

*Late Arrival**Tuesday, May 31, 1994***SENATE***Tuesday, May 31, 1994*

The Senate met at 1.30 p.m.

PRAYERS[MR. PRESIDENT *in the Chair*]**LATE ARRIVAL**

Mr. President: Hon. Senators, Sen. Mansoor has indicated that he will be a bit late for today's sitting of the Senate. He has asked to be excused for the early part of the sitting.

PAPER LAID

Report of the Auditor General on the accounts of the National Lotteries Control Board for the year ended December 31, 1991. [*The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith)*]

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper in the name of Sen. E. Dean:

**Papourie Road
(Failure to Obtain Permission)**

48. Can the hon. Minister of Planning and Development state what action has been taken to address difficulties being experienced by citizens caused by failure to obtain planning permission to develop a parcel of land at Papourie Road, Esperance Village, San Fernando, referred to on page 13 of the Ombudsman's Report for the period January 1, 1992 to December 31, 1992 under the caption: "Failure to Obtain Permission?"

Sir Solomon Hochoy Highway

49. (a) Is the Minister aware that many citizens whose lands situate along the proposed extension of the Sir Solomon Hochoy Highway have not been able to obtain full planning approval to develop their lands?
- (b) If the answer is in the affirmative, can the Minister state what is the Government's policy or what action the Government intends to pursue with regard to bringing this matter to a conclusion?

The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith): Mr. President, I truly regret that the answers to questions 48 and 49 are still not ready as I needed to check on something. I am asking that they be deferred for one week, please.

Questions, by leave, deferred.

ECONOMIC SANCTIONS BILL

Sen. Dr. The Hon. Lenny Saith: Mr. President, my colleague is not yet here although he did indicate that he would be here. Could we have a few minutes recess while we await his arrival?

1.35 p.m.: *Sitting suspended.*

1.40 p.m.: *Sitting resumed.*

APOLOGY FOR LATE ARRIVAL

The Minister of Foreign Affairs (Hon. Ralph Maraj): Mr. President, let me first of all apologize for keeping back this honourable Senate. I got kept back at the ministry with some very urgent matters. I do apologize to hon. Senators for this delay.

ECONOMIC SANCTIONS BILL

Order for second reading read.

The Minister of Foreign Affairs (Hon. Ralph Maraj): Mr. President, I beg to move,

That a Bill to provide for the implementation of economic sanctions imposed by regional or international organizations and for matters incidental thereto, be now read a second time. Economic sanctions are an international tool that has been used over the years to effect corrective action to deal with international problems. We have seen it operating successfully, I think, in areas such as South Africa, as the international community sought to deal with the pernicious system of apartheid, and, of course, in our own hemisphere with respect to the problem we have been experiencing in Haiti, where a brutal regime has usurped a fledgling democratic process and continues to inflict pain and oppression on the people in the face of international disapproval.

Sanctions have not been used very successfully in Haiti, I daresay, mainly because of the porousness of the borders between Santo Domingo, the Dominican Republic and Haiti, which, as hon. Senators know, are neighbours in a unique

arrangement, occupying the same island. But there is no doubt that economic sanctions did contribute significantly—they were not the only reason—towards the historic erosion of the apartheid system which existed in South Africa for many years.

I made that opening statement to show the role that economic sanctions have played, and will continue to play, as the international community grapples with certain problems, not really seeking to use force right away. As you know, Sir, the whole question of military intervention is a very painful and tragic one causing loss of life, damage to people and property and so forth, and economic sanctions have been used as an international tool, as I said, to effect certain kinds of corrective action.

With respect to Trinidad and Tobago, the current legislation governing the implementation of economic sanctions is the Customs Act, Chap. 78:01 of the Laws of Trinidad and Tobago, and in order to comply with international sanctions, the Government has had cause to have prepared and issued an Order under section 44 of the Customs Act prohibiting, with certain stated exceptions at times, the importation from and export to countries against whom economic sanctions are applied. In recent times we have had this Order coming into force with respect to an OAS resolution in 1992 with respect to imports to and exports from Haiti.

1.50 p.m.

Therein lies the problem which this Bill seeks to correct, because the broad and general nature of that Order has permitted little or no flexibility with respect to the sanctions. This can affect Trinidad and Tobago companies, for example, and indeed it has affected two companies in the energy sector which lost business virtually to companies in another country with respect to market access into Haiti itself; in that particular country, the United States in fact, the legislation allowed those companies to supply the market under special permission from their Government. And one of the things that this Bill is going to achieve is that administrative flexibility, which is necessary from time to time, when seeking to grant exemptions for certain products to be free from the embargo and sanctions.

Also, the current legislation, as it operates in Trinidad and Tobago, does not allow for Government to take measures at domestic level to fully comply with its obligations relating to the seizing of the assets of the Haitian state, for example, in Trinidad and Tobago. So that is the situation as it is with respect to Trinidad and

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Tobago's ability to impose sanctions. The situation, in essence, does not allow for the administrative flexibility which this legislation will bring to it. So that we need this piece of legislation for two reasons. First of all, to have this comprehensive legislative framework for the imposition of sanctions, through which we will join the rest of the international community, whether it be at the multilateral level, or the regional level, at the OAS, or the United Nations.

So we would join our partners at these fora to effect sanctions against countries against which it has been decided to impose sanctions, for whatever reasons; and we have abundant evidence of that need from time to time, whether it be the dictatorships that emerged in countries, or brutal, oppressive regimes that do not comply with normal standards of civilized behaviour. If it is the view of the international community to impose sanctions against these countries, then we by having this piece of legislation enacted, would be in a position to co-operate in a more comprehensive way with our international partners. And, of course, it makes for good international relations, and it must also be seen within the context of the whole modernization of our international relations with respect to legislation and general agreements.

The other matter, as I said, is that it removes the rigidity that exists in the present system, and provides us with that flexibility which, if we had had it and we had so decided, those two energy sector companies would not have lost the business that they lost with respect to the market of Haiti.

We must also note that elsewhere in the world there is similar legislation currently in force by other states complying with resolutions imposing economic sanctions against foreign countries. So that we should not think that there is anything draconian happening here, even though it requires a special majority, and it may go against the grain of sections 4 and 5 of the Constitution. We have got to realize—and I think the Constitution provides for that as well—that there are certain cases where we need to have special arrangements, and I want to point out that in other countries this kind of law has, indeed, been enacted.

If we were to look at the Bill, clause by clause, we would see that clause 4 seeks to empower the President to make Orders or Regulations restricting or prohibiting specific economic activities in relation to a foreign state, and to make Orders authorizing the seizure, freezing or sequestration of property in Trinidad and Tobago held by, or on behalf of, a foreign state, a person or national of that foreign state who does not ordinarily reside in Trinidad and Tobago.

Clause 4 talks about the powers that will be given to the President, and clause (2) of that clause provides for special exemptions to be made in the Order for certain persons or agencies of the foreign state to be excluded and, again, the flexibility here is coming into it.

Clause 5 of the Bill clearly outlines the economic activities which the President may restrict under clause 4. These include the restraints of trade, the use of air space over the particular country; provision of financial services, and so forth. Here, may I repeat, clauses 4 and 5 seek simply to provide that flexibility which is missing in the current legislation.

