are walking. We would like to call on all Senators, including the PNM Senators, to consider very carefully, this report; to reject this report that has been put before the Senate this evening by a PNM-dominated Committee of Privileges.

6.10 p.m.

We would like to suggest that we, as a Senate, as a family—if you want us to be a family—*[Interruption]* I know you grin with me, but I know you do not like me. However, we all have to exist in this Chamber. Whether we like it or not, we are going to be here until 1996 or before when they call the elections. So the Government has to take us every week. Therefore, we have to recognize that in spite of what has taken place, we have to press forward to attend to the nation's business, conscious of our weaknesses; struggling at all times to address them and to overcome them.

If we look at this question objectively, unemotionally and think in terms of the future of Trinidad and Tobago, we believe that all hon. Senators would see this particular report before us—that is proposing the suspension of two Senators on this side; that is proposing that the TTT, *Express* and the *Guardian* be warned; that is proposing that the Trinidad and Tobago News Centre be debarred from taking part in the proceedings at the press table for a time to be determined by this Senate—as a course of action that is not in the best interest of this Parliament, our country, the Senators in this Chamber, and that it will lead to disaster.

We hope that before we leave this Chamber this evening, good sense will prevail and the PNM and Independent Benches would see the need to examine this matter very objectively and unemotionally, particularly in light of the fact that we have been engaged in a debate without the necessary documents and evidence. We believe this is a farcical situation that we are faced with, and unless and until we are able to recognize and understand that we are into a situation that can lead this Parliament into a state of mockery; that can lead, possibly, to this Chamber becoming a laughing stock, we unhesitatingly advise that the report of the Committee of Privileges of this Parliament be rejected and that we move forward.

We propose that the report of the majority PNM-dominated committee, which is riddled with biases, be rejected. As far as we on this side are concerned we need

to move forward, but we need to do so not in enmity and hatred, because whatever takes place today in this Parliament will reflect on the future relations of all parliamentarians in this Parliament. We hope that good sense will prevail and the honourable thing would be done, and that is, to reject that report and let us press on with our business in this Senate, conscious of our weaknesses and always and forever seeking to overcome those weaknesses and press forward.

Thank you very much, Mr. President.

Mr. President: Senator, I did not want to interrupt you in the middle of your contribution. Remember I cautioned Senators that the conduct of Members of the Senate and the House of Representatives cannot be referred to except upon a substantive Motion for the purpose. Also, Sen. A. Mark reminded you in his contribution that decisions of the Chair cannot be reflected upon.

Sen. W. Mark: Decisions of which Chair, Sir?

Mr. President: Of the Chair! The Chair is the presiding officer. The decision of the Chair cannot be challenged except upon a substantive Motion, but during the course of your contribution you made reference to the way in which the Chair handled a particular situation. It is irresponsible, and I believe that you should seek to withdraw those comments.

Sen. W. Mark: Mr. President, are you saying that, for instance, in this particular matter, if you make reference to the Chair, that is a matter—

Mr. President: I am saying that you were reflecting on the conduct of the Chair in a decision that took place in this Senate. I do not want to go into the details of all the meetings I have had requests for and have had with several Members on that side. I do not go in for that kind of thing. You know them better than I. But there was no necessity. You were contravening the Standing Order by bringing that into it. That is what I am saying, and I have asked you to withdraw it.

Sen. W. Mark: Mr. President, no ill-will or wrong motives were intended insofar as the Chair is concerned. Therefore, if you interpreted it from that angle, I wish to withdraw that statement.

Mr. President: It is not a question of interpretation. The rules of the Senate say you cannot raise the conduct of any Member of the Senate or House of Representatives except upon a substantive Motion for the purpose.

Sen. W. Mark: I withdraw the statement, Sir.

Mr. President: Thank you very much. The *Hansard* will take an appropriate note of that.

Sen. Roi Kwabene: Mr. President, in this historical debate, it is relevant at this time for me to make my contribution which will be short and, I trust, relevant. The current situation or impasse that exists suggests that the time has come for us in Trinidad and Tobago to adopt the suggestions and advice that I have brought to this House on more than one occasion.

Firstly, the fact that we should begin parliamentary reform. For instance, my leader on this side of the Senate has indicated to all of us in this Chamber that justice seems to be lacking in regard to the considerations of this Committee of Privileges, despite the fact that there is a Member of the Independent Bench as well as a Member of the Opposition on that committee; as opposed to three other Members. I reiterate that the time has come in Trinidad and Tobago for us to embark on parliamentary reform.

I agree that the situation is a very delicate and crucial one. However, it has left a very bitter taste in the mouths, not only of the Opposition, but I am quite sure, all Members of this Senate, that this situation has reached this stage, where recommendations have to be made, not only with respect to Members of the Opposition, but also in reference to the media.

I agree that Standing Orders are necessary to govern this Senate as well as the House of Representatives. However, I make reference to the notes on the cover of this document: "Trinidad and Tobago, Standing Orders of the Senate, Made by the Governor under the provisions of section 8 of the Trinidad and Tobago (Constitution) Order in Council, 1961." I was not even in First Standard, and this country has progressed—at least I would like to think so—since that time. As everything else, we have had illustrious people in this country, civic-minded people who have contributed towards the development of this country—and I speak specifically about that Constitution Report which has been kicked around and we all know what report I am speaking about.

6.20 p.m.

It is necessary at this time, if we want to heal the wounds; if we really want to progress as a republic, that we address the constitutional issues of our beloved

land, so that we may protect the Parliament which is indeed the highest office of the land. Let us not let an occasion as this pass us by; let us not allow a situation to develop whereby we would miss an opportunity never to be regained.

At present, chaos reigns predominantly in our society and we need to address it, but the issue is not that. The issue should be for us to provide an example for all other institutions in the society.

SITTING OF THE SENATE

The Minister of Planning (Sen. Dr. The Hon. Lenny Saith): Mr. President, I beg to move that the Senate continue sitting until the conclusion of the debate on this Motion.

Question put and agreed to.

PRIVILEGES COMMITTEE REPORT

Sen. R. Kwabene: Mr. President, another issue that I would like to make reference to is the one raised by my Leader with respect to the physical evidence and the necessity for us to have it.

No blame should be appropriated to the Clerk of the House. In fact, in this Parliament itself, and the offices that govern this Parliament there is a lack of paper; there is a problem with the photocopying machine. These are issues we have to address. We have to take into consideration that no blame should be appropriated to the public officers who have been working consistently to keep this Senate in working order.

Again, I would like to reiterate that the responsibility that goes with this high office of Senator is one that seriously needs to be guarded. As you are aware, there are only six Members of the Opposition and the majority would always carry the flow. If we really want to see justice in this land, we should address that issue. The only way we can address that issue is if we deal with the legislation governing our beloved land; if we deal with the Constitution and Parliament.

There is a need for proportional representation in our country so that our people would not feel alienated; for the Government to deal with the issue of human resource and harnessing the human resource. Sitting here and seeking to suspend two of my colleagues would not solve the problems of Trinidad and Tobago.

I am of the opinion that my colleagues at no time meant any disrespect to the Chair. I would like to close my case by saying there is a need for us to address the important issue of constitutional reform in Trinidad and Tobago, not tomorrow, but right now.

Thank you.

Sen. Surendranath Capildeo: Do you find something amusing, Minister?

Mr. President, I rise in my own defence and also that of the Senate of the Republic of Trinidad and Tobago. I say to you, and to the nation, that the debate on this Motion will be recorded as one of the more disgraceful episodes in the annals of our infantile parliamentary history.

The events and motion for breach of privilege which gave birth to this fiasco of a debate provide compelling evidence for well-known Naipaulian rebukes. Not only do we have bush in our parliamentary brain but we have mimic men galore in the place. For some time now, in this sorry matter, we have been hearing a lot about parliamentary conventions and the wisdom contained in May's Parliamentary Practice, but it seems there are different parliamentary strokes for different folks.

Let us take a look at the mover of the Motion for breach of privilege. Let us look at the hon. Minister of National Security, Sen the Hon. Russell Huggins. In the traditional Westminster system from which *May's* came and for which *May's* was written, the hon. Minister would have resigned weeks ago. If not for the manifest failure in dealing with the crime wave which is threatening the very foundation of what is left of our civilized society, he would have had to resign for the Scotland Yard fiasco and disgrace. If not for these, then he would have had to resign for the constitution wreaking confrontation with the Commissioner of Police, Mr. Jules Bernard.

Sen. Kuarsingh: On a point of order.

Sen. S. Capildeo: I would not give way!

Sen. Kuarsingh: You have to give way on a point of order.

Sen. S. Capildeo: I would not give way.

Mr. President: He is on a point of order.

Sen. Kuarsingh: I move that by Standing Order 35 his contribution is irrelevant to this debate. I seek your guidance.

Mr. President: Order sustained.

Sen. S. Capildeo: Mr. President, the hon. Minister would have had to resign for the constitution wreaking confrontation with the Commissioner of Police, Mr. Jules Bernard, yet he is still here initiating proceedings to suspend me.

Mr. President: The point of order was sustained and one also has to look at the question of raising the conduct of any member other than by a substantive motion for that purpose.

If you would withdraw those irrelevant remarks and continue with the Privileges Committee Report, we would be happy to listen to your contribution.

Sen. S. Capildeo: Mr President, what I was saying, with all due respect, is of relevance to the debate, because we have been hearing about May's Parliamentary Practice and the procedures contained therein. I was demonstrating that under the Westminster system, the hon. Minister who moved the Motion would have had to resign. I am not questioning or going into any details about his conduct. All I am saying is that under the Westminster system of parliamentary democracy he would have had to resign. I am not saying anything else against him.

