

SENATE*Tuesday, November 15, 1994*

The Senate met at 1.30 p.m.

PRAYERS[MR. PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Mr. President: Hon. Senators, I have granted leave to Sen. Diana Mahabir-Wyatt to be absent from sittings of the Senate during the period November 14—21, 1994 as she is out of the country.

I have also granted leave to Sen. Dr. The Hon. Lenny Saith to be absent from sittings of the Senate during the period November 15—18, 1994 as he would be out of the country.

I have granted leave to Sen. The Hon. Barry Barnes and Sen. The Hon. Camille Robinson-Regis to be absent from today's sitting because of illness.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have been advised that His Excellency the President has appointed Mrs. Nirupa Oudit to be a temporary Senator with effect from November 14, 1994 and continuing, during the absence from Trinidad and Tobago of Sen. Diana Mahabir-Wyatt.

I have also been advised that his Excellency the President has appointed Mrs. Norma Lewis-Phillip to be a temporary Senator with effect from November 15, 1994 and continuing, during the absence from Trinidad and Tobago of Sen. Dr. the Hon. Lenny Saith.

OATH OF ALLEGIANCE

Senators Norma Lewis-Phillip and Nirupa Oudit took and subscribed the Oath Allegiance as required by law.

Mr. President: Hon. Senators, the following sessional select committees have been appointed:

SESSIONAL SELECT COMMITTEES**Committee of Privileges**

The President (Chairman)

Sen. Russell Huggins

Sen. Deodath ojah Maharaj

Sen. Surendranath Capildeo

Sen. Prof. John Spence

Standing Orders Committee

Sen. Ainsley Mark (Chairman)

Sen. Camille Robinson-Regis

Sen. Ashick Mohammed Hassim

Sen. Wade Mark

Sen. Martin Daly

Statutory Instruments Committee

Sen. John Rahael (Chairman)

Sen. Gordon Draper

Sen. Pundit Ramcharan Gosine

Sen. Kamla Persad-Bissessar

Sen. John Rooks

House Committee

Sen. Jean Elder (Chairman)

Sen. Jaigobin Nanga

Sen. Carol Merritt

Sen. Diana Mahabir-Wyatt

PAPERS LAID

1. The Privileges and Immunities (Commission of the European Communities) Order, 1994. [*The Minister of Planning and Development (Sen. Dr. The Hon. L. Saith)*]
2. Financial statements of the Iron and Steel company of Trinidad and Tobago Limited for the year ended December 31, 1991. [*Hon. L. Saith*]
3. Financial Statements of the Iron and Steel Company of Trinidad and Tobago Limited for the year ended December 31, 1992. [*Hon. L. Saith*]
4. Financial Statements of the Iron and Steel Company of Trinidad and Tobago Limited for the year ended December 31, 1993. [*Hon. L. Saith*]

ORDER OF BUSINESS

The Minister in the Ministry of National Security (Sen. The Hon. Russell Huggins): Mr. President, I seek the leave of the Senate at this time to proceed to “Bills Second Reading” instead of “Motions”.

Question put and agreed to.

DANGEROUS DRUGS (AMDT.) BILL

Order for second reading read.

The Minister in the Ministry of National Security (Sen. The Hon. Russell Huggins): Mr. President, I beg to move,

That a bill to amend the Dangerous Drugs Act, be now read a second time.

This is the second time that I am presenting this Bill. The first time having had a rather favourable passage through this Senate, and knowing how my colleagues on both benches like to leave here before the sun is set, I have no doubt that the Bill before us today is going to be passed. I would not say it would have an easy passage, having regard to discussions I had earlier, but I expect that the country will come first and that Senators will see the need for such amending legislation.

This Bill seeks to amend the Dangerous Drugs Act with a view to giving effect to three major objectives which were highlighted by a legal working group appointed to look into the provisions of the Dangerous Drugs Act, and making it more effective. These three major objectives relate to:

- (a) the ratification by Trinidad and Tobago of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (“the Convention”) which was concluded in Vienna in 1988.

1.40 p.m.

- (b) the removal of existing impediments to the effective prosecution of drug offenders experienced by the Office of the Director of Public Prosecutions and the avoidance of problems, or the curing of deficiencies, relating to the confiscation or forfeiture of the proceeds of drug trafficking.

Two main aspects of the requirement under Article III of the Vienna Convention were not adequately dealt with in the existing legislation. These are offences relating to the possession, manufacture, transfer or distribution of equipment materials of the precursor chemicals listed in the Fourth Schedule of this Bill, knowing that they are to be used in, or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances. Secondly, offences for money laundering.

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Clause 4 of the Bill—and I should like to advise the Senate that the Bill is principally in the same form as when it earlier came here—creates an offence where a person manufactures, possesses or transports a precursor chemical, those chemicals which are listed in the Fourth Schedule to the Bill, knowing or having reasonable grounds to suspect that the substance is to be used in, or for the unlawful production of a dangerous drug. Penalties for this offence range from a fine of \$50,000 or five years' imprisonment upon summary conviction, or to a fine of \$100,000, or ten years' imprisonment upon conviction on indictment.

The amendments also seek to give power to the Minister of National Security to make regulations pertaining to record-keeping, labelling and inspection of precursor chemicals. Failure to carry out these regulations carries a fine of \$5,000, or two years' imprisonment upon summary conviction, and a fine of \$10,000 or imprisonment for not less than two years nor more than five years on indictment.

I may say at this point that so confident were the Government and the Minister in particular, that the Bill would have had approval all along, that we have almost completed putting in place the regulatory framework to deal with these precursor chemicals. I may therefore, add, and I want to assure Senators, that implementation of this provision ought not to be an issue, and ought not to bother us here this afternoon.

With respect to the existing money laundering offences established under section 47 of the existing legislation, it was discovered that whilst that section criminalized the several activities falling within the ambit of money laundering, it did not address two important situations. These are where the drug trafficker, himself, launders his own proceeds of drug trafficking, and activities involving assistance by another in laundering drug trafficking proceeds so as to avoid prosecution or the making or enforcement of a confiscation order in respect of the proceeds.

This Senate is well aware of the various means by which the activities of money laundering are carried out. I may say at this point, to show that this Government—and I would add by extension this country—is very serious about dealing with this problem, that there is at present a workshop taking place at the Central Bank building—the entire morning session of which I chaired and only because of the need to have me here this afternoon I could not have chaired the afternoon session of the Caribbean Financial Action Task Force. This is a body that was established in Aruba principally for the purpose of putting all member countries in a position whereby they would be fully equipped, technically and otherwise, to deal with the problems of the money laundering.

Some time in the past, I may have indicated to this Senate the difficulties which any country would encounter, and which countries are at present encountering in dealing with this question, principally because of the many ways in which it can be carried out. I do not want us to get fooled into believing that money laundering is something that one could solve overnight, or even in the next ten years, but it is necessary to get together in these working groups, such as the one that is sitting now, to share the experiences of other countries: countries which have different financial systems; countries in which the whole economic survival is based upon different things, in order that we can at the end of the day, arrive at the best possible means by which we can deal with this problem.

Before attempting, however, to deal with the problem, it is absolutely necessary that the legislative framework be in place. Therefore, should we this afternoon agree to the amendment to section 47 of the Dangerous Drugs Act, I think we would have satisfied all the requirements of the Vienna Convention, insofar as it relates to money laundering which is predicated on drug trafficking. I do not want us to confuse money laundering that is tied in to other areas of criminal activity; it is not possible to deal with those areas in this piece of legislation.

I want to give the Senate the assurance, however, that we have already completed the first draft of a bill, which for the purpose of discussion, has been entitled "The Proceeds of Crime Bill," which is going to address money laundering as it is derived out of other types of offences. It is going to be done along the lines as followed by Barbados and the Cayman Islands. This is just one step further in trying to bring our money laundering laws up to date.

One of the other areas which this amendment seeks to address is the recognition and enforcement of foreign confiscation and seeks to introduce provisions for interest to be chargeable on unpaid confiscation orders and for the prosecutor to apply for a confiscation order to be increased when further realizable assets have been discovered subsequent to the date when the confiscation order was made. The purpose of this amendment is simply to increase the penalty on the drug trafficker, and thereby, hopefully deter, would-be drug traffickers.

The importance of this amendment should be seen against the background of the need to have, not only regional, but also international co-operation in dealing with the whole question of drug trafficking. Very recently, for example, the Trinidad and Tobago authorities were very instrumental in assisting by way of the provision of intelligence which resulted in the seizure of—in one case it was as

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early as February—47 kilos of cocaine, 400 pounds of marijuana and one kilo of heroin, heroin being a drug that is fast replacing cocaine on the international marker.

Quite recently, we were instrumental in the seizure of over two tons of cocaine which was seized in Tampa, Florida. The information which facilitated that seizure came through our own organization, the OSS.

1.50 p.m.

I know that it is very easy to say—and I have no doubt that I will hear it this afternoon—that we are only hearing about what was seized abroad but we want to know what is happening at home. This is one of the benefits of dealing with the second time you have the advantage of having heard some of the comments earlier. It is not that I have been able to deal with all the comments that had been made earlier, but I assure Senators that steps have been taken. I know my dear Friend Sen. Daly's favourite Inland Revenue passage by heart and I will deal with it at the appropriate time.

Cross border seizure is becoming one of the most effective means of dealing with the interdiction of the proceeds of drug trafficking. We are now seeking to put in place—I have had the second draft submitted to me for review—administrative provisions to facilitate what is called “controlled deliveries.” That is where you allow drugs to pass through your country—you know full well that it is coming into the country and you allow it to transit through the country with a view to seizing it on the other side where it goes. The attempt is to try to break a network rather than just to remove a link from the whole chain.

I have always pleaded that we must not only look at the quantity seized to determine the effectiveness of the programmes being put in place. I am satisfied that we are doing a good job notwithstanding some of the adverse comments that are made by other agencies which are having greater difficulty in dealing with their own problems and finding it much easier to blame other countries when they cannot deal with their problems.

Towards this end, for the year so far not only have we hosted, but also donor countries that look upon us favourably have hosted as well, several training programmes in Trinidad and Tobago with a view to not only updating our interdiction authorities on new methods of interdiction but also apprising them of new techniques in place to deal with this problem, all with a view to making them more effective. I think some time next week the UNDCP will be hosting a training course geared, principally, towards state prosecutors to familiarize them in greater

detail with the legislation so that we would not make the mistakes of the past, particularly those which arise out of the forfeiture provisions in the legislation.