I did point out earlier that the imposition of sanctions needs to be reviewed in the context of the changing circumstances. When you impose sanctions on a country, the situation does not remain rigid. It is fluid. Things change all the time. There may be the need to tighten the sanctions or relax them from time to time if one is seeing movement towards reconciliation. We do not have that at this point. Right now, for example, there is a move, with respect to the Haitian situation, to tighten the embargo because it has not been working, and we need to be able to have that legislation to be able to deal with that.

2.00 p.m.

Clause 6 will authorize the Minister to issue permits to Trinidad and Tobago citizens resident inside or outside Trinidad and Tobago, exempting them from any restriction or prohibition imposed by clause 4. This is where the flexibility comes in—the exemption aspect of it. I should just like to repeat, that had we had clause 6 operational, we may not have had the situation to which I referred earlier.

Clause 7 deals with the liabilities of a person found to be in contravention of the provisions of the Act. It deals with fines and imprisonment, and so forth.

It is possible that clauses 8 and 9 may be seen to be contentious, because clause 8, in particular, grants to police and customs officers the authority to obtain warrants to search any "building, vessel, receptacle, or place" should they have reasonable grounds to believe that an offence has been committed under the Act, and to seize anything found therein and to carry the same before a magistrate to be dealt with according to law. But we should also note with respect to this clause, Mr. Deputy Speaker—I am very sorry, Mr. President. Whenever I see a male figure in that Chair, I am habituated to referring to him in that way. It is not intended as any disrespect at all.

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I was saying that especially with respect to clause 8, we must also look at the fact that in clause 10, which is the final clause of the Bill, it requires that any proceedings for the prosecution of an offence under the Act must first gain the sanction of the Director of Public Prosecutions. So that this ought to act as a check or a balance so there may not really be the need for a parliamentary committee to oversee the implementation of the Bill.

In presenting this Bill to this honourable Senate, let me just repeat that this Economic Sanctions Bill is not really intended to be draconian. Even though it, indeed, contravenes, to a certain extent, the provisions in the Constitution under sections 4 and 5, we need to have this kind of special arrangement to deal with certain international, political realities and to join with the rest of the international community in dealing with these. Because it is clear that if we allow certain kinds of situations to exist in certain countries, for example, if we allow the Haitian situation to continue in Haiti, in our own hemisphere, it is going to set a terrible example, and for all you know, repression and totalitarianism could proliferate to the detriment of the democratic movement which has been sweeping the world in recent times.

I want us to see this Economic Sanctions Bill in that light, as an attempt to modernize our systems in Trinidad and Tobago, which will position us to cooperate completely and substantially with our international partners.

I therefore commend the Bill to this honourable Senate and I thank you, Mr. President.

Sen. Daly: Before the Minister takes his seat, Mr. President, would he be good enough to elaborate a little on this energy sector transaction and why it would have been in our interests to have this transaction done, notwithstanding the conditions in Haiti?

Mr. Maraj: Madam Speaker—sorry—Mr. President, the two companies to which I refer are the Phoenix Gas Processors, and, I think, what was previously the Urea Company. The point I am making is that had we had this legislation in place, and had we so decided, we could have exempted them from the sanctions. In other words, we could have taken action to prevent them from losing their business to their competitors from other countries. That is the point I wanted to make. Whether we would have done it or not, would have been up to us, but the point I wish to make is that the legislation gives us that flexibility.

Mr. President: Whenever you see a male in the Chair it reminds you of the Deputy; and then you refer to Madam Speaker. I am wondering whether you adhere to the old belief of the calypsonian. *[Laughter]*

Question proposed.

Sen. Wade Mark: Mr. President, as you would note, my voice is a bit husky today but it should be, after that tremendous victory at Pointe-a-Pierre.

I should like to begin by saying that on this side we did have some reservations about the late arrival of my colleague, but he sought to provide some excuse. I think discipline is discipline, and it is unfortunate that we had a little indiscipline demonstrated today, but the sanction would not be imposed on him today.

The Minister provided this Senate with some explanations as to the justification for the introduction of this piece of legislation. We find his presentation to be riddled with contradictions. On the one hand he tells us that one of the reasons for the introduction of this Bill is to deal with exemptions so that we could protect two energy-based companies.

Mr. Maraj: On a point of order, Mr. President. I did not say that we were doing it for exemptions to protect these two energy-based companies. I did not say that. I was just giving an example of the flexibility that the Bill provides us with. I was using the experiences of those two companies with respect to their competitors from other countries to justify the need for flexibility. That is what I was doing, Sir.

Sen. W. Mark: On the other hand, he mentioned the need to tighten the economic noose around the neck of Haiti, given what is taking place in that Republic at this time. He went on, as well, to tell this Senate that the Customs Act which, apparently, governs this issue of imposing sanctions, is inadequate, and partly responsible for this new piece of legislation are the inadequacies of the Customs Act.

2.10 p.m.

We on this side do not know why the Minister did not seek to repeal the Customs Act insofar as that element is concerned. We do not know what is the real reason for the Government's haste in seeking to introduce this piece of legislation—it was read last week and is being debated this week.

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The Explanatory Note to the Economic Sanctions Bill 1994, which requires a constitutional majority, purports to provide for the implementation of resolutions imposing economic sanctions passed by any international organization of states, or association of states such as the United Nations, the Organization of American States, or even Caricom. But constitutional morality and law demand that the population of Trinidad and Tobago be properly informed prior to the introduction of any major bill for debate in this Parliament—particularly bills that require a special majority.

We cannot come to this Parliament and seek to introduce legislation that is going to infringe on the people's fundamental rights and freedoms, and get a flippant, weak and feeble presentation like that which we just received from the Minister of Foreign Affairs. This is why we believe that it is necessary that there be widespread discussions on bills like these which come before this Parliament. It might appear to be very simple for the hon. Minister of Foreign Affairs, but we believe it is much more complex.

The nature of the present Bill before this Senate seeks to give the President, who is acting on behalf of the Cabinet according to the Constitution, not only authority to impose resolutions or recommendations by a regional or an international organization of states or association of states, of which Trinidad and Tobago is a member, but also power to make Orders and regulations, to seize, freeze and sequester in the manner set out in the Order any property situated in Trinidad and Tobago according to Part II of the Bill.

More importantly—and we believe a more frightening aspect of this piece of legislation which the hon. Minister apparently skirted—is that in addition to the President, we have the Cabinet—and I want to read this part—

"The President may, for the purpose of implementing a decision, resolution or recommendation by a regional or an international organization of states or association of states, of which Trinidad and Tobago is a member, that calls on its members to take economic measures against a foreign state, or where Cabinet is of the opinion that a grave breach of international peace and security has occurred that has resulted or is likely to result in a serious international crisis—"

Not even in the powerful United States of America can the President impose economic sanctions against any country without bringing that measure to both Houses of Congress. Both Houses of Congress must approve economic sanctions.

Here we have a situation where the Cabinet of Trinidad and Tobago—a Cabinet that cannot be trusted is seeking to arrogate unto itself, according to opinion. This is dangerous! We cannot support this at all! We cannot support a Cabinet of Trinidad and Tobago, under this PNM, exercising what has been described in this Bill as an opinion. This is a measure that would normally reside in an agency like the Security Council. What does this Cabinet know about what would constitute a grave breach of international peace and security? What is this thing?