The hon. Minister moved the motion for privilege, initiating these proceedings to suspend me. I understand he now goes by the sobriquet of the "Mighty Suspender". The tragedy is the Senate is not a calypso tent. We could now probably expect another Naipaulian rebuke. Let us go to the root of what this farce is about.

It began on the afternoon of February 9, 1993. *Hansard* records it between the hours of 2.30 p.m. and 3.00 p.m. The President had told Sen. Muntaz Hosein:

"...obviously you do not have anything to say about the Bill itself."

The Bill, you will recall was the Police Complaints Authority Bill.

6.30 p.m.

Sen. Hosein immediately replied to the President, and I quote:

"Mr. President, I take objection to that remark".

He later made a remark to the effect, and I quote again:

"If I am going to be muzzled...I will leave".

He left the Chamber in a dignified manner, Sir. That was February 9, 1993. Some 21 days later, on March 2, 1993, the President made a statement to the Senate which included, *inter alia:*

> "...the statements and action of Sen. Hosein on February 9, 1993 showed disrespect for the Chair and the Senate which cannot be condoned and which must be denounced vehemently".

Now let us, as good and true mimic men turn to the bible of convenience, May's Parliamentary Procedure. Chapter 19 is headed, "Maintenance of Order during Debate in the House of Commons". Under section 4, subhead, "Powers of the Chair to enforce Order"—"Disciplinary powers under Standing Orders". I refer particularly to page 444.

Mr. President: What version are you quoting?

Sen. S. Capildeo: Twentieth edition, Sir. Reference here is made to a number of Standing Orders which provide a graduated code of punishment for infringements of rules, for the conduct of debate and for breaching of order and decorum. *May's* goes to great length to classify the offences and the appropriate method of dealing with them. They are:

"(1) Irrelevance or tedious repetition

(2) Minor breaches of order

(3) The use of disorderly or unparliamentary expression

(4) Grossly disorderly conduct

(5) Grave disorder, and

(6) Obstruction of the business of the House otherwise than by disorderly conduct or persistence in irrelevance or tedious repetition."

All these offences and the suggested sanctions are dealt with in great detail. I emphasize this to show that May's provides adequate recommendations to deal with the perceived or alleged breach by Sen. Muntaz Hosein committed on February 9, 1993. But the irony, the gross and uncomprehensible irony, the salt in the wound in my back—because that is where the knives are—is that up to this day, nothing has been done about Muntaz Hosein.

Nowhere is it written, nor have I found a suggestion that non-recognition is a form of sanction. Even the Committee of Privileges, in paragraph 63 of its report,

has outlined what the sanctions are, and has left out incarceration. There is nothing there about non-recognition.

Mr. President, the Senate has to consider the question of the non-recognition of Sen. Muntaz Hosein from February 9, 1993 until today. Here we have the original alleged, so-called, perceived wrong of Sen. Muntaz Hosein being left unattended on the record and I, Surendranath Capildeo, am hauled before a Committee of Privileges to answer charges based on a motion which is clearly invalid and ought never to have been considered by this Senate for the reasons which I have set out in my minority report. All the reasons are contained in my minority report.

I will not burden the Senate because of the time factor, but I will ask them to look specifically at the preliminary observations. An incomplete report was delivered to me at 6.25 p.m. on Tuesday, July 13, 1993. I submitted a preliminary report the next day.

A revised version of the draft report—Report of the Committee of Privileges—was delivered to me at home at 10.45 p.m. on Thursday, July 15, 1993. I delivered a minority report the next morning. That is the kind of time-frame in which I had to operate.

I have set out in simple and uncomplicated language, trying to avoid the legalese as far as I could, the reasons why the motion itself is bad. They are contained from paragraphs 6 onwards.

I want to draw particular attention to paragraph 35 of the majority report which I refer to in paragraph 14(a) of my minority report. It is indicative of the skewed thinking which led to the motion and the initiation of the misguided deliberations of the committee.

When you read paragraphs 34 and 35 you would see the insult that was intended for me.

> "Sen. Capildeo had the option to withdraw. The Senate was consulted and acknowledged that he had the option to withdraw and a right to attend the committee. He may then be considered to have exercised his option by right, presumably with the view that he was participating in proceedings which his very presence nullified."

The innuendo contained in this paragraph 35 is offensive and objectionable and demonstrates a complete lack of understanding of the reasons I sat on the committee. I refer to paragraph 14 of my minority report and I will read it into the record.

> "My position on the Committee of Privileges is quite clear. It is absurd to suggest that I should withdraw from the Committee when I am of the firm view that because of the preliminary fundamental questions and issues stated hereinabove there is nothing before the Committee to deliberate on. Further, I was appointed to sit on the Committee (the Standing Orders are silent as to who makes the appointment). If it was considered inappropriate for me to continue sitting on the Committee despite the reasons which I gave for my remaining on the Committee, then I should have been disqualified by the appointing authority. That not being the case, I am still a member of the Committee and by my still being a member and participating in the proceedings, the entire proceedings are nullified."

I recommend to all the Senators to read this minority report because I want to support Sen. Wade Mark in what he has said. The deliberations here today will have far-reaching consequences in the history of this country. What you decide today will decide the future of this country.

Let me make one thing clear. I am not on trial here. What is at issue here is my inalienable right under sections 4(e) and (i) of the Constitution. It is the right to express political views and to have freedom of thought and expression. Equally important is the inalienable right, under section 4(k) of our Constitution for the press to record those views under the freedom of the press as guaranteed by the Constitution. But it seems as if we are to be bogged down by limited, visionless, mimic men.

6.40 p.m.

Sir, more than half a century ago, in the celebrated case of *André Paul Terrence Ambard and the Attorney General of Trinidad and Tobago (1936) 1 All England Report, page, 704* as Sen. Martin Daly SC will tell you, striking parallels occur. I quote from the Editorial Note and I want the Senators opposite to listen carefully to learn how much they have travelled in the last 50 years:

> "In places where the population consists largely of uncivilized or only partly civilized races it may be necessary to take a stricter view of what criticism may be allowed, but any restriction, it is here said, should be the exception,

> and the Administration of Justice must suffer the respectful though outspoken comments of ordinary men."

If Members opposite think I am ordinary, I am not ordinary. Later in the judgment itself, the celebrated Lord Atkins quoted Lord Morris as saying:

> "But it must be considered..."

And I hope hon. Sen. Draper is listening to this:

> "...it must be considered in small colonies consisting principally of coloured populations, the enforcement in proper cases of committal for contempt of court for attacks on the court may be absolutely necessary to preserve in such a community the dignity of and respect for the Court."

So I am to be suspended to preserve the dignity of the Senate. *[Inaudible]* We, in what is supposed to be the highest court of the land, have not travelled much in more than 50 years along the road parallel to the Administration of Justice.

Then, Sir, we have one of the most quoted statements concerning freedom of the press coming from Lord Atkins:

> "Justice is not a cloistered virtue. She must be allowed to suffer the scrutiny and respectful even though outspoken comments of ordinary men."

The proceedings in Parliament, Sir, the highest court of the land, is not a cloistered virtue. It is about the business of the people.

Now, Mr. President, I ask you and I ask the hon. Senators, just what is this chimerical crime that this honourable Senate is being asked to deliberate on, this phantasmagorical illusion? If we are not careful here, Sir, we are all in danger of being characters in a senatorial version of Alice in the Wonderland of “Trini-land”. What crime am I being accused of? It is the crime of free speech. It is the crime of freedom of the press in an independent republic consisting principally, of coloured populations. Do we really have to go back in time to deal with that situation? Do we have to resort to that?

I have done no wrong in this House, Sir. I have committed no crime. If anything, I make the proud and unashamed boast, that coming from the tradition that I have come, I have adorned the pages of *Hansard* with language scarce heard in this Chamber. I have imbued, nay impregnated, instilled, confounded and

confused this House as an Opposition Senator carrying out my full responsibility. But it seems I forgot the injunction of St. Matthew:

"Neither cast ye your pearls before swine."

It is incomprehensible to me, Sir, that with my background, as one of the building blocks of this civilization, that I should stand here and be accused by fellow Senators of bringing the President and the Senate into disrepute. I, who have helped to build this civilization. It is incomprehensible to me, but as my Friend, Sen. Wade Mark says, "that there are agendas outside of this."

There comes a time, Mr. President, when the hands of destiny reach and touch the life of both man and nation. Now, is one such time. In the words of Omar Khayyam:

"Tis all a chequer-board of Nights and Days
Where Destiny with men for pieces plays:
Hither and thither moves, and mates and slays,
And one by one back in the closet lays."

Or as Percy Bysshe Shelly wrote:

"Desires and adorations and winged persuasions and veiled destinies. Splendors, and glooms and glimmering incarnations of hopes and tears and twilight phantasies."

As I take my seat, I ask all you Senators, honourable men and women, to ponder on twilight phantasies in this land. You see, hon. Senators, there is this curious report here today being tabled to suspend me. I leave it to you.

The Attorney General and Minister for Legal Affairs: (Hon. Keith Sobion) Mr. President, I came here largely out of curiosity and without any intention to speak on this matter, because I did think, that perhaps a matter of this nature should have been left to the Members of this House and did not require the intervention of one, who though entitled to speak on any matter in this House, is not a Member of this House.

However, Mr. President, I have listened to the contributions coming from Members on the other side and I felt that to some extent the real pith and purpose of this debate was being taken in a direction completely off its course. And I thought that perhaps, I should say a few words to deal with some of, what I

perceive to be, misconceptions of what this House is about in respect of this Motion.