I not only see Sen. Daly looking at me intently but I also see his name in my script. I have also had in-depth discussions with the Commissioner of Inland Revenue and we are, at this point, discussing certain amendments to the Income Tax Act to deal with certain problems that the Act does not now give the Inland Revenue Department the teeth to deal with. I, for one, thought that there were adequate provisions in the Act, but I think when one is assessing a provision for its adequacy one has to look at, not only its width in terms of facilitating revenue officers acting, but also the penalties.

From what I have discovered, to deal specifically with money laundering and the people who when one looks at their lifestyles and what actually is returned as their annual income, it is very difficult to come to the conclusion that the returns are correct. There are difficulties with the present legislation in dealing with that issue, and we are pursuing that. I ought not to be expected to give any results at this time.

Sen. Daly: Mr. President, since I am the first welcomed target, perhaps the Minister could indicate when we could look forward to the amendment coming to this Senate. Is there a timetable?

Sen. The Hon. R. Huggins: Mr. President, the Government's legislative timetable is so cluttered at this time that we have reached the point where things are being prioritized and, as with the Budget, there is pulling on all sides: everybody feels that his legislation is more important than the other. The fortunate thing—and I think this should give the Senator some comfort—is that I am the vice-chairman of the Law Review Committee and, basically, the chairman and I have a say as to what comes out first, so I will ensure that the Senator does not go through a whole term in Parliament and not have his wish come true.

Hon. Senator: This is a personal thing.

Sen. The Hon. R. Huggins: It is also important insofar as the mutual recognition of confiscation orders and the enforcement of foreign confiscation orders are concerned; and I am going to talk specifically about Trinidad and Tobago. It puts us in the position where we can derive the benefits of all the information which we feed to foreign interdiction agencies when a bust is made. The arrangement we have with countries such as the United States is that the financial rewards which flow from that information come straight back to Trinidad and Tobago for use in the drug effort. It is from that point of view that we are seeking to make up the deficit on the budget in terms of dealing with

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crime. We are seriously now seeking to deal with the demand side of the drug problem as opposed to the supply side.

We think that we are fast coming to the position where the supply side really would have to be left to the interdiction authorities because, as a Government, you could only go so far and no further. In other words, you can put the legislative framework in place, provide the training and the tools but, at the end of the day, it is the interdiction authorities that really have to put the effort and energy behind all with which they have been provided.

2.00 p.m.

Very soon we are going to start placing much more emphasis on the demand side of the problem, using to a great extent the Community Police Unit which has been recently set up. So we have been preparing training courses for this new unit whereby it is hoped that these police officers, who will be on the road all the time, can stop and talk to youngsters about the ills of getting themselves involved in the use of drugs.

The Police Public Affairs Unit, through its youth clubs, will be going into schools once more, on a more heightened basis than was done before when they went to schools to tell the children when crossing the road they should look up and down, and matters like that. We have progressed from looking up and down now; we have to look all over the place, so the officers will be going to the schools with a different focus.

A new provision in the Bill, which gave rise to much contention before, and which because of the nice type of consultation that goes on in this House—even with my Friends on the Opposition bench—relates to proposal section 35D which gives customs officers and police officers above a certain rank, the power to seize certain moneys which they believe may have been derived from the drug trade. The Government has not sought to change the amendments which were put in at that time which sought to give certain ease to the more law-abiding citizens in our midst.

We believe that such a provision is extremely necessary, principally, because of the removal of the Exchange Control Regulations. Those provisions, as I have explained, are more or less the more important provisions in the amendment before us here this afternoon, and this amendment falls nicely within the framework of what the Government has been seeking to do in the past couple months, not only trying to upgrade the effectiveness of our interdiction authorities, but at the same time trying to deal with this vexed question of the administration of justice; and in my absence this House, I am told, gave its unswerving support—

Sen. Capildeo: Because of your absence.

Sen. The Hon. R. Huggins:—gave its unswerving support to the Government's measures to deal with the administration of justice. I want to let hon. Senators know that we have not yet come to the end—there is more in store—but I feel certain that, at the end of the day, my Friend across from me who is deep in thought, will seriously question the concept of alternative government.

Mr. President, once again I wish to commend this piece of legislation to this Senate and look forward to its receiving unanimous support.

Mr. President, I beg to move.

Question proposed.

Sen. Surendranath Capildeo: Mr. President, the introduction of this amendment Bill for a second time brings to mind Shakespeare's lines:

“Once more unto the breach, dear friends, once more...

When the blast of war blows in our ears

Then imitate the action of the tiger.”

That is where we part company with Shakespeare. For this Government does not growl nor snarl at the drug lords. This Government meows! It is a pussycat government.

Hon. Senator: Oh “gorsh”!

Sen. S. Capildeo: Mr. President, I have looked at this Bill and, for the record, I want to repeat every word I said when I spoke on the previous Bill on February 8, 1994.

Because of my friendship with Sen. Huggins, I will not read all 14 pages into the record, but I want it understood, Sir, I make no change. My concerns not only remain the same but they are heightened by recent events. I have always maintained that we cannot look at pieces of legislation, when they are brought to this Senate, in isolation. We must always put the legislation in proper perspective—we must place it against the actual human condition of our society.

So that, given the importance of this Bill and the need to assuage the fears of law-abiding citizens, to calm the nerves of a nerve-wracked society, I would have expected to see certain Ministers on the Front Bench here today, and I shall name them. I should have expected to see the hon. Minister of National Security; the hon. Minister of Health; the hon. Minister of Social Services; and the hon. Minister of Education.

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I say this because of the importance of the legislation and the United Nations Convention which, in paragraph 4(b) spells out—and I will read it into the record again, for a second time—

“The Parties may provide, in addition to conviction or punishment, for an offence established in accordance with paragraph 1 of this article, that the offender shall undergo measures such as treatment, education, aftercare, rehabilitation or social reintegration.”

Where is the Minister of Social Services to tell me about that programme? Am I to sit here and understand that the Drug Bill sits in isolation? Where is the Minister to tell me that she has a programme in support of the United Nations Convention for treatment, education, aftercare, social rehabilitation and social reintegration?

Where is the hon. Minister of National Security? We have a skittish, scared population. I want to quote from the *Saturday Express* November 12, 1994, the front page, to demonstrate how nervous this population is; and that an important Bill like this should have seen the Minister of National Security here spelling out what steps—within the bounds of national security—he has taken to ensure that the police service has the adequate manpower, the latest state-of-the-art equipment and the money, material and wherewithal to deal with this drug menace. Where is he? Why is he not here today to tell the nation? Because we have a scared nation. Let me quote this newspaper article.

2.10 p.m.

“Persistent reports were circulating about an attack on or takeover of Camp Ogden and Camp Cumuto, tow bases of the T&T Regiment.

As the Trinidad and Tobago Government was making preparations to respond positively to the St. Kitts appeal, rumours were rapidly making the rounds in Port of Spain that an insurrection had taken place in the country.

Shortly after 9 p.m., Minister responsible for Information, Gordon Draper went on radio to issue a denial.

The reports were fed by, among other things, unusual activity in army bases.”

I went on to demonstrate that this nation is an extremely nervous, scared nation. The country needs to be reassured that the police service is in a position to service this *Dangerous Drugs (Amdt.) Bill*. Where is the Minister of National Security? I will tell you where he was and I will tell you where the Minister responsible for Information was.

The Minister of Education, Sen. Hosein reminds me, was at Aranguez with the farmers in a quite happy mood, looking quite disoriented from a picture I saw in the newspapers.

But the Minister of National Security and the Minister responsible for Information—and where is the Attorney General?

Sen. Huggins: He is ill.

Sen. S. Capildeo: Where is the hon. Attorney General in a debate involving the Dangerous Drugs (Amdt.) Bill? Paragraph 4 (d) of the UN Convention says:

“The Parties may provide, either as an alternative to conviction or punishment, or in addition to conviction or punishment of an offence established in accordance with paragraph 2 of this article, measures for the treatment, education, aftercare, rehabilitation or social reintegration of the offender.

5. The Parties shall ensure that their courts and other competent authorities having jurisdiction can take into account factual circumstances which make the commission of the offences established in accordance with paragraph 1 of this article particularly serious,”

It goes on to list them. What are the views of the hon. Attorney General on this UN Convention? Why is he not here to explain to the nation?

Sen. Huggins: He is ill. His co-pilot is here.

Sen. S. Capildeo: He is ill. Did he attend Smokey and Buntys? I will tell you where they were, Sir. I want to quote the *Sunday Guardian* of November 13, 1994 to demonstrate—

Sen. Huggins: Is it relevant?

Sen. S. Capildeo: It is relevant because I have said pieces of legislation cannot be brought in isolation to this Senate. They have to refer to the whole scenario. We live in a pretty barbaric society. Even the thin veneer of sophistication and civilization has been removed. We live in a country that cannot take care of its dead. I quote the *Trinidad Guardian* of Friday, November 11, page 1, “Autopsies aborted at the POS Hospital.”

“Families of the deceased were distraught over the situation as many of them had made funeral arrangements.”

We live in a country that cannot take care of its dead, that puts a grievous burden on grieving families. We live in a country that cannot dispose of garbage. The two

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ends of the extreme. Right now—that is why he is sick—in front of the Attorney General’s house, the garbage is there rotting.

Sen. Huggins: That is not why he is sick.

Sen. S. Capildeo: That is not why he is sick? Smokey and Bunty’s.

Sir, we live in a society—I do not want to be diverted—which runs a headline “Man Forced to Lie With The Dead.” We live in a weird society now, a sick society. In addition to the fact that we cannot properly dispose of the dead, we are forcing the living to go and stay with them in the mortuary, and it is being done by members of a state subsidized firm. Do you understand the point I am making?

This legislation cannot be brought in isolation. We must be told—where is the Prime Minister? Where is the Minister of National Security? Where is the Minister of Education? Where is the Minister of Health? Because they are closing down hospitals all over the place. *[Interruption]* I will believe that when I see it. I want to bring to this Senate and to this nation the sorry state of this country.