What is giving us some problems, as well is how is the national interest to be protected. How are we going to determine that the fundamental interests of our country are being protected? What is the role of the Opposition in a matter of economic sanctions? To rubber-stamp?

This is a very serious matter we are debating here, and while the Minister sought to treat it lightly, we view it very seriously. We will not support measures that are designed to put more power into the hands of a Cabinet that is accountable to no one.

We are saying that if the Government wants power to implement sanctions against a foreign state, it must have the approval of the Parliament; bring that to the Parliament of the country; not a Cabinet to have an opinion on a matter like this. This is a serious matter because people can be jailed and fined if they breach regulations or certain sections of this particular piece of legislation that we are dealing with.

If one looks at clause 5 of this Bill, that deals with Orders and Regulations, one would see the areas of restriction or prohibition which one is not supposed to be involved in once the Government of this country—a micro state that cannot even provide drinking water or employment for its population—has the power to determine whether a breach of international peace and security has taken place in some particular country.

I think that the Minister is not sufficiently straightforward with us. What is the real objective behind this piece of legislation? Is it purely Haiti? Or, is it something more than that. I was looking at the *Sunday Express* dated May 29, 1994, and I saw a headline which reads "US envoy to Guyana: No early entry into NAFTA". I read this article carefully and came across a particularly interesting part referring to some interim trade programme which I want to read to the Senate:

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"CBI..."

Caribbean Basin Initiative—

"...countries which receive the ITP..."

which is the Interim Trade Programme,

"would be required to negotiate intellectual property rights and bilateral investment treaties with the US within two years after the commencement of the ITP."

It goes on to say:

"In the interim, the 24 CBI countries...

of which we are a member—

"would have to give assurances to the US..."

2.20 p.m.

What are these assurances? We do not know what they are. We do not understand why the Government has brought this Bill, after 32 years of independence, 32 years of nationhood. There is the situation where the Government is seeking to tighten sanctions against Haiti, if we understand what the Minister is advancing. Could it not have tightened sanctions before? Do we need a Bill to tighten sanctions against Haiti? We are not clear and we believe that the Government is not sufficiently straightforward with the Parliament as to the real reasons for this piece of legislation before the Senate today.

We do not buy "cat in bag" and we are not buying this today. The Government has to come with a sounder, deeper and more detailed explanation on this Bill that is before us this evening. We have a Cabinet which is recolonizing Trinidad and Tobago at the moment, and this Cabinet wants to get more power to determine whether "X" or "Y" country has committed a breach of international peace and security. Then, this bunch of jokers that we have as a Cabinet will now determine whether they will impose economic sanctions against that particular country. We do not even have a proper helicopter for the national security forces in Trinidad and Tobago!

Sen. Huggins: Mr. President, on a point of order. That statement is not true. I have three properly functioning helicopters. [*Applause*]

Sen. W. Mark: Ray, ray, ray! You remind me of Bokassa. If we are not careful, this weak, feeble and wicked Cabinet we have in power at this time could

send this country into war. These men and women want to have the power to impose economic sanctions on their own. What are the basis and criteria for this? Nowhere in this Bill do we have any information on the criteria that the Government or the Cabinet would, in fact, employ in determining whether they would impose sanctions against 'X' or 'Y' country.

We do not trust this Government. We make this very clear. They cannot even find 'Lizard.' The Minister of National Security cannot even find 'Lizard' with three helicopters but they want to impose sanctions on countries. We on this side are very clear on this matter. There is an absence of accountability and transparency in this Bill. In fact, as with previous Bills, the Government is attempting to prohibit accountability. As we know, accountability is the essence of participatory democracy. We must have accountability in a serious democracy. Hence our call: and we shall continue to call for the establishment of parliamentary committees to monitor the activities of the Government. What we find very interesting is that in our very Standing Orders 71(a) there is provision for the establishment of:

"...a Joint Select Committee on External Affairs to be known as the Joint Parliamentary Committee on External Affairs. The Committee shall be a Standing Committee appointed for the duration of the life of the Parliament."

We will have to invoke this on this side. For instance, if one is going to deal with economic sanctions, and one is dealing with foreign relations, one must be able to monitor the Minister and the Government. We will have to get this committee going; our Standing Orders provide for the establishment of a Joint Parliamentary Committee on External Affairs. That committee was supposed to have been established in this new Parliament.

Mr. President: If you read the Standing Orders you will see why it is not functioning.

Sen. W. Mark: Mr. President, I am saying that is an area we would have to deal with. This Bill gives the Cabinet of the country extremely great powers, and we cannot support this at all under any circumstances. They would have to delete that completely. Further, this is draconian and dangerous, particularly with the Cabinet that we have in Trinidad and Tobago today.

We would like to find out—and the Minister has not indicated this to us where the infrastructure to operate this Bill is? Where are the mechanisms to put this

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Bill into effect? Where are the checks and balances to avoid abuses and the misuse of power with respect to orders, regulations and resolutions?

Sen. Capildeo: Checks and balances.

Sen. W. Mark: It is always good to be predictable so that you will know where we are coming from. We are not hiding anything. We talk the truth. That is why we won Pointe-a-Pierre. We were quite predictable in Pointe-a-Pierre. You were not. *[Interruption]*

Sen. Capildeo: The policy of the party is to speak the truth on the platform.

Sen. W. Mark: The man realized he was getting 'licks' but at nine o'clock in the night, he still was saying votes were coming in. Lenny is not easy. 'Licks' like peas. I feel that is why the Minister of Foreign Affairs came in a little late; he is too-tool-bay, still recovering from the blows. Mr. President, let us get back to this particular area.

Clause 6(1) of this Bill says:

"The Minister may, on application in writing, issue to any person in Trinidad and Tobago or any Trinidad and Tobago citizen outside Trinidad and Tobago a permit to carry out a specified activity or transaction, or any class thereof, that is restricted or prohibited pursuant to this Act or any Order or Regulations made under this Act."

This is a recipe for corruption. I am not saying that the Minister is going to be corrupt. We should have a committee established to ensure that if people are to gain exemptions or to gain permits, no one man or Minister should have that authority. That is a recipe for confusion. We are saying that this question has to be addressed. The Minister has mentioned in this Parliament, that two companies, Urea and Phoenix Park Gas Processors Limited, have already gained serious concessions. The Minister of Energy would know. Millions of dollars we have conceded. No taxes. They have gained so many concessions, and they have still lost business. What are the criteria under section 6(1) to determine whether the Minister would grant a permit to carry out a specified activity or transaction or not grant a permit?

What are the criteria? We do not know. We are leaving it all up to the discretion of the Minister. This is a period of democracy and transparency. Throughout the world there is a wave of democracy. People are struggling for freedom. We want to deepen the democratic process. That is what we are about.

We cannot support any kind of clause in this Bill that would give to the Minister sole authority to determine whether his friends would get a permit and Opposition business people would not.

2.30 p.m.

We are saying that the only way we can deal with this is to have a special committee established, comprising professionals and people who would, at least, appear to be more objective than the Minister. *[Interruption]* He can say what he wants; he is a Minister and I would be a UNC Minister at some time in 1996, and I do not want to have that authority. I feel that we need to have a committee to ensure that there is justice and fair play in this particular matter. We have no problem with that.