The first is a suggestion emanating from Sen. Wade Mark to the effect that a trial without evidence is a "kangaroo trial". He said that in reference to the fact that the notes of evidence of the committee, which comprise some 100 pages was not made available. The fundamental premise upon which he moved, were the fact that this was a trial and I want to assure hon. Senators, that this is no trial. Any investigation into this matter was conducted by a committee of this House, and what is before this House is a report of that committee for the consideration of the Members of this House.

6.50 p.m.

It is not intended that there be a re-opening of arguments, or that there be any further presentation of evidence, any questioning or cross-questioning of any Member of this Senate. That has already passed. It passed when this Senate appointed the Committee of Privileges, and that committee sat and deliberated on this matter. So it is a misconception for Sen. Wade Mark to suggest that this is some form of "kangaroo trial."

If one looks at the report itself, one would see on the face of the report, that there was not conflict in respect of evidence. The committee looked at certain statements, which were attributed to two hon. Members of this Senate, and those statements were not denied. At no time was there any question of whether those statements were made by the persons. There was a voluntary acceptance of the statements by the hon. Senators and what happened at that committee stage was that some attempt was made to excuse the contents of the statements. The committee deliberated on those matters and has come to the conclusion that what was said, really in mitigation, did not meet with the approval of the committee and a recommendation has been made to this Senate for an appropriate sanction to be applied. That, quite simply, is what we are dealing with this evening.

The second fundamental issue that I think I should refer to, Mr. President, is this question of the partisan make-up of the committee. I would merely like to remind hon. Senators of the oath of office which is taken by a Member before he takes his seat in this Senate. Essentially, it reads—

> "I...having been appointed a Member of Parliament, do swear that I will bear true faith and allegiance to Trinidad and Tobago, will uphold the Constitution and the Law, and will conscientiously and impartially discharge the

responsibilities of the people of Trinidad and Tobago upon which I am about to enter."

There has been the tendency, in the course of this contentious debate, for certain statements to be made; and those statements to be prefaced by reference to party allegiance.

Mr. President, for myself, I have no difficulty with that. What I have a difficulty with, however, is where a committee of this Senate has been appointed for the purpose that this committee has been appointed, for the debate to degenerate along partisan lines. No Member of this Senate can assume himself/herself to be of any higher standing than the institution of the Senate itself. I think that if any Member of this Senate is appointed to sit on a committee which has, as its purpose, upholding the integrity of this Senate, then I think it is puerile and distracting to seek to suggest to hon. Senators that a decision of that committee is weighted because of its partisan composition. The Standing Orders provide a method of appointment.

I have no problem with those who used the opportunity this evening to talk about parliamentary reform and constitutional reform—that is all well and good—but it is distracting, having regard to the present purpose. There is a time and place to talk about parliamentary reform, or constitutional reform. Mr. President, when Members of this Senate are asked to explain their conduct, which relates to their relationship, their standing in this Senate and the Chair of this Senate, then I think we are in a different playing field altogether.

Sen. W. Mark: This is not the general council of the PNM.

Sen. Kwabene: Now is the time, now!

Hon. K. Sobion: Mr. President, it is clear to me that some Senators do not understand what this whole Motion is all about. We are here, not to determine whether Senator X, who belongs to a particular political party, should be dealt with in a certain way. We are here to look at a report of a committee, which has found that there have been breaches of privilege by certain Senators. Those Senators, as all Members of this Senate, took an oath to uphold the Constitution and the law and, as I said, Mr. President, it is purely distracting to seek to suggest that anything has been done otherwise.

Sen. Hosein: Mr. President, will the hon. Minister give way?

Hon. K. Sobion: Is there a point of order, Mr. President?

Sen. Hosein: No, I am asking whether he would give way.

Mr. President: It is not a point of order.

Hon. K. Sobion: Mr. President, those are two of the misconceptions which have been thrown into this debate by Senators from the other side.

The point has been raised by Sen. Wade Mark as to what was the intention of the Senators. He quoted from the report where both Senators, I believe, made the statement to the committee that they never had any intention of breaching any rules of privilege. Well, I do not know whether there was a suggestion that the committee was dealing with a criminal offence, where one had to prove intention. As I understand it, it is not for the committee really to look at the question of intention as to the effect of what was said or what was done. If someone, in his blissful ignorance, were to cast aspersions against the Speaker, the President, or any Member of this Senate, it is no defence to say, "well I did not intend". The fact is, what was the effect of what was said or what was the effect of what was done?

So that, if this is being used as a kind of plea in mitigation, then let it be said in that way. Do not say it in such a way as to seek to excuse the conduct which was exhibited by the Senator under question. If it has been introduced at this stage to say well, perhaps, "do not suspend me for six months, suspend me for two days", then let it be said in that way. Because, you see, Mr. President, it raises another fundamental point, which is, if it was not intended—and I am now addressing the question of the recommendation as to a sanction—one would have expected the Senators in question, at any time prior to today, to have taken the opportunity in the Standing Orders to give some sort of personal explanation and apologize to the Chair and to the Senate. But I have come here from time to time, and even today my good Friend, Sen. Capildeo, stood and said to this honourable Senate, "I have done no wrong". I ask myself: Is it blissful ignorance of the rules and procedures and the conventions of this Senate?

7.00 p.m.

Sen. Capildeo: On a point of order. If the hon. Attorney General was listening to me, he would have understood what I said. If he reads my Minority Report in its entirety he would see why I came to the conclusion that I have committed no crime.

Hon. K. Sobion: Mr. President, I merely referred to a statement which the hon. Senator made in this Senate this evening. I have indicated that in considering what kind of sanction this Senate should apply, one would have to give consideration to the statements made here today and the conduct of the Senators in question over a period of time, to determine whether it justifies any mitigation of the recommended sanction. That is the point I was making.

I have had less access than hon. Senators to the actual report. In fact, I saw it for the first time today and I was concerned that Sen. Capildeo should complain of the fact that he had very little time to look at it. The issues, as I see them arising out of the report, appear to me to be fairly straightforward. The one observation, however, that I wish to make—and it is merely to distinguish the procedure as I understand it in this Senate as opposed to procedures in other places—is that there seems to have been a heavy concentration on legalese in dealing with the procedure and the work of the committee, which suggests to me some attempt to stymie that work upon which the committee had embarked. I considered paragraph 29(2) which appears at page 7 of the Majority Report, under the rubric "Issues" where the committee notes that:

> “1. In the course of its deliberations several issues were raised before your Committee.
>
> 2. The fact that Sen. Surendranath Capildeo sits as a Member of this Committee nullifies the entire process."

Later on, I believe, in my perusal of the two reports, there was a suggestion made at paragraph 14(a) of the Minority Report where the author submitted that:

> "The innuendo which is offensive and objectionable and demonstrates a complete lack of understanding of my position as stated in paragraph 14."

Paragraph 14 seeks to make out a case that:

> "I am a member of the committee. Unless I am removed in some authorized fashion that I have the option to sit on the committee."

The learned Senator will correct me if I am wrong, but I get the impression that the issue as to whether his presence nullifies the proceedings was raised by him. So, therefore, having chosen to continue to sit as a member, the very member now says, "Ha! I have chosen to sit as a member and my sitting as a member nullifies these proceedings."

Sen. Capildeo: On a point of order, Sir. *[Interruption]* Why do you not sit and listen?

I took my time to explain that the position I had taken—and if the hon. Attorney General would read the report; he has not read the report, you see—was that the motion itself was bad. It was invalid. It was vacuous. It was no good and therefore, there was nothing before the committee to consider. That is why I had remained on the committee. If, what was unspoken—and I do not have to advise you all about it—if the motion was valid, if the motion was good in law, if the motion was good in parliamentary practice, then I would have adopted a different attitude, but the motion was bad *ab initio.* There was nothing for me, as a member, to consider. That is the point I made, but, up to now, I do not know if you understand it.

Hon. K. Sobion: Mr. President, again, I do not want to deal with this matter on any personal basis, but it seems to me that some people form judgments of their own and assume that those judgments are correct and proceed to act to the disregard of everyone else, on the basis of their perception of their own judgment.

If it is that a person suffers prejudice because a tribunal is comprised of someone who ought to disqualify himself, then one can understand such a situation. But if there is no prejudice resulting to the complaining member, who voluntarily continues to sit on the committee, then I wonder of what can he really complain? But you see, I make that point in the context of the fact that I perceive that there was a lot of legalese involved in this matter with a view to stymying the work of the committee. That is all that it appears to be.

Sen. Capildeo: Would you give way to a question on clarification? Are you saying that the legalese emanated from outside the committee, inside the committee or by whom inside the committee, if you are saying inside the committee?

Hon. K. Sobion: Mr. President, the committee speaks for itself. The report speaks for itself.

Sen. Capildeo: The majority report is filled with legalese. Who put in that legalese?

Hon. K. Sobion: The majority report suggests that certain legal issues were raised and I have referred to one of them. *[Interruption]* The fact that as a member

of this committee, Sen. Capildeo sits on this committee, nullifies the entire proceedings.

Mr. President: Can we have some order, please. Everybody has spoken and they were heard in silence. There are rules for Members to speak.

Hon. K. Sobion: That appears to me to be a legal issue and I had indicated that in my assessment which has not been denied, that that issue came from one of the hon. Senators whose conduct and statements were being investigated.

I ask myself, is there, or was there any prejudice to any of those members by having Sen. Capildeo continue to sit on the committee? If there is some prejudice which resulted to Sen. Capildeo, he has not sought to explain that prejudice to Members of this honourable Senate.