I quote the *Sunday Guardian* of November 13, 1994, because we are sending a message to this country about substance abuse. We are talking to this nation about the control of substance abuse. We are talking to the international community about the efforts we are making about substance abuse and here is a coloured picture of Special Branch lawmen—that is what they are doing now—with the caption:

“. . . carry a semi-conscious and nude vagrant out of Smokey and Bunty’s . . . after he charged into the crowded bar with a knife’s blade close to where prime Minister Patrick Manning and members of Cabinet were drinking.”

The article states:

“Agriculture minister Keith Rowley, Consumer Affairs Minister Camille Robinson-Regis. . . .”

Sen. Huggins: Mr. President, on a point of order. Let set the record straight. The Prime Minsiter’s security, the Special Branch, for which I have responsibility, never laid hands on anybody as is suggested in that article.

Sen. S. Capildeo: I take the hon. Minister’s word for it that the Special Branch did not lay hands on the man. The Prime Minister is very lucky the man did not lay hands on him.

The point is that this is a newspaper the world sees. The world, which is looking at us attempting to pass a drug Bill, sees our Prime Minister and his Agriculture Minister, Keith Rowley, his Consumer Affairs Minister, Camille Robinson-Regis, his Information and Public Administration Minister Gordon Draper, and the Attorney General Keith Sobion in a crowded bar at 3.00 o'clock in the morning with "a motley crew of hustlers, homosexuals and Friday night party goers." That is the image we are sending out there.

Sen. Hosein: Read it again!

Sen. Barrack: Read it again!

Sen. S. Capildeo: "A motley crew—that does not refer to the Minister of Finance; he is an honourable Gentleman.

"A motley crew of hustlers, homosexuals and Friday night party goers spilled out of the bar . . .

If the hon. Attorney General were here, I would have told him he could have brought him home at me, right around the corner.

Sir, it is a serious matter because it brings me to a text which I think should be compulsory reading for all concerned with the drug trade in Trinidad and Tobago. It is called *Evil Money* and it is written by Rachel Ehrenfeld. I want to quote liberally from this text to show the irreparable damage that has been done to this country by the Prime Minister and his cohorts attending Smokey and Buntys at 3.00 o'clock in the morning. It is irreparable damage. This is a book published by Harper and Harper. It says:

2.20 p.m.

"Money-laundering is front-page news, with so many banking scandals turning up one high-level connection after another in government, business, and banking. Illegally laundered money undermines the economies of many countries around the world. It ties together drug cartels, organized crime, establishment banking, and government agencies in a tangle of intrigue and deliberate confusion. Drug money-laundering, the most prominent source of illegal money, is estimated to be a one-trillion-dollar industry worldwide.

"*Evil Money* is a searing exposé that establishes the web of complicity one strand at a time. It is shocking to learn how many governments, top international banks, and law and accounting firms have gone to great lengths to cover up their illegal activities. This ever-growing cash pipeline promotes corrupt governments, funds terrorist organizations, and strengthens drug cartels and organized crime."

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I am going to read this book into the record. It is interesting, because it is almost as if they had come to Trinidad and Tobago and were speaking about us. It goes on:

“Drug trafficking is an evil acknowledged by all nations. Many local and international bodies have declared a ‘war on drugs,’ passing numerous regulations in an attempt to fight this war.

After years of struggle, governments and law enforcement agencies have concluded that the only way to combat drugs is to control drug money-laundering.

What makes money-laundering evil is the profound subversive effect it has on democratic society, and what makes it more distasteful is that it is taking place in the marble foyers of international financial institutions.

We have marble foyers in Trinidad. It goes on:

“These elements constitute the corruption this book is concerned with. Corruption is not a new phenomenon, but drug trafficking has elevated it to levels not experienced in the world before.

International drug trafficking has had a devastating effect on American society. Addiction, street crime, and the near geometric increase in incidence of AIDS victims are the agonizing outcome.

Almost speaking about Trinidad and Tobago.

“The effect on the political and the banking system is more subtle. ...Banks all over the world, including some of the most influential, have been witting and unwitting partners in crime, either by quietly standing by or by direct complicity. How much money is involved? The estimate is \$1 trillion worldwide; \$200 billion to \$500 billion in the United States alone. This huge volume of money so dwarfs anything earned by legitimate corporations that it prompted former UN Secretary-General Javier Pérez de Cuéllar to say before the General Assembly, ‘drugs are the most profitable commodity in the world today...’

International cooperation to prevent drug trafficking and drug money-laundering has developed with relative ease. Many agreements to control these illegal activities have been readily signed but few signatories have local laws to implement such agreements.”

Where is the Minister of National Security? How are we going to implement these laws?

“By joining these conventions, nations more often than not tended just to pay lip service to solving this problem.”

Are we paying lip service, Sir? Where are the Ministers to tell me that we really mean business? It speaks about the Bahamas and it is almost as if it is echoing here. “A Nation for Sale,” Miami Herald. It says:

“You can buy an airstrip, or an island. You can buy citizenship...”

We had this before in this country, the buying of citizenship. We have had airstrips that we cannot account for. It goes on:

“...You can buy protection. You can buy justice. And should your drug cargo get seized by police, you can even buy it back.”

The most damning indictment, as far as the Bahamas is concerned. It goes on:

“The establishment of a Colombian drug empire in The Bahamas is largely the result of Bahamian politicians’ insatiable appetite for bribes and kickbacks...”

This country has a sordid, sad and sick history of Ministers involved in bribes and kickbacks, and subsidies. It goes on:

“The cloak of incorruptibility of Her Majesty’s servants, evident in the ultimate English expression *take no one’s shilling*, was shed in less than a decade.”

This brings us home. What has happened to our country? Let us compare what has happened to our country with what was written about The Bahamas, and just change “The Bahamas” for “Trinidad.” It says:

“The Royal Commission also found that drug consumption skyrocketed in The Bahamas. It was spurred by ‘spillage,’ the Bahamian term for small-scale thefts of drugs by the locals.

Drug addiction resulted in the loss of nearly an entire generation of youth in this once closely knit and conservative family-oriented society.”

You remember this society, Sir, family oriented, closely-knit? It goes on:

“Drugs brought crime and violence in their wake. Once the smugglers realized that their drugs were being stolen by Bahamians, they armed themselves and entrusted their caches to armed guards. This inevitably led to increased violence. With cocaine consumption, especially the highly addictive free-basing variety popular in the islands, came a tidal wave of violent crime—rape, murder, and armed robbery—unprecedented in the archipelago’s history.

Some islands...were lost to the drug traffickers, whose small armies moved in and took control.”

This is almost speaking of what took place and is taking place in Trinidad and Tobago. There was an inevitable increase in violence—rape, murder and armed robbery—unprecedented, and a tidal wave taking place in the country.

We come to the banks and it strikes chords. It says:

“For a better appreciation of The Bahamas’ banking system, several features must be understood. First, it is dominated by Canadians. Four of the six most important banks in The Bahamas are Canadian-owned: The Bank of Nova Scotia, the Bank of Montreal, the Royal Bank of Canada and the Canadian-Imperial Bank of Commerce. The other two are British and American. Canadian banks have long been dominant in the tax-sheltering business in the English-speaking Caribbean. They control, among other things, much of the banking and insurance industries, as well as bauxite mining rights. With thirty-six branches on the islands, the four big banks control some 80 percent of the Bahamian banking business. They also dominate real estate and trust companies that are known to have sheltered drug profits.

The Canadian involvement in the Caribbean began when a Bank of Nova Scotia branch office was established in Jamaica in 1889. Another branch shortly followed in The Bahamas. Since then, the Canadian share in the banking community has remained relatively constant.

By the early 1980s, however, both American and Canadian officials had become frustrated with the Canadian banks’ lax attitude toward drug money-laundering. The banks’ home offices exercised little or no control over their Bahamas branches. The Bank of Nova Scotia, for example, claimed it couldn’t monitor the local branches because they operated under Bahamian and not Canadian law. It repeatedly resisted subpoenas of its Bahamian records by a U.S. federal grand jury...”

It was only, Sir, until very late in the day when the U.S. prosecutors won a landmark case that the Bank of Nova Scotia was forced to pay fines of \$1.8 million and reveal information. It goes on:

“The Canadian Imperial bank has been an exception, at least nominally. In 1985, its officials told the *Montreal Gazette* that the bank’s Bahamian branches no longer accepted cash deposits of \$5,000 or more...”

Money-laundering in The Bahamas has not ceased. Canadian banks remain dominant in The Bahamas and there is no noticeable decline in their dollar deposits from countries in the Western Hemisphere...

In August 1985 the U.S. Senate Subcommittee on Crime, said this: It is impossible to know which banks adhere to these policies and for which customers. The reporting of large transactions does not apply to customers who have an existing relationship with the bank. Nor does it apply to those customers recommended by reputable parties, a term that broadly encompasses law firms, accounting firms and other professionals.”

Where is the Minister of Finance to tell me of the legislation that is going to deal with this? Where is he? Why is he not here? Why are these Ministers not here to deal with this question? It goes on—and my hon. Friend referred to it:

“Banking regulations have made money laundering more difficult in The Bahamas. Absence of control over laundering money through purchases of goods and services makes it difficult to measure accurately the extent of money laundering in the country. However, U.S. officials believe that large amounts of drug money continue to enter the Bahamian economy.”

2.30 p.m.

In other words, Sir, we need to know when we are looking at this legislation, what plans are going to be put into effect with respect to the laundering of drug money which they say is almost impossible to detect.

And en passant I come to the question of these fast food institutions that seem to shock my sensibilities as a Trinidadian, when one cannot drive past on the road because of the crowds. It speaks volumes on how we look at ourselves.

“This is not the first time Crédit Suisse was rumoured to be involved in shady dealings.”

Crédit Suisse is a huge banking institution.

“Its name came up in the Pizza Connection trials.”

Pizza connection trials—

“The Pizza Connection was a billion-dollar drug conspiracy that moved Turkish morphine base to Sicillian laboratories where it was transformed into high-grade heroin...”

My learned Friend was speaking about heroin.

“and then shipped to the United States where it was sold in pizza parlors, restaurants, and cafés...”

and fast food outlets. One begins to wonder at the invasion in this country of pizza parlours, fast food outlets and the like, which put into one’s mind that Trinidad and Tobago is not penniless. The thing is too striking.