This is an area about which we are very concerned and we believe that the Minister would have to address this issue very seriously. We believe that he is giving himself too much power in this Bill and there is no accountability. Whom is the Minister going to account to? He is issuing permits to whomever, and if ever there is a cry that people have not been dealt with fairly, whom are they to turn to? The Minister? No, we need a system where justice will be seen to be done, and we are not seeing it here.

We have a Government that has been in power for two and one-half years and during that time it has been seeking to arrogate unto themselves more and more political power and control. This is another element of it, where they are seeking more political control. They want power but they do not want to account. We are insisting. We would drag them to account, if necessary. They have to account to the Parliament of this country.

If you look at the experience of the Government so far, in terms of seeking to arrogate more and more power unto itself, you will see what happened with the Constitution (Amdt.) Bill—more power; they want more power over the police service; they want to release safeguards to eliminate preliminary hearings—more power. They want more power under the Dangerous Drugs Bill. They want more power under the Financial Institutions Act, but no accountability. We must have accountability! We have been crying out for that for years. We now have a Bill before this Senate that says nothing about accountability, yet the Minister wants power. These are the signs of an emerging dictatorship.

The PNM is already in control of International Communications Network (ICN), as you know. That was formerly TTT and NBS. They are in control indirectly

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over many dailies in the country today. We understand from the Prime Minister that he has regular meetings with the editors of these newspapers—*Guardian*, *Express*, *Newsday*. [Interruption] The Prime Minister said clearly that he would not have any dealings at all with the *Mirror*. Open discrimination by the Prime Minister!

As I said, we on this side are not prepared to "buy cat in bag." We would like the Minister to tell us the real purpose of this Bill. Why the sudden rush? Who is pushing the PNM? Who is pushing the Minister of Foreign Affairs to bring this piece of legislation so hastily before Parliament? Is it the NAFTA block? For 32 years we had no economic sanctions bill before Parliament. We had the Customs Act which allowed the Government to do certain things. When the United Nations Security Council in 1962 imposed economic sanctions against the former Southern Rhodesia, which is now Zimbabwe, and later apartheid in South Africa, Trinidad and Tobago complied. Trinidad and Tobago had no trading relations with South Africa for years until recently when the United Nations lifted the embargo.

In other words, we have a history of adhering to United Nations Security Council Resolutions on the issue of embargos, on the issue of economic sanctions and arms embargos. Why this sudden rush to bring a Bill before this Parliament telling us that the justification for this Bill is that you wish to tighten sanctions against Haiti? We believe that this is a front.

Mr. Maraj: The hon. Member is misrepresenting what I said. I did not say that the purpose of this Bill is to tighten economic sanctions against Haiti. I used the tightening of sanctions against Haiti as a current example, and the point I made over and over in my contribution is that the purpose of the Bill is to provide a more comprehensive legal framework with respect to co-operating with our international partners with respect to sanctions, and also to provide administrative flexibility which we do not have at present. I said that over and over, so for the Senator to distort what I am saying is really unnecessary.

Sen. W. Mark: The Minister comes to this Senate, speaks briefly, speaks in contradictory terms, is hazy in his presentation, and wants me to write down everything that he has said? If the Government of Trinidad and Tobago were serious about these matters, they would have brought these matters long before to the country, not to me or to the Opposition, but to the attention of the country. We would want to deal with that kind of situation. [Interruption] We will deal with you at the appropriate time. Take care it does not boomerang on you.

Mr. President, under clause 4 of this Bill, we ask the question: What would be the position if the President or the Cabinet decides to adhere to a resolution or a decision or a recommendation of either an international or a regional organization of states or association of states for the implementation of economic sanctions against a foreign state? How would the President be able to determine whether this matter is in the country's national interest? I ask the Minister of Foreign Affairs: How would he be able to determine—he seems to be always waxing warm when I am on my feet. *[Interruption]*

Well, you are made up of that, not me. You come late to the Senate, insult the whole assembly, with a brief, simple presentation which offers no real explanation and then you seem to be getting uptight. That is what I am saying—that we are not supporting this. *[Interruption]* We will stand up, right up, all the time, to PNM! Wherever you go, we will be behind you, right through, until we run you out of power in 1996.

2.40 p.m.

I would like to put a question to the Minister, my hon. Colleague and Friend who sometimes gets warm. In a situation where a resolution is passed by an association of states or an international organization of states and our President has to implement this particular decision or recommendation, and that particular resolution is not in the national interest, will we slavishly and sheepishly follow that resolution? How are we going to ensure that the national interest is in fact preserved? I am trying to get some answers from the Minister.

We want to know what is the link between this Bill and the power that the Government wants to arrogate unto itself as a Cabinet, even as it relates to the United Nations Security Council. There is a Charter of the United Nations and Statute of the International Court of Justice. In Chap. 7 there are different articles. Article 39 gives to the particular country that the United Nations Security Council is seeking to impose sanctions against, an opportunity to, at least, redress whatever wrongs it has committed.

For instance Article 39 says:

"The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."

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Article 40 says:

"In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable."

There is a Charter that deals with the Security Council under Chap. VII. It states:

"...the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable."

We are seeing a Bill before us which provides no information on precisely how this Cabinet or the President is going to act. We are not seeing in this Bill, Sir, where for instance, if the Government of this country brazenly decides to impose economic sanctions against a particular state, it would be acting on instructions from some other source. We do not know if they would be giving that state an opportunity to redress whatever they are accusing the state of, because the Government is saying it could be a breach of international security and peace.

We are asking these questions because this is a dangerous Bill that is before us and we cannot give the Government *carte blanche* authority to impose economic sanctions against a state because someone in Washington says, or instructs the Minister of Foreign Affairs or the Prime Minister to impose sanctions against country "X". The Government wants to have that power to determine exactly when—[*Interruption*]. What we are saying is that we do not know how it would happen, or how it happens. We are saying that the Government of this country must come before this Parliament to justify the imposition of sanctions against any third party, or any other country: it must get the approval of the Parliament.

These are questions we are asking. We want clarification from the Minister. There is a United Nations Security Council in existence. We are a member of the United Nations family, and we want to know why, suddenly, this Government wants to take upon itself the responsibility of the United Nations Security Council.

“Under Chapter VII of the Charter, conceived as a key element of the United Nations system of collective security, “The Security Council ‘shall determine the existence of any threat to the peace, breach of the peace, or

act of aggression, and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.”

This is a function of the United Nations Security Council and we are a member of the United Nations General Assembly. I understand we served on the Security Council in 1991: we had membership there for about one year. Why must the Cabinet of this country have the power to determine acts of aggression or breaches of international peace and security? That is the responsibility of the United Nations Security Council! Why do the Government want that particular responsibility? There is something in the mortar besides the pestle! They are coming to use the Opposition to get through with something that they have not been forthright with. What is the real reason?

There is an International Court of Justice as you are well aware. I recall an instance some years ago where Nicaragua had taken the American Government to the International Court of Justice, which is the highest court in the world. Even though that court ruled in favour of Nicaragua, the United States Government refused to adhere to the judgement of that Court.

The question I am asking is: Are we to slavishly follow resolutions and decisions of international organizations when those very countries that make up these international bodies do not adhere to the International Court of Justice? We want to ensure that whatever this Government is doing, we are "maccoing" them. We want to ensure that we police you, that we supervise you! You have been actually abusing your power and the authority that has been invested in you by the population.