There was one other matter which I thought I should refer to because it is a matter, which, from time to time, arises. It has to do with fundamental rights. Very often in this Senate, the statement is made with respect to fundamental rights as though there are no limits—that I have a fundamental right to express a point of view and that is an unlimited right and I can say and do whatsoever I choose or please, wheresoever, whensoever and howsoever.

7.10 p.m.

That is palpably wrong and must be stated to be wrong and must be underlined as being wrong. It is one of the dangerous statements that has been made throughout the length and breadth of this country and which has caused untold damage in the minds of many a young person. Many young and misguided persons have been caught with the rhetoric of unlimited fundamental human rights, by statements coming from persons who ought to know better. Today I heard, as usual, a lot of rhetoric coming from Sen. Capildeo about justice being not a cloistered virtue and quotations from Shelley. The thrust of what was being said led to the conclusion which I alluded to earlier, "I have done no wrong."

I have no doubt that the learned Senator has very good antecedents, and as the presenter of this Motion signalled, it is perhaps unfortunate that having regard to those antecedents, that the learned Senator should have been subject to this enquiry. I refer to Sen. Capildeo in this instance. I am not, myself, aware of the antecedents of the other Senator.

I intervened essentially to try to keep this debate on its track. There are a number of side issues which have been raised which have tended to lead us off

course. But I would have still hoped that coming from the other side—and I am certain that I have no enemies on the other side—that I would have heard some statements which would have sought to bolster the institution of this Senate, which would have sought to give some confidence to those who listen to debates in this Senate, that whereas we may have erred, that the institution is more important and therefore, we should pay obeisance to that institution.

I am somewhat disappointed that has not occurred and I think it is our duty, as Members of this Senate who have taken the oath to which I have referred, to deal with this matter in accordance with that oath, to uphold the Constitution and the law.

I thank you, Mr. President.

Sen. Dr. Eric St. Cyr: Mr. President, the first thing that was attempted here this afternoon was to have a deferment of this matter. I am glad we did not defer this matter today, because it is an important matter. I think it has dragged on too long and before we rise here today we should come to a sensible conclusion, so that we can continue, as the leaders in this nation, to transact the nation's business and to do it in a way which, despite the intensity with which we hold our positions, still maintains a measure of dignity and respect one for the other on all sides.

As the debate proceeded, I became aware that some of the facts I did not quite have—I have a lot more now, because I had not seen the press releases until a little while ago—but I still felt that it would have been better not to let this drag further on and that we address it today. I am really making an appeal to all hon. Senators here, including those who sat on the Privileges Committee and those who appeared before it, to let us work together to have this honourable Senate back on track.

I am not saying that this is a minor matter; this is a most important matter, because until we have a framework within which we could articulate the issues, we really cannot grapple with the other issues at all. On that score, I may say that the time when we really need to adhere most strictly to Standing Orders is at times like this. I think we did wisely not to suspend or deviate from them in any way. It is in times of crisis that we stick most closely to the wisdom which has come down to us in terms of tried and tested regulations.

The second thing I want to say is that I was, some weeks ago, at a meeting at which the concept of the patriarch in society came under tremendous attack. That attack is one of the standard attacks that one experiences so often in society,

where you want to remove the underpinnings which, over the years, have kept a society intact. Basically, I want to say that all nations need fathers—strong, wise, old, tested fathers—who know from experience, from accumulated wisdom, who have moral strength and who could guide and stand and not be distracted by minor, petty issues, but keeping the nation central on course, no matter who tries to destabilize or distract it.

I want, Sir, to pay a compliment to you, as President, and say that in my view, you have exhibited in the time that I have been here, the qualities of a father in this Chamber.

I want to touch now on some of the issues. The first is the initial event on February 9. I happened to have been at that debate and I saw, in the report, whether it was the word "else" included or excluded, but in my own sense, as I picked it up just there, listening very sensitively, I think that in the debate, the attempt to deal with the issue of corruption was really what caused the initial difficulty.

7.20 p.m.

I have wondered, but I did not pursue any further, because one of the fundamental principles is that the Chair must be absolutely respected even when one is not quite sure that one agrees with what the Chair has ruled. If we cannot get that right, there is not a basis on which we could keep from punching each other and not debating as civilized people. The Chair—even when we think that the Chair is not right—has to be conceded.

I am going to say here, that one has a simple choice. The person one puts in the Chair has to be invested with that due deference. Anyone who is put in the Chair could make a decision which somebody else would not have done exactly so. So that there is no basis on which one could say that the Chair—I suppose if we were to get God there, we would be sure about that. I have said elsewhere, the Chairman cannot err. We may err by the person we put in the Chair, but once we have put a person in the Chair as a body, we have to agree with whatever he has decided as Chairman, that is it; and we abide by that.

The second issue I want to address is the matter of the press releases. I looked at them for the first time today, and quite frankly, they seem quite innocuous to me; they state the facts. I think one could read innuendos into them, but I would accept the statement that it was not the intention of the persons issuing the press

release or the two statements to bring the House and the issues into disrepute. I would concede that and proceed.

The report, I think, in my view, could have been tighter and more clinical. But, I know how these committees operate; I know the pressures under which chairmen try to assess and come up with a conclusion. It seems to me that to have spent more time getting those refinements would really have not been a justification since, in my view, it is most urgent to bring this matter to a head.

Coming to the recommendations I am, personally, rather more inclined to the position taken by my Friend, Sen. Spence, certainly, in respect of the recommendation on the press. Looking at the reports of the press, the only question in my mind is: Do the press really know that with that tremendous freedom which they enjoy there is a responsibility? However they maintain that responsibility intact, it is their responsibility not to find themselves offending in any way whatsoever. There is a moral basis on which the press has to be held in check for whatever the consequences of the reports lead to. In other words, if somebody says something factual which, had the press not reported, did not cause chaos, the press has to take responsibility for the chaos which it derives even though it is somebody else's statement that was reported. The press is free, but the press is responsible and there is no doubt in my mind about that.

The question though, comes to sanctions. I do not think that when I come to sanctions, especially when I apply harsh sanctions, I want to be in any doubt whatsoever that the person did not know what he was up to. In other words, I cannot apply a rule except the person against whom I am applying the rule knew what the rule was and understood it. I know there is a difficulty there; one can always say, if one is dealing with people like myself, that one just did not know what the rule is and get away all the time. But, I will say this for certain, I will corner you one day and then when I do, we will deal with all the other times that we made sure that you got the rule right.

I have two final points, Mr. President. There are really major, massive issues in the society, and again, I am saying that this matter before us is not a minor one, because it touches on the very core of democratic practice; it touches on freedom to speak, express and debate; and really, to go hammer and tongs on issues, but within a certain framework. I really do want to say that the national issues are, in my view, so pressing that I would really appeal to us, not to spend an undue amount of time; not to get so locked into each other on this matter which is of a procedural and a personal nature, so that when we come to deal with the real

issues affecting the nation, we cannot speak as men and women, one to the other, and really not use up energy sorting out matters among ourselves which could better be used to address the major national issues facing the country.

I mean, the country really is in need of a major shake-up; there are infinite issues to be dealt with, to be consuming a great deal of energy. Perhaps, this is the longest I have spoken in this place; I am more interested in the financial, economic, moral and criminal affairs, but, this really has to be put in place.

The question I am asking is: Could we settle it today? Could we, today, as relatively first-timers—I suspect it is the first time for most of us that a matter of privilege is being addressed—could we temper the stand we take so that we proceed? Could we use this as an opportunity when we say we got near to the brink so let us pull back so we can go in the right direction? Could we then work out a way by which we may proceed?

Let me end, as I began. The nation needs fathers and we have to function in the role of fathers—to care, protect, provide, counsel, nurture, discipline and sometimes chastise; but let us do it with a sense of justice, fatherly mercy and grace, because in the end, we want to be able to live and work together for the good of our nation.

Thank you.

7.30 p.m.

Mr. President: Before calling on Sen. Teelucksingh, I said I do not get involved in the contribution. I am not dealing with your contribution. You dealt quite well, nevertheless, with the question of acceptance of rulings of the Chair compared to the umpire, but unlike the umpire in the cricket match, there is no recourse. I just want to refer you to the relevant Standing Order 41. You ended and stopped at the point where the Chair cannot err but it says:

> "The President in the Senate and the Chairman in Committee shall be responsible for the observance of the rules of order in the Senate and Committee respectively, and their decision upon any point of order shall not be open to appeal and shall not be reviewed by the Senate except upon a substantive motion made after notice."

The point is, it cannot be challenged on the floor of the House, but it can be challenged. Presiding officers are mindful of that.

Sen. Dr. St. Cyr: I thank you.

Sen. Rev. Daniel Teelucksingh: Mr. President, first of all I took a long time to decide whether or not I should attend the sitting today. I wanted to stay at home. I could have taken the day off. I knew that this was not going to be a pleasant experience. I chatted with one or two of my friends and they told me that the best course of action when you go to that meeting is to stay quiet and to stay out. I had really planned to do this, but I am a part of this. I am disregarding very good, sound, solid advice, but because I am a part of this, I cannot sit here and allow this discussion to continue without my involvement. I have no other choice.

First of all, I want to compliment the committee for the work that they did. I am not talking about their recommendation, whether I agree or disagree. When I think of the eight meetings and more that the Members of this committee had to attend and all the sacrifices and effort, I really want to compliment the committee for the work that they have done, because I realize that it must have required a lot of determination, influenced by courage and perseverance. This is indicative of their concern that solutions had to be found, maybe invented. They had to discover solutions for this very particular thorny problem that had haunted us for so long.