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We come to the ill-fated BCCI which was here. Listen carefully to what the man who founded the BCCI, Agha Hasan Abedi, boasted about on national television in the United States:

“...Abedi boasted, ‘All the top politicians...’”

These were his exact words.

“and heads of state were my friends...I knew them all ...In [the] Caribbean...”

Let me repeat. This is the head of, Bank of Credit and Commerce International (BCCI). Let me read what Morgan Thor, the District Attorney of the County of New York, said about that institution:

“BCCI was operated as a corrupt criminal organization throughout its entire 19 year history. It systematically falsified its records, it unknowingly allowed itself to be used to launder illegal income of drug sellers and other criminals and it paid bribes and kickbacks to other public officials.”

Here you have the founder of the bank boasting on national television in the United States of America that he knew all the top politicians and heads of state. They were his friends; he knew them all in the Caribbean, he said.

“I knew the heads of state, I knew the Finance Ministers, I knew the governors of the central banks, I knew the heads of all major banks in the area, the heads of foreign banks, I knew the people in various official agencies like the Caribbean Development Bank, the Inter-American Development Bank, and the Organization of American States.”

If you are not worried, Sir, I am. I am extremely worried because this book could have been written about us.

I do not know whether Senators recall somebody by the name of Sally Cowal; a lady who was here dispensing advice, encouraging this Government to do all sorts of things and threatening to withdraw aid if we did not do something with respect to the drug trade. *[Interruption]* The Senator cannot hear me? I have been asked to raise my voice. I am going to repeat what I said.

Can Senators remember a goodly lady by the name of Sally Cowal who attempted to dispense advice to this country? Who attempted to squeeze the Ministry of National Security on several occasions? Who wanted to lay down the law for this country with respect to drugs? Let me read about that woman? Where is she? Has she found a job as yet? Why does the Government not invite her back?

“The American Public has ceased to believe that law enforcement can regulate and control the drug problem.

During 1990 and 1991, corruption and fraud seemed to reach epidemic proportions. In addition to the S&L scandal,...

that is the Savings and Loans scandal—

“large-scale fraudulent activities and embezzlement were discovered in workers’ compensation systems, insurance companies and brokerage houses. Violent crimes increased 10 percent in the first half of 1991, according to the FBI, and the United States was labeled ‘the most violent and self-destructive nation on earth.’”

And people come here to lecture to us? People who belong to the most violent and self-destructive nation on earth come here to tell us how to live?

“More than 24,000 people were murdered in the United States during 1991, and Washington, D.C., continued to be the per capita murder capital of the United States. The United States...”

This will be interesting for the junior Minister of National Security. They can build prisons over there.

“has the highest known incarceration rate in the world: 426 prisoners per 100,000. Cocaine users rose from 1.6 million in 1990 to 1.9 million in 1991, according to the National Household Survey on Drug Abuse...Drug-related emergency room visits jumped 12 percent, and the number of unemployed drug users went from 2.9 million to 3.8 million. Drug users are also notably younger than before (starting between the ages of twelve and seventeen) and the number of weekly cocaine users has grown by one third, mainly among those aged thirty-five and older. Altogether, the FBI reported that 37 percent of the U.S. population used illicit drugs at least once!”

This was during the lady’s time when she was dispensing advice free-sheet to this country. Those were the statistics from the United States of America. Thirty-seven per cent of the American population involved in illicit drugs, and I must accept advice from them?

We come now to the heart of the drug trade to show the effect of what it has done to one country, Colombia.

“During 1991, there were 9,714 Colombians arrested in twenty-four countries for drug trafficking, equivalent to 27 a day, or 1 every fifty minutes.”

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Every 50 minutes a Colombian, somewhere in the world, is arrested for drug trafficking. The problem is so huge, that I am stunned by the absence of the frontline of the Cabinet of this country on a Bill of such a serious nature.

For months on end there has been the political propaganda that the United National Congress is obstructionist and is opposing legislation. Well, here we are today trying to see how we can get this legislation through, but where are the support mechanisms to tell me that the legislation could work?

Where are the Ministers who are involved in this? Why are they absent? Why, for Heaven's sake—can somebody explain to me—the Smokey and Bunty damage? When a book comes to be written about Trinidad and Tobago as this book *Evil Money* is written, Smokey and Bunty is going to figure prominently. Two evenings before the Bill on drug and substance abuse is brought to the Senate, the Prime Minister and his key Cabinet Ministers are enjoying beers amongst hustlers, pimps and prostitutes. We are going to pay dearly for that, Sir.

Mr. President, the book ends:

“While drug addiction, narcotics trafficking, and money-laundering are now an international phenomenon, the implications for the United States...”

here I will substitute Trinidad and Tobago—

“politically and ethically—are enormous. Devoured by corruption willingly seduced by easy money, the United States...”

here I will say “Trinidad and Tobago”—

“is rapidly changing form the ‘land of opportunity, prosperity, and freedom to a symbol of crime and degeneracy in the eyes of the world.’”

We could not have had a more explicit example when our top citizens are doing what they do in public.

2.40 p.m.

By the way, where is the Minister of Social Services to tell me what happened to the naked vagrant, that man who was beaten senseless? But all we hear is, “What's wrong with a few friends coming here for a beer?”

“Turpitude, violence, social alienation, unemployment,...”

the words, Sir, ring home true to Trinidad and Tobago.

“homelessness, apathy, inertia, and family dysfunction all contribute to undermining (I will say “Trinidad”) institutions and may transform the United

States from a superpower and a robust trading partner into a weak, unreliable, and thoroughly corruptible third-class nation. While an ineluctable aspect of any free society, corruption by means of drugs and ultimately drug money has taken advantage of capitalism. Adam Smith's 'invisible hand,' a metaphor for enlightened self-interest in a free market society, is now stabbing itself in the back."

It brings me to Milton Freedman.

"History suggests that capitalism is a necessary condition for political freedom."

Where is Minister Valley? Where is this man who is selling out everything? According to Milton Freedman, clearly it is not a sufficient condition.

Mr. President, with your permission I have quoted at length from this book to show that what we are dealing with, what is happening to us today has happened elsewhere and it is documented. And, from the documentation that I have seen, we are making absolutely no solid effort to combat the menace of drugs. There is no evidence in this Senate, there has been no evidence brought in this Senate, at least to satisfy me, that we are doing what we can to at least challenge the drug lords.

I drive on a certain street in St. Clair every day. I call it "Wall Street" because the walls impress me. I calculate. Do you know how much curtain one has to sell to build one of those walls? Trinidad and Tobago's households must be the most curtained households in the world. Do you know how much cloth has to be sold to build one of those homes? We must have the most cloth in the houses in Trinidad and Tobago than any other nation in the world. One wonders: Where does it come from?

Newspaper today as if to emphasize our impotence and our inadequacy, states:

"DEA official urges region to do more against drugs.

An Official of the US Drug Enforcement Agency (DEA) yesterday spoke of a 'significant increase' in the transshipment of drugs in the Eastern Caribbean brought on in part by the high demand for the commodity in Europe.

And Jerome Harris, the DEA country attaché based at the US embassy in Barbados, is warning Caribbean governments that there is need to provide law enforcement agencies 'with the tools' to deal with the situation."

I repeat: Where is the Minister of National Security to tell me about the tools? Or, is he telling me to go down to Ariapita Avenue and look at that large sign there, 'Oh tool boy!'?

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““Harris, who also monitors the drug situation in Trinidad and Tobago, said that despite the initiatives being undertaken by the Patrick Manning administration, the drugs problem is ‘growing’ here. ‘We see it every day, the increase in violent crimes as traffickers competed for markets,’ Harris said, indicating a ‘similar pattern as to what is happening in Trinidad’ emerging in St. Kitts.”

If you read these text—and one does not even have to read between the lines—it hits you full in the face that we are fighting a losing battle. Let me end with an apt quotation from *Mimic Men*. This is the hero of the book speaking.

“We stood for the dignity of the working man. We stood for the dignity of distress. We stood for the dignity of our island, the dignity of our indignity. Borrowed phrases! Left-wing, right-wing: did it matter? Did we believe in the abolition of private property? Was it relevant to the violation which was our subject? We spoke as honest men. But we used borrowed phrases which were part of the escape from thought,...”

the whole of this Bill—

“from that reality we wanted people to see but could ourselves now scarcely face. We enthroned indignity and distress. We went no further.

“They promised to abolish poverty in twelve months.”

This is not Patrick Manning speaking, this is from the *Mimic Men*.

“They promised to abolish bicycle licences. They promised to discipline the police. They promised farmers higher prices for sugar and copra and cocoa. They promised to renegotiate the bauxite royalties and to nationalize every foreign-owned estate. They promised to kick the whites into the sea and send the Asiatics back to Asia. They promised; they promised”

all we have here today is a promise from this pussy-cat Government that really has not challenged the drug trade in this country.

I thank you, Sir.

Sen. Martin Daly: Mr. President, I support the passage of this Bill. I supported it with amendments the first time around. I am, however, concerned that it is important, for reasons which I shall identify very briefly, to restate the background concern to this legislation which deals with crime.

Regardless of what may be said by the spin-makers for the Government, the situation in the courts has been likened to that of a pantomime and I would quote the distinguished gentleman who said so in due course.

Regardless of the always sincere efforts of the Minister in the Ministry of National Security, if the Inland Revenue Department tells him it needs the legislation amended to do a source and application investigation of a taxpayer, it is fooling him. It can do a source and application investigation now on anyone it chooses as it has done on many ordinary citizens. It is important to make these points.

2.50 p.m.

While I compliment the Minister in the Ministry of National Security for always sincerely rising to the concerns of Senators, it is important to restate what they are. Things are not coming together. That is another quotation to which I would refer. I think it is very dangerous for the Government, despite its efforts, which I applaud, to believe that things are coming together. They are not, for the three reasons which I already identified in this context.

I would spare my colleagues any contribution today on the question of implementation, but I have identified three things that have not come together. They are the murder rate; the state of the courts and the inability or incapacity of the regulatory authorities to do their jobs properly. I am doing this in the interest of the Government—it may not think so, but that is all right—because I do not want it get bowled behind its back. We have not yet got to the stage of self-congratulation on crime and we must be careful not to get to the stage of self-delusion.