This is why we are saying, set up a Joint Parliamentary Committee to supervise this particular sanction. This Bill will not get Opposition support unless the Minister can give us the assurance that we are going to be part and parcel of a monitoring committee to determine implementation of this Bill, and secondly, to ensure that there is no abuse and misuse of the powers under this Bill.

Sanctions are nothing new. As I said, we have had sanctions for years under the United Nations. All the issues I have mentioned were addressed by the United Nations over the last few years. I think the Minister needs to be a little more forthright in telling us precisely what is the real purpose behind this Bill.

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2.50 p.m.

If we go back to the Bill directly, we would see where Orders can be issued and regulations can be made. The Minister can issue permits and make regulations; we want to know under what circumstances these permits, orders and regulations can be rescinded. Who is going to do that?

The Government is seeking to create a Gestapo state; it is seeking to impose criminal sanctions against citizens of this country. Remember, there is no way of monitoring or supervising the activities of this Government. Clause 5 of this Bill states that in the case of any person living in Trinidad and Tobago, or any citizen of Trinidad and Tobago outside Trinidad and Tobago who is involved in the transfer, provision or communication of any technical data to a foreign state which the Cabinet—18 men and women—determines should not have any trading relations with us would be fine.

On summary conviction, \$25,000 and imprisoned for a term of one year; and on conviction on indictment, a fine of \$25,000 and imprisonment for a five-year term. This provision could be used against citizens, that is why we want to monitor it; we want to ensure that the Government does not abuse its authority here.

At present there are trading relations between private sector elements in Trinidad and Tobago and Cuba. As an example, suppose the Government is given an edict from abroad to cut off all trading relations, and the Cabinet takes a decision—because it reports to no one, the members sit in their little room in the Twin Towers—the private sector which is involved in trading relations with Havana—

Hon. R. Maraj: I thank the hon. Senator for giving way. I just want to remind him that in spite of what could be perceived as pressures trying to be put on this Government or previous administrations of Trinidad and Tobago, we have always maintained relationships with the country he mentioned, Cuba, and indeed we maintain diplomatic relations and we continue to do business in the normal way.

Mr. President: This is an appropriate time to seek an extension.

[Pause] It does not seem that you can continue.

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

Question put and agreed to.

Sen. W. Mark: You know, Sir, silence is consent; it has always been like that. I am always grateful for silence on the PNM Benches.

Sir, this Bill contains clauses that are extremely dangerous. We should like the Government to withdraw this Bill. We want to advise the Minister of Foreign Affairs to do so and to have this document properly circulated to the population to allow for comments and views from the population, and if necessary, have this matter referred to a joint select committee of Parliament for further study.

We believe that the Bill in its present form is not going to work, and we feel that it is in the interest of the Government not to bring legislation here without having consultation with the Opposition. The Opposition is not a weak Opposition. The Government should not take the Opposition for granted—that was in 1991, we are now in 1994; we have 14 seats, so do not take us for granted. We are not rubber-stamping any measures from the Government. We are insisting that the Government put mechanisms in place to ensure that there is accountability. If that is not done, the Government would not get our support. I want to make that very clear.

Sen. Huggins: You have said that already.

Sen. W. Mark: Well I want to repeat it, to get it home. We want the Government to withdraw this Bill and put it out for public comment and debate.

As far as we on this side are concerned, we would like the Government to know that there are certain elements in this Bill which we have serious reservations on. *[Interruption]* You allow me, you are not the President. I know the Minister is a Gestapo man, a Rambo politician. He will not go on a platform to speak.

Sen. Hosein: He went to Curepe, man.

Sen. W. Mark: I understand the Minister lost his virginity when he made his maiden speech at Curepe.

Sen. Draper: What does losing his virginity have to do with this?

Sen. W. Mark: You ask him.

We on this side would like the Government, first of all, to delete certain elements under clause 4 (1) of the Bill. We do not support the clause where the Cabinet has the power. We believe that when a state of emergency is to be declared in this country, the President of the Republic is the one who is

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responsible for declaring it. The President, based on consultation with and advice of with the Prime Minister and the Leader of the Opposition, would then be able to issue these Orders and Regulations. We want to ensure that the Opposition, because of the importance of this matter, has a very critical say when legislation of the nature before us becomes law.

We want to advise the hon. Minister of these changes that we are proposing. With respect to clause 6 (1) of this Bill, we would like the hon. Minister to establish a committee [*Interruption*] a committee, not a joint select committee; that is coming—a committee to ensure that there is no favouritism, corruption or nepotism involved in the issuance of permits.

And most importantly—I come to the particular one my colleague just mentioned—under no circumstances, I want to make it very clear, Sir; under no circumstances, would the Opposition be supporting this Bill unless we are given, some kind of authority, through what we have described as a joint parliamentary committee, to monitor, supervise and police the Government as far as the imposition of economic sanctions is concerned. We want to make that very clear.

3.00 p.m.

Therefore, if the Government is willing to ensure that these things are, in fact, placed in the legislation and that the mechanism for implementation, monitoring and supervision of this Act is, in fact, adhered to, and that no Cabinet will be, unilaterally, imposing sanctions on any country—it must be the Parliament of Trinidad and Tobago that must do that—we will go along with them. The Independents, the Opposition and the Government combined would be responsible for determining justification for the imposition of sanctions.

Sen. Daly: No.

Sen. W. Mark: We make our point very clear, Sir. No illusions about what we stand for on this side, and I hope that the hon. Minister would understand what we have said. We have not drawn up any amendments as yet. We, at least, advance to you, Sir, some of our ideas and we would like the hon. Minister to put those matters into effect and advance the necessary amendments so that we can have the changes that we require, because we would not like him to leave here a disappointed man today. We know that he will try his best. We know he is weak, but we know he is trying.

We say that this Bill is one that ought to have been put out for public comment. It should have been issued to the population first. We believe that the

Government is taking the Opposition for granted. We warn the Government that the days for that kind of approach are over—over a long time ago—and we want to emphasize that! We believe that if we have to work in harmony and co-operation, the Government must seek consultation and dialogue with the Opposition and the population.

Before the Government brings legislation here that requires a three-fifths on a two-thirds majority that will infringe on our constitutional rights and freedoms, it must get the consent of the population and the Opposition, so that when it comes to this Parliament we will not have to deal with what we are dealing with now. It is because of the lack of democracy and the arrogance and contempt of this Government that we have to come here to debate a matter of such importance, that was tabled only last week, when the Government was aware that it wanted to bring this Bill almost two years ago. This Bill did not come overnight, the Government knew it wanted to bring this Bill. *[Interruption]* I said it did not come overnight; it was brought on Tuesday, but the Government had it in mind to bring it a long time ago.

What we are saying is that the Government has a responsibility to the Parliament to provide information. The hon. Minister did not provide this House with sufficient information on this matter, or with sufficient justification for this measure that is before us today. We are asking him to withdraw this Bill to avoid any embarrassment later. Withdraw this Bill, and allow the population to have some say in this matter and for the parliamentarians to have a greater say in this matter. We would like to rest our case on this at this time, Sir the ball is now in the Minister's court to deal with the issues I have raised. We hope that in the interest of unity, democracy and co-operation—if the Government is interested in national unity, we are. If the Government wants to form a government of national unity, we will—we have no problem.