We have really agonized over this problem and all the interrelated issues for several months. Many of us really feel sad and disappointed. Long after our Tuesdays are over, we talk about, "Muntaz raising up his hand and he is standing up; he sits back down" and all that has happened here. This thing has affected us so much, it has become a part of us.

I know for one, Sen. Hosein, I am not too sure about Sen. Capildeo, but I feel I have heard both of them express the view elsewhere—whether in the Senate debate of February 9, 1993, or that incident inclusive of the press—that they meant no disrespect to the President of the Senate; neither intended that this honourable Senate be brought into disrepute.

It would be statesmanlike and quite appreciative, and help me to make up my mind what I should do later on as far as the decision is concerned. Furthermore, I am certain there are others who would feel most comfortable if this feeling could be expressed in the Senate before we rise this evening. I most respectfully will request and appeal to both of them, our fellow Senators, if this can be said in the presence of the other Senators and all of us here today: that they meant no disrespect to the President and neither intended that this Senate be brought into disrepute.

If perhaps this can be heard from these hon. Senators in this Chamber today, then I feel that should be sufficient, enough for us to prefer a course of reconciliation as we end another parliamentary year and proceed in good faith to provide the high quality of leadership which the nation expects of us. I really believe that if within this Chamber, we cannot find the wherewithal that will lead to reconciliation and healing, if it cannot begin with us, then I ask, where is our moral authority to lead a nation that is hurting and traumatized over myriad problems?

It is most important that we think this way as we look forward to the close of this particular parliamentary year. I really wish that my brothers would think very seriously before we end today, to say what they have said to some of us outside of this Chamber.

Thank you, Mr. President.

Sen. Martin Daly: Mr. President, I feel the same way as Sen. Teelucksingh. It would be very hard for me to put into words the pain, anxiety and difficulty that this Motion has created for me. It is not without significance that the plea for reconciliation has emanated from the quarters which it has.

Let me explain what I think some of the difficulties we face are. First of all, let me recapitulate and walk over some of the ground that has been walked by my two colleagues on my left. I begin first of all with the Chair. I suppose that I am so often in adversarial situations that it is very difficult to find the language that is appropriate on occasions such as these.

Not only do I subscribe to the formula, if I can call it that, that Sen. Teelucksingh has proposed, but also I would add that any expression of reconciliation of the kind that Sen. Teelucksingh has proposed must also contain a reaffirmation of our respect for the Chair. I think that is very important because, walking over the ground that was trodden by Sen. St. Cyr, we are lost if we cannot respect the Chair.

7.40 p.m.

Personally speaking, it is very easy for me to respect the Chair because in the person of yourself I cannot think at the moment, having regard to all that I know, of a better description than a Chair endowed with experience and patriotism. I place a very high price on patriotism.

I think it is very important that the reconciliation include an expressed re-affirmation of respect for the Chair, not only for the principled reason that has been given by Sen. St. Cyr, but because I think that when we meet in less testing circumstances, the affection for this Chair is universal. I say that without contradiction and for that reason the reconciliation must include that re-affirmation, but otherwise might follow the path proposed by Sen. Teelucksingh.

I cannot agree that some of the broader issues raised by this incident are incidental or peripheral. Let me explain what I mean. Throughout the history of nations, including ours, incidents take place. Sometimes they seem relatively major; sometimes they are minor. We had two world wars provoked, it is regarded by historians, by single incidents. In the case of the First World War, the assassination of a minor royal. In the case of the Second World War, a specific act of invasion. I cite these examples to show how single acts or incidents can brew and brew and ultimately lead to tragic consequences.

Between 1936 and the invasion of Poland, all kinds of attempts were made to find reconciliation. Those attempts failed and all kinds of deaths and horrible consequences followed.

In our own country, at the time Mr. Ambard wrote his article, very few people would have thought that the actions of a colonial judge could be challenged. It turned out that in the heart of colonialism Mr. Ambard's actions were upheld. When you look at it, what did it really matter that in some small colonized island in some far-flung part of the empire, some little editor with a newspaper with a circulation in those days of 2,000 or 3,000 wrote something about a judge from England? Was that really important? But it ended up in one of the most celebrated pronouncements of the law that everyone knows about—lawyers and non-lawyers alike.

Similarly, we had a situation where we had a political boycott and 36 parliamentary seats ended up being held by a particular political party and we had the first Constitution commission arising out of that incident. That occasion provoked a whole range of issues for consideration, as did Mr. Ambard's article.

Then we had another situation where we changed the Government for the first time after 30 years and the question arose, what should become of an outgoing President's appointees in the Senate, the Service Commissions and elsewhere? That led to the second of the Constitution commissions.

Those events are linked to the events which we are discussing by simply this. Every day in life, there are tensions between competing interests, most of which are resolved one way or the other—sometimes mutually, sometimes to the advantage of one combatant or another. Sometimes those events are a catalyst to bring forward other issues that are simmering in the society.

In this particular case, we have to consider whether in the closing stages of the 20th century, the rules relating to parliamentary privilege—not only in relation to the Chair, because I said what my position is on that and I see no call for review on that—but the position of parliamentary privilege in relation to the expanding boundaries of press reporting. That is a very important issue that is raised here.

May I say that I have no idea how I am going to end this evening. I hope for a safe journey home, but that is in the lap of the gods. I should say that I have no idea how I am going to end the evening in the Parliament. I really do not know what I am going to do. As I listen to the speeches, as I look at the body language of my colleagues, I really do not know what I am going to do in relation to my two colleagues. I hope it would not be necessary for me to have to come to a decision because I think that the feelings of the House will become pretty clear as the evening wears on.

In relation to the press issue, I have no hesitation in suggesting that what has been proposed in the report in relation to the press will lead us into great error if we support it. I say so for three reasons.

First of all, I think it is important to understand that the reporters attending a press conference, I am quite sure in the *bona fide* belief that they were going to report on a matter of importance—I do not think if one said to any of them: You know, this could get you into trouble. If someone did they might have said: But, why? There is a hot issue that has arisen in the Senate of the country. I believe that they went there *bona fide*, not only without any intention of causing disrepute to spread, but they went there *bona fide* out of respect for Parliament, so that the idea that this could get them into any trouble would be even further removed from their minds.

I disagree with the committee that it does not dilute responsibility to say that they may not have appreciated the full import of attending a press conference. People call press conferences all the time and beg the press to attend. I have no doubt that the press went there in the *bona fide* practice of their profession and it would be a very hard thing indeed to find that they were punished as a result.

I think, from what I have seen in the newspapers that we have, it is quite clear that the press was not alerted with sufficient particularity—I put it no higher than that—that they too might face some sanction as a result of the exchange they were having on the days that they attended before the committee. I do not think that this has anything to do with lawyers or legalese. I think we are dealing here with a human relations problem.

I think also that we have to understand that one of the fastest expanding boundaries in the world today is communication and what is regarded as proper for the media changes almost by the hour. Therefore, to judge the media in this matter by the standards of earlier times, may also lead us into error.

7.50 p.m

All those issues underlie the section of the report that deals with the press and I do not believe that they were fully ventilated. Maybe at the end of the day if they were fully ventilated, the conclusion may or may not be the same. I do not believe that we have come close to ventilating those broader issues.

I, too, do not know what is the procedure on the question of "privilege" or when there is a report of the Privileges Committee, but if it is that an amendment is required, I would certainly ask the Privileges Committee to consider amending its recommendation, to advise the press that there are circumstances outside of Parliament that may lead them to commit a breach of parliamentary privilege and invite the media to have discussions with the Clerk of the Senate, with a view to clarifying the role of the press in relation to parliamentary matters.

To summarize, Mr. President, I believe that the ground that has been laid by Sen. St. Cyr and Sen. Teelucksingh could lead to a resolution of that part of the report that deals with our senatorial colleagues. I believe, for the reasons which I tried to articulate, that if it is the word ruling, a recommendation in the terms which I have roughly outlined can be made in relation to the media in this matter. Whatever action one takes, as has been so clearly pointed out by my two Independent colleagues, there are consequences for moral authority in the society.

All the things that have been said by Sen. St. Cyr, I entirely agree with, that is to say, that the nation might well ask, why have we got the fullest attendance today, that we have had in this Senate for the whole session, when it is a matter concerning who said what to whom, and who might have been hurt by what was said to whom? The nation is bound to ask us that. Crime does not keep us here

until 7.50 p.m., but a matter of who said what to whom, keeps us here until 7.50 p.m. and has a full attendance.

Those are very relevant considerations, because to adopt the words of Sen. St. Cyr, we have got to resolve this matter without it going on any longer and to quote him in an immortal phrase: "in a manner that is befitting of leaders." I believe that Sen. Teelucksingh and Sen. Dr. St. Cyr have spoken tonight in a manner that is befitting of leaders. And I think that if it is not possible—it is not directed to the Chair—for people—certainly among our senatorial colleagues—to recognize speeches that are befitting of leaders, then like Sen. Teelucksingh, I may yet have more painful duties to perform as the evening goes on.

Another matter that needs to be said in relation to the reaffirmation of respect for the Chair, I think—without disrespect to anyone else—the Senate stands in a certain regard with the people whose business we are supposed to be seeing about. We have got to focus—I emphasize without disrespect to anyone else—on what are the appropriate standards for the Senate. I know what the appropriate standards are for a J'ouvert band or lack of standards; I know what the appropriate standards are when I appear in court; and I would like to think that we know what the appropriate standards are for this Senate. I cannot speak for anywhere else.