I too, would refer briefly to the events at a bar in St. James. My concern is simply this: In the same way in which a naked vagrant, armed with a knife, could burst into that bar and present a security risk to anyone present, incidents like that take place day in and day out in this country [*Interruption*] at every traffic light—I am much obliged—at every office in downtown Port of Spain that you seek to enter.

Maybe it is a good thing that incident took place—but not for the vagrant—for people to see what many of us are subjected to day in and day out. We might well ask: What has become of the vagrant? Is it an occasion for levity that the highest officials in the land—I have no quarrel with where they are or the time of the morning—in what is regarded as a reasonable neighbourhood, in the environs of Port of Spain, should be confronted by naked vagrants? Are those the standards that we are happy with? I am not happy with this when I have to duck them to get into my office.

More than that, similar incidents take place in people's homes, except of course, that the intruders there are clothed and sometimes more dangerously armed. That experience on the front page of the *Sunday Guardian* is

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really a replica of something that takes place day in and day out in this country, either in offices or in homes or at traffic lights. Therefore, as much as I compliment the Government on its legislative programme, it is important that I remind it of what the day-to-day difficulties are.

There appears to have been a purge in one of our Sunday newspapers, because all the columnists, except one, have been removed. Interestingly, one result of that purge is that we had two consecutive pages in the newspaper—that is why I want to give a gentle warning to the Government in case it gets carried away with this, which is a result of the purge—of thoughtful columns here by Mr. Grant.

There we have three smiling ministers one of whom is saying that in connection with crime there is a sense of comfort; that when you read about the activities conducted by the police on a daily basis, the population now has a sense of comfort that things are coming together and the job was being done when any citizen—I am not concerned about his rank—can be burst upon in a reasonable environment in Port of Spain, when one of his partners says, “Well, we are just having a few beers.” Is that the standard we are setting for ourselves?

I had no intention of speaking on this Bill, but I sense this sudden idea that things are coming together. What is that? You do the country a great disservice when you do that. Even being out late at nights and purges in newspaper can teach us lessons.

Mr. Leonard Woodley, Trinidad born first black Queen’s Counsel, a Recorder in London, also heads law Chambers of 40 persons, including one MP, three QCs a member of the House of Lords and a Member of whose Chambers Mr. Nelson Mandela was a courtesy tenant, has broken his silence on one of the occasions of his visits to Trinidad to see four children from his first marriage, to say that an urgent inquiry into the operations of the legal system is needed.

He is very critical of the lawyers who appear before the courts. There is an article on the *Sunday Guardian* dated November 6, 1994. It states:

“It is chaotic. Any stranger should be forgiven if he were to walk into the criminal courts and have the feeling that he were attending some pantomime.

“The behaviour of Counsel is outrageous...”

I am skipping much of this. He talks about the inexperience of counsel who prosecute. I did not write this. I have made reference to the change in rank over the years of the counsel who prosecute. I never said “pantomime but there is much to be said for it as a description. I have raised the question of the system of

appointment of judges. He talks about the poor behaviour of the legal profession. The article continues:

“This is not helped, he says, by the fact that ‘inexperienced counsel, out of law school for barely five years, are being appointed magistrates, then judges.

The flaws in the system point to an eventual collapse of law and order in the country, he says; that is why an urgent inquiry is needed.”

I know that Sen. Huggins was very kind to remind us of all the things we have debated before. I certainly raised the question of the system of appointment of judicial officers; the state of the courts and the Director of Public Prosecutions Department. Here we have another commentator saying these things. It is no part of Sen. Huggins’ portfolio, happily—and I admire him for it—to talk about hysteria; another of his colleagues does that. Maybe, Mr. Leonard Woodley QC, born in Belmont is being hysterical. Maybe the British system has got to him. I do not think so.

Here is the most unkind cut of all. I have talked about judge suing judge, and I am still paying dearly for it, but that is all right. The commentator says:

“It has also led him to rethink his feelings on the relationship between the Trinidad and Tobago courts and the Privy Council. There was a time when I felt because we have some brilliant lawyers in the Caribbean, we should have a Caribbean court of appeal; but due to recent developments, I think it is imperative we retain the Privy Council. The Privy Council is not a bunch of old men. They are on the ball and they are impartial.”

It is quite striking that someone of this distinction, native born and with strong native links, should break his silence and offer this kind of commentary.

3.00 p.m.

So, while I wholeheartedly support the passage of this legislation, and while I wholeheartedly thank the Government for being receptive to the many amendments that are suggested from time to time—and they are very receptive, generous and encouraging about amendments—I do not want them to fall for their own spin and get bowled behind their back. They still have to address the murder rate; they still have to address the situation in the courts; they still have to address the lifestyle of those who are making illicit profits from crime in this country.

While this is an occasion for the editorial writers in the purged and unpurged newspapers to talk about the wonderful co-operation between Government and Opposition, let us remind ourselves that there is still much work to be done. While

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this is an occasion for congratulations that we can pass this Bill, let us be very careful, as I say, not to fall victim to our own spin.

Thank you very much.

Sen. Rev. Daniel Teelucksingh: Mr. President, the ravages of the modern-day drug epidemic certainly demand from our Government and people boundless courage and determination, coupled with limitless moral and spiritual strength, if we are to seriously challenge the influences of what Elaine Shannon calls in the *Time* magazine of July 1, 1991, “the most lucrative commodity ever conceived by organized crime”.

The Bill before this honourable Senate is the kind of appropriate legislation which should quite easily receive national support, for in this country we are beginning to understand how devilish and destructive are the powers of the world’s most fearsome and despicable trade.

A closer look at this Bill *vis-à-vis* our ability in its implementation, makes this merely a beautifully dressed-up piece of legislation, impressive looking, but which can easily be valueless. Without the necessary support systems, this Bill will be nothing more than a harmless watchdog whose loud and noisy bark scares no one.

The objectives of the Bill are quite impressive and ambitious—good on paper—and, if we are not careful, it might just be another piece of lifeless legislation. We are hoping to remove existing impediments to the effective prosecution of drug offences by the Office of the Director of Public Prosecutions. As a layman, do you know how often in the last two and a half years or so, I have heard those who are au courant with the operations of the DPP’s office lambaste that office, itself being plagued for a very long time by all kinds of problems?

We are hoping to cure deficiencies relating to the confiscation or forfeiture of the proceeds of drug trafficking. Do we have the wherewithal and the machinery to do this? We plan to deal with certain offences on the high seas: do we have personnel and intelligence systems to deal even with the coastline, far less the high seas? Even before the drug menace had become a problem in this country, we had been unable to efficiently patrol our coastal waters. The ambition is now to keep an eye on the high seas.

Mention was made of the keeping of records and the securing and transporting of illegal substances. I really hope that they will all be rat proof. Reference is made in this ambitious Bill to prison terms for narcotic offenders, ranging from

five to 10 years and more. I think this will certainly be an additional stress on our already overburdened prison system and our sagging economy.

Do we really possess the finance and the technology? Do we have the equipment, personnel and machinery to make this Bill effective? The answer is an obvious, no! Trinidad and Tobago does not have it. I should like to ask what part of the 1994 national Budget went into narcotics control. If any at all went into it, then we have done this at a great sacrifice.

So many schools are leaking; there are all kinds of problems as far as children are concerned. Previous speakers spoke about the vagrancy problem. How much, as far as the control of the narcotic trade is concerned, will be dedicated in the 1995 Budget is a question I should like to ask because I have the feeling that we cannot afford this. I know it is a serious problem, but you will see what I am getting at.

I believe that we must stop deceiving ourselves and understand that Trinidad and Tobago does not, as a nation, possess the resources to implement the provisions of this Bill. Sen. Daly was quite right when he said that we ought to be extremely careful not to give the impression that we have things under control. All of us may vote as the other place did to give somebody the impression that we have things under control in this country. I think this is a deception, not only deceiving ourselves and our people, but also those who are waiting for us to approve this legislation.

I would like to give just one illustration. Sen. Capildeo made a few and I would just like to add one. One illustration which betrays our limited capabilities, and inefficiencies too, is that we are outmanoeuvred, outsmarted and embarrassed by the car-theft racket. In a small country such as ours, motor vehicles seem to disappear into thin air and intelligence agents look like tenderfoot scouts. Imagine, in the past 10 months in 1994, 1,649 vehicles were stolen and so far only half have been recovered. And those are large items, but we are looking for white powder. I do not know whether we can see the small things when the big things, like the motor vehicles, are disappearing.

Mr. President, you must have read only a few days ago in the newspapers, where, in 1992, 1008 vehicles were never found in Trinidad, as if this is such a big country. Let me leave that one, as I conclude on this particular illustration:

“Who can tell,
Maybe there’s a cartel too,
Who’ll take your car
And none will tell”.

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Who really is winning the struggle against the international narcotics monster? A United Nations publication on narcotics says:

“There’s little evidence that traditional drug-enforcement strategies used by the American DEA and other agencies, have had any substantial impact on drug availability and drug abuse.”

3.10 p.m.

Mr. President, look at who is winning. It is reported that in Colombia, cocaine production for 1992 amounted to 650 tonnes, but only 37 tonnes was seized by their police. In 1993, out of an estimated production of 700 tonnes of cocaine their police were able to seize only 27 tonnes. So far, in that land, out of an estimated production of 700 tonnes of cocaine in 1994, only seven tonnes was destroyed by the police.

In 1993, Burma produced 2,575 metric tonnes of opium; only one per cent was seized by the police. Who is winning the war? I want to add this for all those who feel that it is necessary and that it is a good thing for us to be a signatory to and an active supporter and participant of this famous Vienna Convention with whom we are going to be aligned in an official way when we approve this Bill, have the biggest demand for narcotics in their countries, and transshipment points like Trinidad and Tobago and St. Kitts suffer through the evils of those partners in this famous convention.

It is time for us to worry, since almost every day there are reports about cocaine seizures in this land; yet we boast about our conquests when this is only the tip of the iceberg. Drug-related matters consume so much time in our lower courts. Only yesterday, Monday 14, 1994 it was reported that \$2 million worth of raw cocaine was found at a Port of Spain location. Oh yes! I will be the first to congratulate the hon. Minister of National Security and the security forces on their success. I want to ask about the destination of that. Where was that destined to go? Is this drug really for the local market? I am worried about this; this is my concern.