Sen. Capildeo: Yes!

Sen. W. Mark: We will join with you to work towards the betterment of the country, but we want to let you know—

Sen. Ojah-Maharaj: You did not work with NAR.

Sen. W. Mark: Sir, we want to let the Government know that we are prepared to support any legislation that is in the interest of the nation. But what we advise is that we want checks and balances; accountability and transparency. As I said, Sir, if we have to drag the PNM Government to come to that realization, we will

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do it, because the Government has a responsibility to this nation and it has been fooling around with that responsibility. We on this side will ensure that the PNM does what it is supposed to do in ensuring that there is accountability in this Parliament and in the nation as a whole. We will not rest until this PNM Government becomes accountable to the population, and we will do whatever we have to do to ensure that all Members of the Government come to their senses, and bring about the kind of measures necessary to promote unity and co-operation, so the people could have accountability and transparency in the affairs of this nation.

Thank you very much.

Sen. Huggins: Amen!

Mr. President: Before I call on Rev. Teelucksingh, I want to clarify something that is contained in the Standing Orders, in view of the fact that Sen. Wade Mark made reference to it twice in the course of his speech, and I think it is a general misunderstanding among members of the public as well.

The Standing Orders require the Clerk of the House, or the Senate, to publish every Bill that is introduced in Parliament in the *Trinidad and Tobago Gazette*. Bills are, accordingly, printed and published in the *Gazette*. When a Bill is introduced in whichever House of Parliament, even if it is not yet printed and published, copies are made available to all Members of the House in which it is introduced and they are also made available to all sections of the media.

Once a Bill has been introduced in any House of Parliament, the public is free to comment on it and submit those comments to the Minister concerned, the Attorney-General, or the Clerk of the Parliament.

Sen. Rev. Daniel Teelucksingh: Mr. President, I am quite reluctant to identify with this Bill before us which intends to provide for the implementation of economic sanctions imposed by regional or international organizations against any state.

By way of introduction, I refer to the comment in the Explanatory Note to the Bill, which makes mention of “any of these regional or international organization of states or association of states, of which Trinidad and Tobago is a member.” I should like to ask a question, Sir: Does it necessarily mean that we have no choice but to toe the line, if we are members of any regional or international organization of states or association of states? In the context of the Bill before us, does it mean

that we must go along with others who desire to impose sanctions against a foreign state?

Sen. Dr. Saith: No.

Sen. Rev. D. Teelucksingh: What is the cost of international partnership these days? This is a term used a while ago by the hon. Minister. What is the cost of international partnership? It is a question that small developing states need to ask. It is something we need to look at. There is a trend, you see, and in our external policy, I am noticing—and anyone can see—a kind of blind absorption, as it were, where small nations like Trinidad and Tobago, even Caricom, are engulfed, a kind of blind absorption into massive international organizations where small nations tend to lose their conscience. And that is a problem.

I know it seems that the safest way today in this emerging global community is obedience, particularly of developing countries where grants, loans and other benefits are there as incentives. And this is the price. Dependence for developing countries so often results in the surrender of individuality and conscience, and this cannot be denied. Somehow or other, I suspect that the Bill before us is another attempt to make us fall in line, and this is where I have my doubts. I am very reluctant to be identified with the Bill. I am very suspicious of partnership in these international organizations. You would have known this by my comment a while ago, Mr. President.

3.10 p.m.

My main difficulty in supporting this Bill is that I am convinced, and you know this well, Sir, that there are instances where economic sanctions create more hardship and privation to the masses in a country, while the offenders, mainly the rulers, can survive as they wish. They certainly do not starve, but the general population of that country is asked to bear additional suffering through embargos and sanctions. This cannot be denied, and this is basically what the Bill, indirectly—and this is my problem—encourages and promotes—additional suffering on a nation already suffering. To a suffering people, you add a further burden by economic sanctions to teach a country's ruler who, most of the time, remains stubborn while his people suffer. This is the behaviour of some of these nations today.

Concerning the effects of sanctions, I wish to draw your attention to our neighbour, Haiti. The Minister made reference to that. How could we get away in

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this kind of debate from making reference to Haiti? The United Nations Security Council's embargo on Haiti has increased the suffering of the poorest nation in this hemisphere, and so far, it has not removed the country's military government. For months now the fuel embargo did not seem to bother the present rulers. Whether President Joaquin Balaguer of the Dominican Republic can seal off his borders and end smuggling is still to be seen. It has been said that because of the smuggling, the elite in Haiti have become multi-millionaires overnight. I do not know how they are going to stop that.

Those 10 international warships and the US patrol boats are only symbols of a siege on a helpless country, the poorest country in the West. Ten international warships and US patrol boats—symbols of a siege and symbols of economic sanctions, and that is supported in the Bill. This is why I have problems with the Bill. All of these people who are out there with their military might are now to contend with the resurgence of the macoutes and similar nationalist groups in Haiti, and five million and more, starving peasants further impoverished by sanctions.

Mr. President, let me share with you an article in the *Time* magazine of November 22, 1993. It is entitled, "Sanctions and Spoons:

Aimed at defiant military leaders, the U.N. embargo is causing the starvation of many young children."

It states:

"Since the U.N. tightened its embargo on Haiti last month, the shutdown has had severe effects on the island—not on the well-fed generals..."

This is one of the points I made earlier. The well-fed generals are not affected by the sanctions and the embargo. It continues:

"who hold the country in their grip but on thousands of families who no longer have enough to eat."

Listen to this, Mr. President:

"...the U.N. is inadvertently creating something approaching famine for the poor in Haiti.

A study released last week by the Harvard University Center for Population and Development Studies concluded that 1,000 Haitian children age 5 or younger are dying of malnutrition every month because

of U.N. sanctions that began in 1991. Though the embargo does not include food and medicine, the study maintains, the disruption of the transportation system and the economy in general is keeping thousands from working—leaving them unable to afford basic necessities."

The article continues making reference to one of the poor cities, as follows:

"...perhaps the most desperately poor slum in the western hemisphere..."

And at a particular hospital visited the pediatrician, according to the article had this to say: "we see only one malady. We see only malnutrition."

That is because of sanctions. It continues:

" 'Everyone agrees that the embargo is killing children.'

A recent study by UNICEF concluded that since the sanctions went into effect, the proportion of deaths among children age 5 and younger has risen from 38% to 58%."

I cannot see how I could support sanctions. It goes on:

"....'it has never been this bad.'

In pre-embargo days, she says, deaths averaged four a month; this month, she has counted 11 dead."

This is how the article ends:

"The embargo has already killed more people than the military have."

I want to repeat that:

" 'The embargo has already killed more people than the military have. The poor and the children are feeling the embargo and no one else.' "

Mr. Maraj: I thank the Senator for giving way. I just want to get his position a little clearer. Do I get the impression that he is against sanctions generally? Is he, for example, against the law that the Government would have in place at this time, the Customs Order, which allows us to join with the rest of the international community in dealing with sanctions? Or is he against this Bill? I need to know what really is his position.