I believe that there are grave dangers for the respect in which people will hold Senators—not any of us personally—if we cannot resolve this matter—the language of Sen. Dr. St. Cyr, I will repeat it again—"in a manner befitting of leaders". What they will tell you on the street corner is that you all can resolve that like big men, that is what they expect of the Senate. That is the reason we face such a difficult situation and we need to resolve that matter in a statesmanlike manner, if it is possible.

I have to strike one discordant note. I get very alarmed—and indeed I think it is at the core of these matters that we have to consider—when I hear people talking about enemies. I get very alarmed when I hear people talking about this or that mafia. I get very alarmed when I hear people talking repeatedly about the prospects of bloodshed.

Mr. President, as I had cause to say in another debate—I hope I get it right this time, the Minister of Energy and Energy-based Industries knows the correct quotation—"loose talk costs lives". When we have loose talk about "enemies" and "bias" and "rumour" and "set up", who secretively did this, that or the other, and we show a complete lack of respect for each other as senatorial colleagues or

as human beings, we cause ourselves, ultimately, to find ourselves in a sharp *ti marie* patch. I agree with Sen. Dr. St. Cyr, that we have to rediscover goodwill among ourselves as persons who have to work together.

From my experience in the course of my professional activities, there is a tremendous difference in two of the areas of my professional work. When you do a case in the court house, you can be as rude—you ought not to be—and unpleasant as you like, to whoever you come into contact with in the case, because in all probability you would not see them again, you certainly would not have to work with them again, so really the gloves are off. It is not the right thing to do, but if you have an altercation with someone in an adversarial context like that, it is wrong, but no serious harm is done.

By contrast, Mr. President, when you practise in the field of labour, law, and industrial relations, as Sen. Wade Mark would well know, it is understood that you cannot adopt disruptive, adversarial tactics of the enemy. Because when you adopt tactics that are excessively adversarial, when the strike, lock-out or dismissal is finished, the same person with whom you adopted these tactics is coming back into your establishment the next day to receive your pay, work your machinery, to be entrusted with his part of the running of the business. So that in an industrial relations context, one learns that an excessively adversarial or combative approach is not suitable.

Mr. President, the analogy is very apt to the situation in which we find ourselves. If we resolve this matter on an adversarial, combative or partisan basis, it is going to be very difficult for us to work with each other in the future. We are here entrusted with very grave responsibilities and it becomes all the more important that we do not resolve this matter in an adversarial or combative manner because we will not effectively be able to do the nation's business.

I hope that the path that has been laid out by Sen. Dr. St. Cyr and Sen. Rev. Teelucksingh might yet find favour. Mr. President, I regret—and I have to say it for the record, I do not want to strike a wrong note—that I cannot take as charitable a view as Sen. Dr. St. Cyr did, about these press releases. I think it is important—so far as my contribution to this debate is concerned—to signal that at the end of the day the re-affirmation of respect for the Chair is important as well as a repetition of the statement that may have been made in another context.

8.00 p.m.

So, Mr. President, I hope that what I am saying is tolerably clear to the main persons in this *ti marie* patch. I hope that what we have said will help us to find a way to solve this, and settle this, as big men. I think, Mr. President, and I hope we will learn the object lesson of what loose talk can do; and right up to today, it is as though we did not see the brink which was facing us in some of the language that was being used.

I myself, Mr. President, was the victim of some behaviour out of character with the person who sought to slander me; and perhaps, it is important to emphasize that when we behave in a certain way, it has long-term consequences. Genuine forgiveness, I think, is a creature which might be recognized by someone of Sen. Rev. Teelucksingh's persuasion; but I wonder, when we use harsh words to each other, if the wound is ever fully healed.

So, Mr. President, I think it is important. Here we have a situation in which it is being suggested that this is a "kangaroo trial"—that is another set of words that are not going to help us with the problems that we have to solve. What of my colleague, Prof. Spence? When these expressions are used, what about the implied slur on his integrity? Is that right? Is a demolition and/or a slur on Prof. Spence's integrity the right way to proceed in a debate of this kind? He is serving his country; he is doing a patriotic act by serving in the Parliament and serving on a parliamentary committee.

Indeed, Mr. President, there are times when the integrity of the Independent Benches as a group—not any one individual—is attacked by misguided individuals. Sad to say, one of those who led such an attack, when this particular Bench was first appointed, now enjoys a position with a Government agency. I am mentioning it, Mr. President, because I see the individual frequently when I come here; and I ask myself: how does he expect to work with me, having said some of the things that he said about me, or my colleagues, when we were appointed? I will tell Members about it in more detail when we have a tea break or some other pleasant occasion. When you burn certain bridges, Mr. President, you cannot cross back over the river; and we are in danger, tonight, of burning bridges of goodwill over rivers that we will never be able to cross.

Perhaps I ramble frequently. I feel that I am rambling, but it is a mark of my heartfelt desire that we should solve this problem as big men. I could not think of a solution. I could not come near to a solution, but after I heard the wisdom of my

colleagues, Sen. Dr. St. Cyr and Sen. Rev. Teelucksingh, I wondered how we could all miss the obvious. So, Mr. President, I would close by making my own personal position very plain.

I do not believe that any sanctions should be placed on the media, for the reasons which I have said. I have said in rough terms what I think should be the recommendation in relation to the media. I am very clear about that. I have no difficulty about that. Insofar as one can have personal conviction about something, I am convinced that I am taking, personally, the right position on that.

So far as the issue concerning our two colleagues is concerned, I have tried, as best as I can, to put it in what I think is the proper perspective—a perspective lending itself to solution. Of course, Mr. President, I will not say now, because I do not know what my position will be, ultimately, if we have to resolve this matter in an adversarial fashion.

Insofar, certainly, as my colleagues on the Independent Benches might be interested in knowing what I might be thinking, I have to plead that I simply do not know; but, Mr. President, hopefully, it will not come to that. Because, at the end of the day, I am very, very concerned that if we cannot solve this matter in a way that reaffirms respect for the Chair, then we will, in due course, as indicated by Sen. Dr. St. Cyr, be punching each other on the nose.

From talking about enemies and who is rumoured to have done what, and who is setting up whom, and so forth, we will go the next step, which is to now translate our hurt from words into action. So that, to my mind, there has to be in the forefront of any decision I make, reaffirmation of respect for the Chair. That is something I cannot compromise on; and I hope, Mr. President, that if it comes to this, I will not be driven to a choice, because, like Sen. Rev. Teelucksingh, this would have been definitely a day to remain at home, rather than have to confront these difficult and painful issues.

But I do urge, Mr. President—I know I am repeating myself—that we try to settle this matter in a way, as Sen. Dr. St. Cyr has said, as befitting leaders. Perhaps, Mr. President, it is unfortunate that we do not have tea breaks at 8 o'clock in the evening because, of course, it may be that after all that has been said on the Independent Benches, a tea break might solve the problem. But, like many other things in my life, I have no control over when the tea breaks take place, but I hope, sincerely, that with the contributions from the Independent Benches, we have, at least, reached a metaphorical tea break, or a watershed, in these

proceedings, which is a platform for us going forward with our moral authority and dignity as Senators intact.

Thank you very much, Mr. President.

The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith): Mr. President, the hour is late and I do not propose to detain the Senate for very long, because if I do, I can assure you we will not have a tea break—we will probably have a dinner break.

Mr. President, I want to make my contribution, not in the context of the legalese or the legal issues that were raised, but, as simply as I could put it, in my simple language, how I feel about this whole issue. We have heard, today, talk about PNM vendetta; smelling blood; background manipulation of committees; and a number of other issues which seem to suggest that my party has brought the Senate to this point to manipulate it. Mr. President, nothing is further from the truth.

8.10 p.m.

Like other Senators who have spoken before me, I wish we really did not have to debate this for a number of reasons, one of which I think Senators have alluded to. We are, most of us, new to Parliament, and I felt that over the months that we have worked together, notwithstanding the rhetoric and hyperbole of some of the statements that were made on the other side, we were really friends. We do not have any enemies. I really do not.

Mr. President, this did not happen overnight. It is not that an incident occurred last week and the party to which I belong and because we hold the majority, came the next week to the Senate and said, "Send this to the Privileges Committee"; we manipulated it and came back like a thief in the night to try to deal with it. This matter had its genesis in February of this year, and we all were—all of us with a few exceptions—here and we had our own sense of what took place. Since that time it has not been for want of effort by Members of this Senate to seek to have the matter resolved very simply. We did not have to come all the way down to the debate.

We know that the kind of appeal that I am hearing now from Sen. Dr. St. Cyr and Rev. Teelucksingh were appeals that were made before and could have been followed and the matter would have been put to rest. Instead, as the issue dragged on, it became worse and we had the spectacle of the press conference. Unlike Sen. Daly, I think if you read the press release and the newspaper at the time, I felt that

it was a deliberate attempt to further bring the Senate and its President into disrepute. We have gone along that route. “We will sue the President—Director of Public Prosecutions.”

It is not that if that feeling existed among Senators that they were unaware of the mechanisms in our procedures to allow them to come here and raise the matter, and have the matter debated if they felt strongly about it. One can come to no other conclusion, that this was a deliberate strategy of dealing with the matter that could have been solved long ago.

Mr. President, even in the debate today, we were told by one of the Senators: "I did nothing wrong and because I can speak well; I have beautiful language which some of you do not have and, therefore, I feel sometimes that I am casting pearls before swine, because of who I am, and I have built this country. How dare you, as Senators, believe that you have the right to ask me about my behaviour?"

This is difficult to take because where we are is five months down the line and not the slightest semblance of a feeling, that not only have I done something which brings the Senate into disrepute and by extension, brings every Senator here into some situation where he is diminished in the eyes of the population but, how dare you? That is how I feel after hearing his contribution.