It is estimated that 60 per cent of all heroin produced in Burma is sent to the United States of America. We are talking about 1,500 tonnes a year in heroin. Add to this the hundreds of tonnes of cocaine from South America going to the United States, tonnes of marijuana from Jamaica and we might want to add Trinidad too. Tonnes of marijuana from Jamaica and places like Trinidad want to share in that trade, finding markets in the United States. Boy they have an appetite! We have to add the boom markets for illicit drugs in Africa and newly

democratic countries of Eastern Europe, also France, England and other parts of Western Europe.

Our 1994 Dangerous Drugs (Amdt.) Bill before us today is a punishment Bill of the kind that a Colombian government official could say in reference to similar strategies in his own country:

“The gringos only want us to punish narcotrafficking, not eradicate it.”

As long as there is a lucrative market for narcotics, the cartels will flourish, and, therefore, our labour and effort in this country should be directed at demand reduction. This is our only hope. Let us use our limited resources in the promotion of drug awareness programmes. Let us use the little money we have available, for effective rehabilitation projects. Let us create regular employment for those young people who are being recruited as pushers and traders. I do not think we have the money to buy high speed boats. What we have to do is look at ourselves, 1.25 million people, and deal with the problem.

As we approve this Bill, the Government must appeal to the wealthy nations of the convention, I mentioned some of them just now. All the small countries which feel that they must be a part of this mass movement, must appeal to the wealthier nations of the convention for aid, for finance, technology, otherwise this Bill will be reduced to a useless piece of legislation.

The previous Senator spoke about the DEA official asking us to provide the tools. We have to tell all the big boys in the Vienna Convention who inspired this legislation that we do not have the tools. In fact they have been using us as a tool all along. The passing of this kind of legislation, the twisting of our arms to do certain things—all this has been to our disadvantage all along and we need to tell them that. The drug demand at present is because of the type of appetite I am describing that one can find in these larger countries.

I think we also have to challenge those people out there to get their own act together and to control and eliminate this insatiable demand for narcotics—this disease that is catching on in places like Trinidad and Tobago and other smaller territories in the developing world.

We may be a weak voice at that convention and in that society but I think we must condemn countries like Germany. I should like when the hon. Minister is replying—I am interested to know whether Germany is part of this 1988 Vienna Convention. We need to ask why it is that a country like Germany would export materials used for the refining of cocaine. How could a country like Germany be a

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signatory to that convention? Maybe it is not, but it is part of that very important block in Europe.

It is time that the smaller voices like Trinidad and Tobago's speak out, asking that even within the convention, we investigate to what extent countries like Switzerland— Is Switzerland a part of the convention, hon. Minister? Is Panama a part of the convention? Certainly the United States is a part of it. To what extent do countries like Switzerland, Panama or even the United States, protect money which may originate from the narcotics trade. We need to look into that. They are part of the convention and indirectly they promote the trade.

I think you very much, Mr. President.

3.20 p.m.

Sen. Kamla Persad-Bissessar: Mr. President, time and time again we have heard in this nation of ours, and with all that has gone before me. We can only describe the nation as beleaguered and besieged. Time and again, we have run a gamut of words to describe drug trafficking and the problems related to it; the consequences of drug trafficking; and the whole business of what is known as “the drug problem.”

We have heard that it is like a cancer, it is like the AIDS virus. In this very Senate, Members have described it as a scourge; a menace; an abomination; and we can go on and on—a whole gamut of pejorative words to describe drugs and the drug problem. When we listen, when we see and some of us experience in our own homes the effects of drug abuse, we are terrified, we are appalled, we are frightened—and we can go on and on.

It is my respectful view that we cannot say that we must not repeat; we must go on and on and on as Sen. Capildeo has done; as Sen. Daly has done; as Sen. Rev. Teelucksingh has done; and Senators on the other side—we must go on and on if we are to make any inroads into the drug trade. I say this, because as we all know, the drug trade, and drug leaders—as one hon. Senator said, “I would not even give them a ducal title to call them baron, they are demons.” It is like Hydra, and if you know the mythology of Hydra, when you cut one head off another appears. This is what happens with the drug trade: as you cut one down another rises. What are we to do?

We come to this Parliament and we say that we will bring legislation to deal with that problem, and those of us who are concerned, as every law-abiding citizen in this land is concerned, would agree that we must pass that legislation because we want to save the human resource of this nation. We want to save the

school children. Mr. President, you may recall that it was said that the fate, or the future, of the nation is in the children's schoolbags. But as we have heard and as we have read, they are carrying the drugs in their schoolbags now, and if we are to save this nation, then we must make a difference.

Therefore, this side will support the legislation. But we must go further as other Senators have said. We cannot say *carte blanche* that we support the legislation. I am sorry the hon. Attorney General is not here, because I have perused the *Hansard* and discovered that he did indicate, to arguments that were put against the weaknesses in the legislation, that the legislation is merely the framework for the law enforcement agencies to work with.

Therefore, we cannot come here and say the legislation is not sufficient; we must put the legislation in place. We agree with that, but you see that framework must be strong enough. If you are saying the legislation is the framework, then within that legislation, the framework in my respectful view, does not go far enough.

Mr. President, before I go into specific provisions, which in my respectful view, do not go far enough, let me point out that the contempt—if that is the proper word—with which the senior Senators may have treated this Senate today by not being here, is reflected in the very Bill that is before us. It seems that no one has taken the time to proof-read the Bill, so that even though amendments have been made since the last time this Bill was before us, there are still very minor drafting errors. No one has taken the time. It is a sign of contempt on the part of the pilot of this Bill. So that, if we look at the Bill we would see that clause 9 at page 20—perhaps it was merely an oversight, and not contempt by the other side—we say “inadvertence” as lawyers, and Sen. Daly would agree, the typical lawyer's excuse is “through inadvertence, it was left out.” Perhaps it was inadvertence and not contempt. But at clause 9 at page 20 of this Bill, proposed section 47(9) reads:

“For the purposes of subsection (7), having possession of any property shall be taken to be doing an act in relation to it.”

As we go back to page 19 of the Bill at the proposed subsection (7), which is being referred to, one would see that there is nothing which has to do with having possession of any property. And to save time I would just go to subsection (8), because that is what should have really been placed there. It is my respectful view that subsection (9) should really read: “For the purposes of subsection (8)” and not “subsection (7).” Subsection (8) says:

“Where a person who has made a disclosure under subsection (7) does any act in relation to the property in contravention of subsection (3) or (4) he does not commit an offence under this section...”

and then conditions are laid out.

When we look at subsection (9), which is the one referring backwards, it says:

“For the purposes of subsection...”

and I am saying it should be subsection (8), it should not be (7).

“having possession of any property shall be taken to be doing an act in relation to it.”

So that having possession of a property, doing any act in relation to the property is subsection (8) and not (7). That is the first error that is shown in the Bill, so we cannot pass it carte blanche. You cannot say that it has been elsewhere, and you expect it to go through as it stands; we cannot do that.

I refer now to clause 9, at page 20—both errors occur on the same page—the proposed section 47(10) (b). If anyone had read this Bill, he could not have missed this with the greatest respect to my Friends. And it says:

“(b) there is reasonable excuse for his failure to make the disclosure in accordance with subsection (7)(b).”

There is no subsection (7)(b) in the legislation. What are we referring to? It must be amended; we cannot pass it as it is. As much as we want to, we cannot do it. Someone should have read this. Those are, as we say, through inadvertence, perhaps; contempt, perhaps, I really cannot say. But if we move on we would see, as I said before, that the Bill does not go far enough.

There are several points that could be raised to show that the framework is not there, if we hope to achieve the objectives of this Bill. You see, the Bill makes for voluntary disclosure, and *Hansard* would show that that is what was said by the hon. Senator piloting the Bill today and the hon. Sen. Camille Robinson-Regis in her contribution before this Senate previously.

3.30 p.m.

In the light of what Sen. Capildeo has said about the whole banking sector, can we really sit and be comfortable with voluntary disclosure? Sometimes the very ones who have their hands right to the pot may be the ones who have to make the disclosure. Can we depend on them in the banking sector and in the

financial institutions to make that disclosure? It is my respectful view that we cannot. This is why I say that the Bill does not go far enough.

With the greatest respect to the hon. Minister in the Ministry of National Security, may I remind him that he himself said in 1993 when he was the Minister of National Security—and I wish to quote—if this is reported correctly, and as far as I know there has been no disclaimer as to what is stated here—from page 4 of the *Express* of Thursday, April 1, 1993:

“Huggins said Government was also strengthening the money-laundering provisions in the 1989 Drug Act to make mandatory the reporting of all money transactions over \$10,000. He said banks will have a legal obligation to complete a form in which persons depositing cash, certified cheques or wire transfers of over \$10,000 must state the source of the funds. He said this form will then be sent to the Central Bank.”

If the reporting is correct, the promise of mandatory disclosure was made. Even if the banks have taken it upon themselves to say that they will report in a voluntary manner, the legislation, if it is to have teeth, must make it mandatory. This is why I say that the framework does not go far enough to combat money laundering.

There is one other point I would like to raise. I am sure that Sen. Rooks would not mind if I raised it because it also has to do with an oversight, perhaps, on the part of the Government. On page 23 of the Bill, clause 10, which proposes to amend section 53A deals with drug trafficking on the high seas, and states:

“In this Part – ‘ship’ includes every description of vessel used in navigation and not propelled by oars.”

In *Hansard* of February 8, 1994, in answer to a query from Sen. Rooks as to why vessels propelled by oars were left out—when we all know that there is much toing and froing with vessels propelled by oars from Trinidad to the mainland; we know that; it is common knowledge, the hon. Attorney General said:

“...I am grateful to the Senator for referring to that provision. I cannot immediately respond as to why it was that vessels propelled by oars were excluded but, certainly, one would give it consideration. The coastline of Venezuela, I understand, can be easily achieved by vessels propelled by oars;...”

So the hon. Attorney General recognized what was happening. Then he said:

“...it is not the fastest way of getting there, but, certainly it is an effective way, perhaps, of achieving that objective.”

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this is the point—

“So, consideration will be given to the point which was picked up by Sen. Rooks.”