Sen. Rev. D. Teelucksingh: I could answer that, because here it is you are talking about economic sanctions against a foreign state and you are bringing in all the other niceties here. You say they are interrelated, and if they are, my

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position is, I am against sanctions. As long as sanctions, including that bundle of other regulations concerning trade and customs matters and so on—if all of those are together to create this kind of scenario in any foreign state, I cannot see how we can tolerate and do something like that. My current example is our neighbour, Haiti.

Mr. Maraj: I agree that sanctions do create problems and exacerbate the poverty and the suffering of people in certain countries. But would the Senator not agree that sanctions did play a role as well in dismantling the pernicious system of apartheid?

Sen. Rev. D. Teelucksingh: I would like to continue because I would make a comment on that.

On the Haitian question, I think we need to applaud the courage of the Bahamian government, a small Caricom country. Do you know, that Caricom has been very silent within recent times? This is what I am saying. Caricom has been absorbed in the whole UN—in this massive organization. Caricom countries have lost their identity, their individuality, as it were, and their conscience. This is my problem.

I am very, very pleased, and the whole Caribbean should applaud Bahamas for what they did—a small expression in a tangible way for their genuine concern for so close a neighbour. Could we in Trinidad and Tobago not have given asylum to one footballer who pleaded with us? Or were we pressured by somebody else? They will tell me, no. Fine, we were not pressured. But then, what has become of our conscience? One footballer? Not at all! Is Caricom aware of the privations of Haiti?

Mr. Maraj: On a point of order. That matter that the hon. Senator has referred to, the question of footballers, let it be known that we made our position very clear, that if a request was made of the Government, we would have provided an answer. No request was made of the Government. In fact, the Government of Trinidad and Tobago did assist the footballers considerably in leaving the country, and we can make that information available. But the fact of the matter is, no request was made of us with respect to amnesty, or anything like that, and, therefore, we were not in a position to respond.

Whilst I am on my feet, the situation in the Bahamas is one that is, as far as I am aware, extremely aggravating to the authorities in that country.

3.20 p.m.

Mr. President: Can I make an appeal? I would like to advise the Minister of Foreign Affairs that probably he can hold some of his answers to matters raised during the various contributions in this debate, otherwise he might find himself not having anything to say when it is time for him to reply. Let the Senator express what he wants to express; take a note of it and at the end of the debate, when the Minister has to reply, he can deal with all the matters that have been raised.

Sen. Rev. D. Teelucksingh: Mr. President, as a student of history, I am always willing to learn.

I wonder what the US trade embargo against Cuba for 32 years did to that country. This is something we have to look at. They imposed sanctions on Cuba for 32 years, and Castro is still there! The objective of the sanctions was really to starve Cuba to bring down Castro, but he is still there. The embargo was meant to cripple him. The sanctions have failed and when the story is told it is alienation caused by these sanctions of the West that made Castro a handy weapon to be used by the dreaded Russian bear.

When Comrade Burnham ruled Guyana as a quasi dictator, what economic sanctions were laid on him and his country? Instead, we in Trinidad lent him millions of dollars. And he is not around to pay it back! Talk about different strokes for different folks?

The Minister mentioned South Africa. After we study the story of South Africa—and looking at the history on all sides—the world community knows better—I should like us to ask ourselves: What did economic sanctions do to South Africa as we expressed our disgust for apartheid? That government carried on, as usual, really with little inconvenience, because it is a rich country! Economic sanctions hardly bothered the government of South Africa! In fact, out of the 30 years of that pressure, they kept Mandela in jail for 27 years! Economic sanctions never bothered them!

Look at the story of the United Nations—one talks about economic sanctions! During that period, it never bothered South Africa too much because they had friends even in the United Nations. Barclays of England carried on business as usual in South Africa, and Margaret Thatcher just turned her head and looked in the other direction. And one is talking about economic sanctions! If South Africa

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was as poor as Haiti, things would have been different, but sanctions never bothered them. Sanctions could not bother them. And this is one of my problems.

My difficulty with the Bill is here. The record seems to show that economic sanctions are most painful—and in this sense most successful—only when such sanctions are directed against poor, struggling and almost helpless nations; and, because of the suffering and pain inflicted on innocent men, women and, particularly children, I close by saying, Sir, I am very reluctant to meaningfully identify with the Economic Sanctions Bill, 1994, since I really do not think that our country should go that way.

Thank you, Mr. President.

Sen. Martin Daly: Mr. President, my support for this Bill will be conditional on a number of changes. I say that at the outset because when I have the opportunity to make a contribution in this Senate, I keep referring to the dangerous times which we are in. The Minister talked about democracy spreading throughout the world and I think it relevant in the context of this Bill to identify some threats to our democracy which the passage of this Bill in the Senate will demonstrate.

I see as one threat to democracy poorly reasoned attacks on the Constitution and on all those who have to do their duty; whether they are judges, journalists or parliamentarians. I see these as very dangerous moments. I see difficulty with the inability of the state to provide jobs and basic amenities. I see difficulty with runaway horses in positions of power in this country—whether they are in the Cabinet, in the airport or at the television stations.

It is against this background that I want it to be understood that when this Bench—in case anybody is crazy enough to suggest it—suggests changes to legislation, it is not to obstruct anybody. I want to make that very clear because, there is a wildness about the place now that suggests that anyone doing this duty is somehow a traitor, or treasonous to the country. And that wildness should stop. That is why I make my remarks in this context.

Therefore, I have absolutely no difficulty in joining with the Opposition in supporting the complete deletion in clause 4(1) of the subjective opinion of the Cabinet with regard to a grave breach of international peace. That simply has to go. So, that is one condition of my support. I think there is good reason for deletion because we are a small state and whether or not, in the subjective opinion

of the Cabinet, we impose sanctions on someone in the interest of international peace, really is not going to matter.

It is really an arrogance to assume that the subjective opinion of our Cabinet to impose sanctions, not in international partnership with anyone else, is going to make a blind bit of difference on the international scene. So, whoever drafted that, is really a role they are playing. That is a misquote of Brother Valentino, but I think everyone will know what I mean. It is a role they played to put this in this legislation. That has to go.

I do not have the same blanket problem that my colleague Sen. Teelucksingh has with sanctions—there may be occasions on which it may be necessary. I tend, generally to agree with him that sanctions really result in pressure on poor people while the rulers fly in their champagne and caviar and it is business as usual, but there may be occasions on which it is necessary to join with other people in imposing sanctions on other countries. So, it is against that background that I am trying to give this Bill some critical examination, but it is totally unsatisfactory.

I do not have a problem with clause 4, other than the part which I identified, because the rationale for the Cabinet advising the President is clearly spelt out. It says that:

"The President may, for the purpose of implementing a decision, resolution or recommendation by a regional or an international organization of states or association of states, of which Trinidad and Tobago is a member, that calls on its members to take economic measures against a foreign state...

(a) make such Orders or Regulations..."

So, I know what the criteria are, but jump high, jump low, it is totally contradictory, whether the Minister accepts it or not, to have a blanket licence given to the Minister to permit exceptions to any sanction Order that is made. That is totally contradictory.

I am very sorry that he was so indelicate in answer to my question to mention the names of the traders that were involved. That was not the purpose of my question. The purpose of my question was to draw from him—for the purposes of perhaps putting up an amendment to this clause—in what exceptional circumstances would it be right to make a 180 degree turn and exempt someone

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trading in this country and permit him to carry on with business notwithstanding the imposition of sanctions, if we have taken a moral position to impose sanctions.