I accept Sen. Daly's point, that given the way the press was brought in, given the fact that there may be some genuine reasons why some of the responsibilities that they have to express in their freedom, that this may not be the appropriate time or suggestion to indicate that severe sanction should be taken. The suggestion that the press should be advised of their responsibility and that some kind of discussion should take place between the Senate and the press to ensure that they are aware of their responsibility has merit, and there is no reason why we should not consider it in this Senate.

With regard to the recommendation with respect to the Senators, Mr. President, there is nothing so far to indicate to me that there is any reason why those recommendations should not be accepted.

Mr. President, I thank you.

Sen. Everard Dean: Mr. President, like my colleagues on the Independent Benches I, too, feel that there is a time for reconciliation and there is a time for healing. I, too, am in a very uncertain position as to what I would do at the end of the debate as it will affect our colleagues. Notwithstanding earlier this afternoon, there was a call for the 100 pages of evidence to be discussed and looked at by

Members of the Senate, I think if it were only 10 pages, my own position would have remained the same.

When it comes to dealing with your colleagues and to making a conscious decision on the recommendation as made by the Privileges Committee, I am of the view, in fact, I would suggest that this Senate look at the comments and the view or views of Sen. Spence as contained in paragraph 65 of the report. I feel that being reprimanded by your own peers, as Sen. Spence indicated, is serious sanction enough to deal with this particular matter.

I believe that the Chair remains an independent person and should be respected at all times, must be respected at all times inside or outside this Chamber. I would even go so far as to give the Senators the opportunity as Sen. Teelucksingh pointed out, to make an unequivocal statement as regard their actions arising out of that incident in February.

8.20 p.m.

I, too, am disturbed about the events that led up to this report and I feel, like Sen. Teelucksingh, a part of the debate here that one cannot run away from. I have been attending meetings here since the new Parliament and it is the first occasion that I could recall that you could have heard a pin drop or a paper turn when Members were making their contributions. To my mind, that gives the signal that this is a very important matter and people wanted to deal with it in a very sober way.

I feel that one can exercise the option of accepting the report as is, or one may want to make a suggestion, because I do not know we can change a report. It is my view, however, in the final analysis, that to go straight away for outright suspension, would be very harsh.

Thank you very much, Mr. President.

Sen. Ainsley Mark: Mr. President, when I started my contribution this afternoon, I started off by saying that I was very saddened to have to stand here today and treat with this matter. Now some four hours later and having listened to the contributions of my fellow Senators, my feelings have changed somewhat. On the one hand there was a certain kind of hope, having listened to the Independent Senators speaking about reconciliation and the re-affirmation of respect for the Chair, and so on, but on the other hand I, as the Chairman of this Committee—and may I take this opportunity to commend all the Members of that Committee—to sit through threats of war and declarations of war, innuendo about manipulation

and what else is in the mortar, and what is set out in the Standing Orders in terms of a Chairman preparing a draft which will be used as a basis for discussion being treated with as if there was something sinister; to sit through and be even described as swine, this is why I say that at this point in time I have very mixed feelings.

I listened to Sen. Wade Mark speak about good sense prevailing. I would state that it is a pity that good sense had not prevailed earlier, when all that was necessary—Sen. Daly spoke about dealing with it as big men—was for the gentlemen in question, my colleagues, to stand and say, "I was wrong." That is all that was needed. We would not have been here today. Instead of that, what we are hearing about is, "pearls being cast before swine."

Sen. Kwabene spoke about healing the wounds and protecting the Parliament. He spoke about chaos reigning in our society and that we, as Senators, have the responsibility to set the example to the rest of the society. He went on to say that the responsibility that goes with the high office of Senator needs to be guarded. I wonder if when Sen. Kwabene was speaking his colleagues listened to him, because he was right on the spot.

Sen. Dr. St. Cyr was his usual eloquent self. He was totally correct when he spoke about the amount of energy that is being used up on this issue, because, quite frankly, having been involved in it from April, I am really beat and I am really hoping that we would resolve it tonight. I first met Sen. Dr. St. Cyr, I think it was in l970. I think he was the person who was responsible for my getting my job at UWI. In all those years there have been very few occasions on which I have disagreed with him, and I want to disagree with my dear Friend and mentor, Sen. Dr. St. Cyr today. To say that the press releases were innocuous, I really have a difference of opinion on that score, because, to my mind, the worst possible accusation that a Member can make of a presiding officer is bias—the worst possible accusation.

If that comment were made about me while I was in the Chair, I might be prepared to say, "well, I am a PNM and people can make that statement." But to make that comment about the President, when we have seen how he conducted the affairs of this Senate over the past 18 months, we cannot describe that as innocuous. It is the most serious accusation that one can make.

8.30 p.m

Sen. Rev. Teelucksingh was of the view that this has not been a pleasant experience, and I think this is shared by most of the Senators. I do not know if it was recorded in the notes of evidence, but I remember jokingly saying one evening in the meeting, "We would hope that before we get into this debate, the Senators would stand up and make an apology"; and we would be able to say that the apology having been made, we would go no further with this matter, but this has not been our experience.

I am guided by Sen. Daly's views on the press, but perhaps the most important comments that he made treated with the need to reaffirm our respect for the Chair. The second point he made had to do with the nature of our debate; and the fact that sometimes bridges are burnt and the view that we can come here and vilify each other and then when we are in the corridor, everything is nice and “honky-dory”. It does not work that way. But, I am basically in agreement with Sen. Daly's position of the Chair.

I think that as big men and women, we all recognize that the Senate has its rules and regulations: the Standing Orders. If we disagree with any of these Standing Orders, then it is our responsibility to change them, but until we do so, those are the rules and regulations by which we have to operate.

We are supposed to be the exemplars; we are Members of the Senate; the eyes of the entire population are on us and people really take what we do very seriously. It is important and imperative that we be conscious of our responsibilities and the maintenance of the dignity of this Senate must be paramount.

In concluding, I am in agreement with the proposition of Sen. Daly that the recommendation in relation to the Trinidad and Tobago News Centre be modified to be the same as for the other media, and that the media should be advised of their responsibility in meetings that would be set up by the Clerk of the Senate and the media. That is the only change, at this point in time, I would wish to make to the Senate.

This is the latest I have ever been in this Chamber. As Sen. Daly said, we have been treating with matters of national importance and have been able to get through them earlier, but, there is no doubt that this matter be treated with the seriousness that it requires. The Senators, in the view of the committee, showed complete, blatant disregard for the rules and practices of this Senate; they showed complete and total disregard for the authority of the presiding officer.

The matter has been going on now for months; each time we meet there is an opportunity under "Personal Explanations" for the Senators to act, in the words of Sen. Dr. St. Cyr, "as leaders", but that course of action has not been adopted. We spoke about an apology, but the committee did not feel that at this point in time, an apology, that was not a voluntary one, would have been appropriate or adequate. A voluntary apology carries with it some element of sincerity. To have the Senate accept the position that the Senators should apologize takes me back to my youth when my mother would say, "Go and apologize to your aunt, or else". That is not an apology. You would go and say "Tanty, mammy say to apologize". That is not an apology; no sincerity. Not acceptable, given the gravity of the situation with which we are treating.

We had a very long debate on Sen. Prof. Spence's position that we reprimand the Senators, because, in his view, to be found guilty by one's peers and be reprimanded by them is serious action. That was an issue that was debated for quite a while in the committee and I see that some of my colleagues on the Independent Benches have agreed with the recommendation of Sen. Prof. Spence.

8.40 p.m.

Quite frankly, during the course of the debate, I was being a man of peace, not having any enemies. I was, perhaps, tending toward recommending to my colleagues that we go for the reprimand, but I have not been able to pick up absolutely any sense of remorse about what was done. As one Senator put it, “I have done nothing wrong.”

As I said earlier today, as Chairman of this committee, for a while I thought I needed the experience of a high court judge—and not one that they talk about as being “watered down brandy—a real high court judge. No one being prepared to stand and say that what they did was wrong. No one even being prepared to stand and say that what we did might have been interpreted by some people to be wrong. There was no remorse. They have done nothing wrong.

This, more than anything, saddens me because here we are as Senators, very clear on our rights, run fast and get the Government's loan to get a car, if anybody worries—

Sen. W. Mark: On a point of order. I think the hon. Senator was misleading the Parliament when he said that at no point in time did he get any kind of feedback in terms of remorse. I am not on remorse.

I am saying that in the report statements have been made by Sen. Surendranath Capildeo, as well as Sen. Muntaz Hosein indicating to the Committee of Privileges that at no point in time did they intend to disrespect the President of the Senate, or the Senate. It is unfair for Sen. Ainsley Mark to say that at no point in time, when in truth and in fact, it is recorded in this document that the two Senators indicated to the Committee of Privileges that they issued statements, that at no point in time did they intend to disrespect the Chair or the Senate. I think he must be fair in his comments.

Sen. Daly: May I take this opportunity on a point of clarification.

I do not think anything has emanated from these Benches concerning remorse or apology. May I just take the opportunity to clarify that I believe the position that has been advocated by at least three Members on this Bench is that we have not talked about apology. We have talked about the repetition in the Senate of the statement just referred to by Sen. Wade Mark. I just want to make that clear, that no one on the Independent Benches, as far as I know, is proposing an apology.

Sen. A. Mark: Mr. President, I would not delay this House any longer. I think the points have been made in the report and most of the Senators who spoke today have made the points.

I beg to move the following amendment to the Motion standing in my name.

That the following be added at the end thereof subject to the following amendment:

(a) Insert the words "Trinidad and Tobago News Centre" immediately after the word "to" appearing in line 1 of paragraph 66.