The Bill comes back and there is nothing in it with respect to deleting the words “not propelled by oars.” Perhaps the Attorney General gave it consideration as he said he would do, and decided that he wanted to exclude vessels propelled by oars. I cannot say and in his reply, I hope that we find out what is the result of the deliberation that was given with respect to defining “ship.” If there is nothing, I respectfully ask that those words be deleted.

I have said that the framework does not go far enough. The Rev. Senator Teelucksingh has adverted to some of the problems on the demand side of it. Again this is something that we cannot repeat. As mothers of this nation, we see, we feel and we hurt. It is not enough to say that we would lock up persons. As I have said, it is like Hydra, you cut off one head and another one would rise. The only way is to give some kind of rehabilitation to the victims of drug abuse.

The hon. Minister in the Ministry of National Security indicated that there were new movements with respect to certain community police—and I am not certain that he said there was a new focus—that they are going into the schools. I am not certain either whether they are doing this to try to find out who are the abusers and lock them up. I am sorry but I hope the Minister would tell us what is the new focus when these persons are going into the schools.

It we are merely looking at punishment for the offenders, we would never solve the problem, we would not even make a dent, and this nation’s mothers and children would continue to suffer. I am asking that even though this Bill does not contain the recommendation of Article IV of the 1988 UN Covention which was read out previously by Sen. Capildeo—and this is why I say that the framework does not go far enough; it should have been in here. To say that those are programmes which can be put into place without legislation is not strictly so. Some of us may be familiar with the system in the United States where for alcohol it is not simply that you are punished, your licence taken away or whatever, but part of the sentence for the offence is rehabilitation programmes. You must go! It is mandatory that you go. That should have been put into this Bill.

Nonetheless, as we have said, we are concerned about the problem so we would pass the Bill without it. But the hon. Minister and his Government should take note and deal with that. It is said that money is the root of all evil. As long as there is a market there would be a supply, and the market would continue if we do not deal with the addicted persons. That is where the greatest thrust would be. We

have heard others saying—and it is true—that it is not in locking up that you deal with the problem—which is what they are going to do with these offenders. We would confiscate, yes; we would try to hit them where the money is and we would lock them up. There are offences that we would do that for, but that is not enough. We must go to prevention. Put them away and another head, like Hydra, would rise up. So you go to the root of the problem, and, that is, to the addicted person.

3.40 p.m.

I have said that the framework does not go far enough. On the other hand, there are two matters which I would like to raise, if time permits, which, in my respectful view, go too far. They are with respect to the Sixth Schedule on page 35 of the Bill. Within the Bill to amend the Dangerous Drugs Act, there is a provision in the Sixth Schedule, listed at A, which purports to amend the Summary Courts Act by inserting a new section 13A as follows:

“...Notwithstanding any enactment to the contrary, the Director of Public Prosecutions whenever he considers that having regard to all the circumstances it is desirable to do so in the interests of securing the more expeditious hearing and determination of cases, may, in any case transfer proceedings from a summary court to any other summary court.”

Now, Mr. President, while it is true that one of the objectives of the Bill is to remove impediments standing in the way of prosecutions, in my respectful view, this is not removing an impediment, this is, in fact, creating an impediment—and for several reasons.

At present, what happens in the summary courts, as Senators may know, is that if a person is charged with an offence in a particular district, he is tried in that district. So that if the amendment in the Bill is accepted, what it means is that the DPP—and please let me make it quite clear, I am not speaking of the person of the DPP, but of the office of the DPP—would be able to do two things: he would be able to determine in which court the matter is heard, that is the first thing, that is to say the place where the matter is heard. Nothing is wrong with that.

But, secondly, by extension, the DPP would be able to choose the magistrate who would hear this case. This, in my respectful view, cannot be right, because in this nation of ours the rule of law is the cornerstone of our democracy and if we have a proper respect for the rule of law, we must recognize a basic tenet which is that justice must not only be done, but it must manifestly be seen to be done.

If the very office which institutes the proceedings against you—which is the power that the DPP has now—is now also being given the power to choose where

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it will be heard, and who will hear it, how can justice be seen to be done in circumstances like that?

One may say that it is important to give this power because, as was said before, and if I may quote the hon. Attorney General again, I am sorry he is not here—I understand that he is ill. *[Interruptions]* The hon. Attorney General indicated on February 8, 1994 that he and the Minister in the Ministry of National Security were seriously considering setting up a drugs court so that all the matters could be dealt with there.

That argument, in my view, holds no water because if and when they set up the drug court—they would come back here to set up that drug court and that can be dealt with then. But when one looks at the purport of the intended section, it does not deal only with drug offences. What they are doing here is giving a power to the DPP with respect to any offence to move any case from any court to any other place, to any magistrate that he wants.

Sen. Merritt: And you know the implications of that!

Sen. K. Persad-Bissessar: It is not just drug offences. It deals with any case. That is the power being given to the DPP. When we look at this in the context of concerns expressed, just last week, about the choosing of magistrates to do particular cases, how can justice be seen to be done, Mr. President? How?

We can go on. The objection goes even further. What I am asking for, with the greatest respect, is that the proposed amendment be deleted. It goes deeper, as I have said, because if one looks at section 90 of the Constitution. *[Interruption]*

Mr. President: Senators, try not to put off a relatively new Senator in the course of her contribution.

Sen. K. Persad-Bissessar: Mr. President, I am not put off, but I thank you for your protection.

You see, Sir, that is the contempt with which they came to this Senate. They came here for *carte blanche*, but they will not get it when these benches are here. One must not assume and take things for granted.

So we look at section 90 of the Constitution which sets out the Office of the DPP. In other words, the Office of the DPP is a creature of the Constitution, and the powers of the DPP are within the confines of this Constitution. If they stray from it, are they coming through the back door then, to amend the Constitution?

Sen. Barrack: That is PNM tactics, all over.

Sen. K. Persad-Bissessar: Mr. President, section 90 reads:

- “(2) There shall be a Director of Public Prosecutions for Trinidad and Tobago whose office shall be a public office.
- (3) The Director of Public Prosecutions shall have power in any case in which he considers it proper to do so—
- (a) to institute and undertake criminal proceedings against any person before any court in respect of any offence against the law of Trinidad and Tobago;
 - (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority;
 - (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.”

And the section continues. In the marginal note: “Appointment, tenure and functions.” of the DPP.

Nowhere in here, with respect, is there anything about transferring cases. So that if they are seeking to augment the power of the DPP, again, a creature of the Constitution, they must come back to the Constitution to tell them what to do. I had occasion to refer this Senate previously, to section 54, which deals with what they want to do with section 90.

Section 54 says:

- “(1) Subject to the provisions of this section, Parliament may alter any of the provisions of this Constitution...
- (2) In so far as it alters—...
 - (b) sections...”

and it lists a number of sections, including section 87 to 91;

“a Bill for an Act under this section shall not be passed by Parliament unless it is supported at the final vote thereon—

- (i) in the House of Representatives, by the votes of not less than three-fourths of all the members of the House; and
- (ii) in the Senate, by the votes of not less than two-thirds of all the members of the Senate.

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If we look at subsection (5) of section 54 we see:

“No Act other than an Act making provision for any particular case or class of case, inconsistent with provisions of this Constitution, not being those referred to in subsection (2) and (3), shall be construed as altering any of the provisions of this Constitution, or (in so far as it forms part of the law of Trinidad and Tobago) any of the provisions of the Trinidad and Tobago Independence Act, 1962, unless it is stated in the Act that it is an Act for that purpose.”

There is expressed provision if we want to amend the powers of the DPP, that is to say, if we want to give him more powers. But it cannot be slipped into the Dangerous Drugs (Amdt.) Bill that is before us, by the back door as it were, and say that we are amending the Summary Courts Act when, in fact, what is being sought is to amend the Constitution.

If we pass that provision in this Senate today, we would open the way for it to be struck down, with respect, in our courts. The very legislation that we are hoping to expedite—we want to expedite the hearing—the day that the DPP transfers a case, we would be struck with a constitutional motion because his power is a constitutional power and this Act, the Summary Courts Act, is not the primary law. The supreme law of the land is the Constitution. It would be struck down, in my respectful view, because it is a constitutional matter.

Yes, there are arguments against the DPP transferring cases. There are arguments to say the DPP’s Office is really understaffed and overburdened. So how can this further administrative function be taken on? Remember, the purpose is for expeditious hearing. How can they do it, this Office? How can it be done to expedite anything? We know what is happening now in the court system.

Further, not only would the way be open for constitutional motions, but also his decisions would be subject to judicial review. It is a discretion and it is the DPP who is given the discretion within the clause here. It reads in the Sixth Schedule:

“. . . the Director of Public Prosecutions whenever he considers that having regard to all the circumstances . . . in the interests of securing the more expeditious hearing . . . “

The discretion is within the public office of the DPP, so that that is open to judicial review. Again, the day he transfers a case, with respect, what happens? Judicial review. And what does that do?

Sen. Daly, I understand, from reading and from what I have heard, has spoken about what is happening in the court system. Those of us who practise there will tell you what the lists are like, that matters that were filed in 1993/1984 are now being heard in the civil courts in San Fernando where I practise.

When a judicial review is filed—and there is one that is of great concern to Sen. Muntaz Hosein—that tends to get an earlier hearing. That is true. But, again, what is being done? Creating the way for further clogging and delay. Whilst that is going on, the substantive case, that is the offence within the Act, is being stayed, is being held up. One has to wait. It is happening right now before the courts.

A constitutional motion is before the courts, and what is happening to the substantive trial? It has to wait. Justice does not sleep because the Constitution is always the supreme law of the land, so we go there first. That is what is happening, Mr. President.

So that I would respectfully ask that the Sixth Schedule to this Bill be deleted entirely for the several reasons I have given and so stop whatever litigation that would arise to delay the hearings further.

There is just one other issue I would like to raise with respect to a clause that created some trouble before, but still has not been dealt with; it is a clause which creates an offence. It is the proposed section 47(5). I am looking at page 18 of the Bill. This is where, again, perhaps overzealously or overanxiously we have gone overboard; too far, in my respectful view. In this, proposed subsection (4) says:

“A person is guilty of an offence if, knowing or having reasonable grounds to suspect that any money or other property is, or in whole or in part directly or indirectly represents another person’s proceeds of drug trafficking, he receives, possesses or converts that money or other property.”