Therefore, at the barest minimum, one would expect to see in clause 6 not only criteria—as has been suggested by the Senate Minority Leader—by which a permit will nevertheless be granted; but one would expect to see in the drafting, reference to the granting of that permit in exceptional circumstances, which are then specified.

And, in the hands of—not a corrupt—but a foolish Minister this could be another runaway horse without any checks and balances, to quote the Senate Minority Leader.

3.30 p.m.

The second condition on which I would support this Bill is a complete redrafting of clause 6 to make it clear that the granting of permits should be done in exceptional circumstances, and that these be specified in some general way. It is ridiculous, given where we have gone in the advancement of constitutional law for anyone—it is not the Minister's fault—to put a Bill drafted in this way in the Minister's hands with an obvious internal contradiction. It is really putting the Minister under tremendous handicap. Clause 6 has to be dealt with in my opinion. The Cabinet opinion must be deleted.

I also agree with the general proposition regarding reasons and, here too, I refer to the wildness of the attacks made on the Government when one seeks to do its duty. It is important that we know the reasons. I would not go so far as to say that any of us must participate in making the decisions that the Government must impose sanctions. We must be given the reasons the Government has taken the action that it has, and in certain circumstances, those reasons must be the subject of a debate and, therefore, it is very important to provide for that in here.

Maybe the draftsmen are young, maybe they are not well led, but I always try as far as possible to show precedent for what I am recommending. If we take the step of imposing economic sanctions on a country, this country, through the Parliament, must be given the reasons for so doing and possibly, those reasons should be debated. I put it no higher than that. At the moment I would be satisfied

if there is provision in the Bill for the Government to make a statement within a specified period as to why that step was taken.

And, Mr. President, as you know, there is precedent for it, with which I am sure the Chair is very familiar. If you look, for example, at section 9 of the Constitution, even in relation to a period of public emergency there is an express obligation on the Government within three days of making the proclamation, to present a statement setting out the specific grounds.

I am not thinking up these things. I wish I could be so original. All these safeguards are there. I ask the question: Why do the draftsmen ignore these traditional safeguards, and put an inadequate Bill like this in the hands of the Minister? Why do they do it? Do they think that no one is going to pick it up? By now it must be well known that many of us do not like runaway horses, whether they are in the Cabinet, the airport or the television station. We want saddles, bridles and stirrups. Whips are a matter for the Government. The draftsmen know perfectly well that these safeguards are common in legislation of this kind.

Therefore, a third condition of my support would be provisions analogous to clause 9 where the Government must, within a specified time, come and make a statement to the Senate that it has imposed sanctions and what are the reasons. I do not say it has to go as far as our having a debate.

Then, I become even more confused, because when I look to the enforcement provisions of the Bill I see that if someone contravenes the Act he would get a fine of \$25,000.00. That is rubbish, with the greatest respect to the draftsmen. The shipment of illegal oil, or whatever, is going to be worth a zillion times more than \$25,000.00. You could walk into the magistrates' office every Monday morning and say, "Here are my bills of lading and shipping documents for the next shipment that I am sending to the country under sanctions, and here is an envelope with my \$25,000.00, hand it to the magistrate one time." It has not been properly thought out.

These are Mickey Mouse enforcement provisions. The draftsmen should know that there are ways of dealing with these matters. To make these enforcement provisions appropriate, you can either have fines that continue every day for each day of the offence, or you can have forfeiture of the goods or you can have fines that relate to x number of times the value of the shipment, as the case may be. None of these are original ideas. Why has a Bill with these inadequacies been put

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in the hands of the Minister? These are matters that are well known. What is the point in these Mickey Mouse provisions? They do not mean a single thing.

I should like to see proper enforcement provisions that would make the breaking of the sanctions sufficiently expensive that it is not worth the businessman's while to do it.

In my respectful view, those are four serious flaws in this Bill, and I would like to see them corrected. I do not think that I am being obstructionist. I would be failing in my duty if I did not point out what I thought these flaws are in an effort to get them accepted.

I refer to these because I have heard politicians on the Government side talk about matters in which Senators on this Bench are involved. They have talked about matters being locked up in committee. They have talked about Bills in committees on which I have served, being locked up, when I am prepared to come every Thursday, as the case may be, to deal with them. What is happening in the wildness and the craziness is that the people who are doing their constitutional duty—judges, lawyers, journalists and parliamentarians—their heads are passing in the wildness, and it has to stop. We must have a proper appreciation of the function of the Legislature.

And, really, many of the Minister's difficulties would have been avoided. I am sure that Sen. Teelucksingh for example—and in a proper presentation we would have been told so—I assume that in clause 4 where it says that the President may pass these orders, that that is permissive, and that we have an option that even though the regional association has said it wants sanctions, I assume that means we have an option. If a brief was properly prepared for the Minister that would be explained, many of our difficulties would have evaporated at the start.

I asked the Minister a question designed to draw out from him what are the criteria under which a permit would be granted, and what he did was call the names of two trading companies. That does not help me. Similarly, I am sure that Sen. Teelucksingh would be comforted to know, as I read this Bill, that even after the regional association has decreed it, we still have an option. That is taking Parliament for granted to come here and not explain those things. I am not even sure if that "may" is permissive, but, at least I can guess that.

I am complaining, as I sometimes have to do, that the briefs that are prepared for Ministers on technical pieces of legislation like this, whether they require a special majority or not, are not adequate because it is as though people are saying

the Parliament is just a nuisance. Let us just push it through there; the Parliament really should not have any influence over the legislation that is passed.

I am spending some time on that because of what I conceive to be the current atmosphere. So, those are some matters which I think are important and I would like to see addressed in the re-drafting of this Bill, possibly in committee.

3.40 p.m.

Perhaps I can just deal with another matter, and I, too, am concerned about the relationship of this Bill to section 44 of the Customs Ordinance. There are many questions I could ask about it, such as: What else are we going to use section 44 for, once we have this Bill? I would also like to be satisfied that we need this Bill at all, because I see under section 44 that it is not only prohibition alone that Customs can issue, but it can, in fact, prohibit importation, except on compliance with conditions. So, maybe the same administrative flexibility which the Minister says we need can be achieved under the Customs Ordinance without this Bill. I do not know and I would like it explained to me in a proper presentation of this Bill—whether it requires a special majority or not.

These are some of the things we need explained to us. If this is a comprehensive legal framework as the Minister claims, where does section 44 fit in? Does it have a future if we pass this Bill? I do not know and I can understand many of my colleagues having difficulty with these matters.

In much the same way that I would not like the Government to take our constructive support for this Bill for granted, I would like to suggest also that we need to have a new Standing Order and perhaps it might say, not that silence is consent, but that silence is a courteous hint or a courteous refusal because I think that none of us, from any side, likes to be taken for granted.

Thank you very much, Mr. President.

ADJOURNMENT

The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith): Mr. President, I beg to move that the Senate do now adjourn to Tuesday, June 7, 1994 at 1.30 p.m. when debate on the second reading of the Economic Sanctions Bill, 1994, will continue.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 3.43 p.m.

Economic Sanctions Bill
[SEN. DALY]

Tuesday, May 31, 1994