(b) Substitute for the word "warned" appearing in line 3 of paragraph 66 the word "advised".

(c) Delete paragraph 67 and renumber paragraph 68 as 67.

Sen. Prof. Spence: Mr. President, may I consult you on a procedural point? Is it the correct procedure for the Chairman of the Committee at this stage to alter the report, or would it not have to be for the Senate as a whole to make a decision on what should happen with the report?

I have a difficulty here, because if it is that we are altering the report, I too would like to move an amendment.

I would be grateful for the procedure to be clarified.

Mr. President: The report has been presented by the committee. The Chairman did so on behalf of the committee. That has been done. There is a resolution to adopt the report. The resolution reads:

> "That this House adopt the report of the Committee of Privileges of the Senate 1992—1993 session."

The Chairman has replied to the debate and the next thing that has to be put is the question and a decision taken.

Arising out of points of view expressed in the debate, the Chairman was motivated to amend the Motion which is adopting the report by adding the words which will, when completed as he puts it, bring the Trinidad and Tobago News Centre together with the other three media houses and they would receive the same treatment. Therefore, you delete paragraph 67 to take care of that and just renumber 68 as 67. So that if that amendment is carried, we then put the Motion as amended; and the Motion as amended if carried, would have the effect.

If the amendment is defeated, then the Motion in its original form would have to be put. It is just like the Provisional Collection of Taxes Order in an annual budget debate, that the order be confirmed subject to the following modifications and you list them.

Sen. Prof. Spence: I still have a procedural difficulty. If the Motion is to adopt the report, would his amendment read “a Motion to adopt the report in amended form?” I have a difficulty because I do not see how the report itself can be amended.

Mr. President: It is to adopt the report. The report has certain recommendations and arising out of the views expressed by Senators, apparently there seems to be a view that one of the recommendations should be changed and the main thing is to treat the four media houses on equal terms. That is the main thing that the amendment can do; advise them rather than to warn them that a breach of privilege was committed. Is that it? Therefore, you will have to delete paragraph 67 which dealt separately with one of the media houses. If you delete that, you will renumber the next paragraph, the final paragraph.

8.50 p.m.

Sen. Prof. Spence: I still have a difficulty, because I do not see how it is possible to amend the report. It would seem to me that what the hon. Senator would have to do is, separately to the adoption of the report, move an amendment. I may be wrong. *[Interruption]* I accept your guidance.

Mr. President: Do you have a proposal?

Sen. Prof. Spence: I am just having difficulty in seeing how it is possible. By amending the motion to adopt the report, one alters the report itself. I assume that the report does not get altered in whatever we do now. *[Interruption]* It is not a report of the Senate; it is a report of the committee.

Mr. President: But the committee has presented its report. It is now before the Senate. The Senate may approve, reject or amend the report. I do not see anything would prevent this. This is a normal thing.

Sen. Dr. Saith: Perhaps even I can clarify it in my mind. As I understand it, what will happen is that this source document will remain unchanged. This is the source document. What the record will show with respect to the source document is that the Senate, in deliberating, has amended the recommendation of the source document, but the source document remains. Am I right? One is not going to change that now and have people re-sign the document.

This is the report that has come out and it is the source document. What I understand we are doing is that, the source document having come to us, remains the source document, but as a result of the deliberations that we have had here, we are prepared as a Senate to accept it, subject to one of its recommendations being modified.

Mr. President: Would you prefer that the Motion be amended simply by saying "subject to the Trinidad and Tobago News Centre being treated in a similar manner to the other media houses referred to in paragraph 66"? Leave it at that. Do you prefer that?

Sen. Prof. Spence: Is it possible for me, at this stage, also to move an amendment, Mr. President?

Mr. President: If you want to move an amendment I would listen to it.

Sen. Prof. Spence: My amendment would be to maintain the position that I took on the committee and to suggest that the Senators "be suspended from the

service of the Senate", be deleted and insert “be reprimanded by the Senate". That is in paragraph 64.

Sen. Dr. Saith: Paragraph 64 or 65?

Sen Prof. Spence: After "your committee recommends that Senators Capildeo and Hosein be reprimanded by the Senate...".

Mr. President: But you say you do not want the report amended.

Sen Prof. Spence: No, I do not want to amend the report, but to move an amendment which states that the Senate accepts the report subject to the following modification: that in paragraph 64, it reads that Senators Hosein and Capildeo be reprimanded by the Senate—

Mr. President: Prof. Spence, I have a difficulty. We tried to accommodate the point you were making, not to amend the report, and I referred to the Provisional Collection of Taxes Order. You are saying that you want to add the words "subject to the..." I do not have the written amendment before me but the recommendation at paragraph 64 says one thing and you want that section to show something else.

Sen. Prof. Spence: I want to do precisely what Sen. Ainsley Mark did. He modified the recommendation with respect to the news media; I would like to modify the recommendation with respect to the sanctions to the Senators. So, whatever procedure was adopted in that case, I would like to be guided so that I can adopt the same procedure.

Sen. Daly: I have a difficulty as well. It is that explicit in everything I said—if it is being done in response to anything I said—I am not expecting that any of the media is guilty of a breach of parliamentary privilege. May I make a respectful suggestion. I do not want to find myself in any difficulty. What I would suggest that might accommodate the positions is:

> Be it Resolved that this House adopt the Report of the Committee of Privileges of the Senate subject to the recommendation in paragraph 64 being a recommendation that (whatever Sen. Spence wants to move) and subject to the recommendation in paragraph 67 being so and so.

In relation to what I am suggesting, I do not only want the word "warned" removed, but I am respectfully asking that the press be advised of their responsibility in meetings to be arranged with the Clerk of the Senate. I am not

agreeing that the press committed any breach of parliamentary privilege because I do not believe that they were charged with that. I do not believe that has been fully adjudicated upon. Maybe we could have: that this House adopt the Report of the Committee of Privileges of the Senate subject to a recommendation that (whatever is the feeling about paragraph 64) and subject to a recommendation that the media should be advised that their responsibility, and so forth. If we had some time, we could write down something.

Mr. President: I am afraid that with three different proposals for amendment, I would need to have them in writing, before I put them. I do not want to be accused of putting anything that was not proposed by anyone.

Sen. Dr. Saith: May I suggest that we adjourn for 15 minutes to be able to work out an appropriate amendment?

Question put and agreed to.

9.00 p.m.: *Sitting suspended.*

9.30 p.m.: *Senate resumed.*

Sen. Dr. Saith: Mr. President, I want to seek your guidance on the best way to deal with this. I think that we have agreed that the report is a source document and what we are trying to do is to accept the report, but in accepting it, to make some adjustments to the recommendations.

I am seeking your guidance to see whether the Chairman should do that, rather than have the individual Senators seek to move an amendment.

Mr. President: Once an agreement has been reached on what you want to put forward as modifications, it is quite in order for one person to do a concise amendment.

Sen. A. Mark: Mr. President, I beg to move the following amendments to the Motion standing in my name:

That the House adopt the report of the Committee of Privileges of the Senate 1992—1993 Session, subject to the following:

(1) That the Senate do consider that Senators Capildeo and Hosein be guilty of a breach of privilege and that they be reprimanded by the Senate in the strongest possible terms.

(2) That all the media referred to in the report be advised of their responsibility in meetings to be arranged by the Clerk of the Senate.

Seconded by Sen. D. Ojah-Maharaj.

Mr. President: Are we to deal with the media equally? There is one recommendation for dealing with TTT, the *Express* and the *Guardian,* and another recommendation for dealing with the *TNT Mirror.*

Sen. A. Mark: Mr. President, we had some recommendations but we have in fact modified the recommendations in paragraphs 66 and 67 to be encompassed in the second amendment.

Mr. President: How does the second part of the amendment read?

Sen. A. Mark: Mr. President, the second amendment is that the recommendations in paragraphs 66 and 67 be not adopted and that all the media referred to in the report, should be advised of their responsibility in meetings to be arranged by the Clerk of the Senate.

Question, on amendment, put and agreed to.

9.40 p.m.

Mr. President: I will now put the question on the Motion, as amended:

Be it Resolved:

That this House adopt the Report of the Committee of Privileges of the Senate, 1992—1993 Session, subject to the following:

1. That the Senate do consider that Sen. Capildeo and Sen. Hosein are guilty of a breach of parliamentary privilege and that they be reprimanded by the Senate in the strongest possible terms.
2. That the recommendations in paragraphs 66 and 67 be not accepted and that all the media referred to in the Report be advised of their responsibilities in meetings to be arranged by the Clerk of the Senate.

Question on amended Motion put.

The Senate voted : Ayes: 24

AYES

Saith, Hon. Dr. L.

Huggins, Hon. R.

Barnes, Hon. B.

Kuei Tung, Hon. B.

Draper, Hon. G.

Robinson-Regis, Hon. C.

Mark, A.

Callender, S.

Ojah-Maharaj, D.

Elder, Mrs. J.

Kuarsingh, Dr. H.

Rahael, J.

Gosine, Pundit R.

Hassim, A.

Maloney, A.

Mansoor, M.

Spence, Prof. J.

Rooks, J.

Ali, H.

Daly, M.

Dean, E.

Teelucksingh, Rev. D.

Oudit, Mrs. N.

St. Cyr, Dr. E.

The following Senators abstained: W. Mark, S. Capildeo, S. Baksh, R. Kwabene, C. Merritt, M. Hosein.

Question agreed to.

Report adopted.

Motion made and question proposed, That the Senate do now adjourn to a date to be fixed by the President. *[Hon. L. Saith]*

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 9.45 p.m.