But, subclause (5) creates a defence. It says:

“It is a defence to a charge of committing an offence under subsection (4) that the person charged acquired the property for adequate consideration.”

Mr. President, fine, proposed subsection (4) says “knowing or having reasonable grounds to suspect,” but it is quite all right if I got adequate consideration for it. If I buy the Sentra and I have reasonable grounds to suspect or even if I know—the subsection says one knows or has grounds to suspect—it is quite okay if I paid what was the market value of it—adequate consideration.

How can that be? How can an offence be created and in the same breath, take the offence away? Which is what this seems to be doing. It is contradictory. The defence is there already within the proposed section. The defence is one did not know and one did not have a reason or cause to suspect. Why is a defence being created because it is adequate consideration?

Now, I read within the *Hansard* that part of the rationale for this was to say that it helps the lawyers, because the lawyers would give services; it therefore covers services. But the argument holds no water because if one looks at proposed subsection (6), it specifically excludes services, so to say that it was to help lawyers, with the greatest respect, I do not think we need that kind of help. Proposed subsection (6) says:

“The provision for any person of services or goods which are of assistance to him in drug trafficking shall not be treated as consideration for the purposes of subsection (5).”

If I provided a service and was paid the money, that is not a defence whether it is adequate or not. To say it is to assist services as lawyers, is no argument in my respectful view. It goes further because, again, in this august Senate, when the arguments were put by this side and Independent Bench against this proposed subsection, the hon. Attorney General—and again, I am so sorry he is not here—

Sen. Barrack: He is recovering.

4.00 p.m.

Sen. K. Persad-Bissessar: The hon. Attorney General indicated to the Senate that he would look at it. In effect, this is what he was saying: I do not have the Barbados provisions here before me, but I would look at them and we would reconsider that. It went on to the committee stage and it was stood down. I understand it went further, and again he said that he would consider it, and if I am not mistaken, gave an undertaking to this House that it would be taken up. In the *Hansard*, 9.30-9.40 a.m. of February 22, 1994, the hon. Attorney general indicated that we would look at it again when the matters go to the Lower House. Inadvertence again, I do not know, but it was not looked at.

The very Barbados legislation which the hon. Attorney General wanted to look at, when we look at it, in my respectful view, provides or creates no such events, because the provision in the Barbados legislation which is found in section 13 of the Proceeds of Crime Act, 1990 deals with forfeiture. The section it is dealing with is not the offence that we have created in purposed subsection (4); it

deals with forfeiture. In that case, the defence is created. Mr. President, if you will permit me, I will read the whole section to get the full import of it.

- “1. Where an application is made for a forfeiture order against property, a person who claims an interest in the property may apply to the court, before the forfeiture order is made, for an order under subsection (2).
2. If a person applies to the Court for an order under this section in respect of his interest in property and the Court is satisfied on a balance of probabilities,
 - (a) that he was not in any way involved in the commission of the offence; and
 - (b) where he acquired the interest during or after the commission of the offence, that he acquired the interest...”

And this is it here:

- (i) for sufficient consideration; and...”

In ours it is “adequate consideration.” It goes on—and please note the word, “and”—

- “(ii) without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time he acquired it, property that was tainted property.”

But that is not the case in our Bill. Our Bill is saying that you knew, or you had reasonable cause. But yet if there is adequate consideration, it is quite all right; that is a defence. So the Barbados legislation does not have a similar provision.

May I respectfully go further—and I must thank the UNC’s research staff who sent this to me only a short while ago, because I was unable to locate some of the UK legislation. It is the UK legislation on which this Act is based and we can go as far back as 1971. The Misuse of Drugs Act, section 27 of the UK legislation allows forfeiture where a person is convicted. There is no defence of adequate compensation or innocent purchase, as it were.

In the 1986 Drug Trafficking Offences Act, which is the one that this is based on, nothing appears on this. The 1988 Criminal Justice Act—this too, shows section 70 which amends the 1971 UK Act at section 27(1)—allows for forfeiture of goods where a person is convicted of a drug trafficking offence, that is, where the person is assisting. But again, no such defence.

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When we come to the 1990 Criminal Justice Cooperation Act, which is the latest UK Act in relation to this, there are no provisions relating to forfeiture or defence, such as this, of innocent purchase. In my respectful view, none of this legislation deals, provides creates, a defence that is, in fact, no defence to the offence that is being created.

The Bill, as I said, goes too far on the one hand, but on the other, it has not gone far enough, because you create the offence and then you provide a defence for someone to get out of it. That has to be deleted, in my respectful view, because if you do that, what would be happening is that a person knowing and having reasonable grounds to suspect that the money or the property directly or indirectly represents the proceeds of drug trafficking, would be aware that it would be quite all right to receive it, to transfer it, to convert it, to possess it, as long as there is adequate consideration, whatever that may be.

If proposed subsection (5) goes, (6) falls down on its own. I do not know what (6) really was trying to do. There might have been good intentions, as I said, because they said they wanted to assist the lawyers, but it has not been achieved in this legislation.

This side of the House will support this Bill as a whole but there are provisions within the framework that we cannot support. May I say that I have not been here very long, but I do want to say that because they take something for granted, it does not mean that it will come to this House and we will pass it through without a problem. Come loaded, and we would be ready to deal with it.

I thank you very much, Mr. President.

Sen. Nirupa Oudit: Mr. President, I think it is time that we wrote this particular bit of legislation into the law books of Trinidad and Tobago. We may disagree on the mechanism of particular aspects of the legislation, and certainly, Sen. Bissessar has picked up quite a few important ones that may need to be looked into—and I suppose the Government is taking note—but I think we would all here agree that the drug problem is one of the most serious problems facing the country at this time. It contributes in a major way to one of the other most serious problems facing the country, and indeed, the world, that of crime, the horrendous extent of which, has never been seen in the world before.

I think it was particularly refreshing today that as this Bill was being debated, we had with us in the Senate many fresh young faces whose future is impacted on by the passage and most importantly, the implementation of legislation such as this Bill before us.

Part 11(A) of the Bill, "Offences relating to precursor chemicals" is of special interest because it deals with that aspect of the drug problem that is easiest to control for countries such as ours with small or limited resources, and that is the aspect of prevention. Most illicit drugs are produced with the use of chemicals and regrettably, these chemicals are not exotic, specialty products where we can put pressure, through conventions or otherwise, on countries to stop producing. Rather, these products are widely used in legitimate industries and traffickers obtain them almost exclusively from the legitimate chemical industries of the world.

Cocaine and heroin-source countries are those that are actually producing these drugs and are not large producers of the chemicals; of necessity therefore, traffickers must import them from other countries. The countries that are producing these chemicals are countries such as the USA, Germany, Europe, the other European countries and the Far East countries. The chemicals that are produced by these countries are used by the drug-producing elements, such as Colombia, Ecuador, Peru, Turkey, etc.

What, then, are the implications for a country like Trinidad and Tobago in this? Where does our country fit in? The implications have to do with the fact that the chemical manufacturing countries have all introduced legislation which makes it very difficult for drug-producing countries to import chemicals from them directly.

4.10 p.m.

The USA, for example, has introduced their Chemical Diversion and Trafficking Act since 1988. I wish to quote very briefly from the Chemical Diversion Control Programme of the USA Drug Enforcement Administration, in which it states:

"Regarding U.S. chemicals being supplied to clandestine drug manufacturers in Latin America, in fulfilling its CDTA mandate, DEA has disqualified approximately 60 percent of Colombian customers of U.S. chemical firms, and approximately 25 percent of customers in other Latin American countries. Furthermore, as of September 1993 the DEA had prevented 31 shipments of controlled chemicals totaling 2200 metric tons from being exported to suspect companies around the world."

Therefore, the drug-producing countries are finding it increasingly difficult to buy their products from source countries. This is where a country like Trinidad and Tobago becomes particularly vulnerable.

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In 1994, we are a country with a liberalized economy—virtually anyone can come here and set up business and we would welcome them—and we are also a country which has, as a main developmental focus, an interest in South-South trade or South-South co-operation. We have to guard against this working against us for this particular aspect of the drug trade. The way to do this is to make sure that we implement the regulations of a Bill such as this, as quickly as possible.

The modus operandi of large drug cartels, or serious drug traffickers, is to take large chemical shipments to cocaine-production areas through brokers operating in Third World countries such as ours, and we need to guard against this happening. We will do this by rapid and effective implementation of the regulations of the Bill. In this regard, I think there is also the need for a responsible approach by businesses in this country which would be involved in the legitimate sales of this type to co-operate with the Government and not see these regulations as onerous or bureaucratic.

I support this Bill, Mr. President.

Thank you very much.

Sen. Carol Merritt: Mr. President, it is a pity that I am not seeing the Minister in the Ministry of National Security, and the Attorney General is absent. I know that he is ill. I have to compliment my colleague, Sen. Oudit, on her fantastic contribution on this Bill and for opening our eyes to the shoddily drafted legislation that is before us.

The drug trade is very dangerous to us, and we see that time was not taken within the last six months to deal with the concerns raised in February, 1994. It is a shame, and it just shows the contempt for this Senate and the nation in general, by the Government in bringing back the same Bill before us.

I spoke on this Bill in February and I have to raise the same concerns which I raised then. This Bill was passed in the Senate in February, this year, and was given critical support with many concerns raised by the Senators who spoke on it. I am sure they still have the same concerns because there were not many changes to the Bill.

Although we will give the Government critical support on this Bill again, I have the same concerns which I will raise again.

Sen. Barrack: The junior Minister has returned.

Sen. C. Merritt: The junior Minister has returned and it is a pity that Sobion is not here today.

Sen. Huggins: Sobion? Who is Sobion?

Sen. C. Merritt: The hon. Attorney General. I am sorry for styling him as Sobion.

The only change the Government has made as an amendment to the original Bill, is including a new clause 13 which provides that the Minister of National Security is to lay in both Houses of Parliament an annual report which will be reviewed by a joint parliamentary committee to monitor the operation and enforcement of this Bill. This is the only amendment which is now before this Senate. That is why it was important that my colleague raise the relevant clauses that were inadequate in this Bill.

Sen. Huggins: I would deal with that in due course. Carry on.

Sen. C. Merritt: It seems as though the Senator did not look at the Bill. He did not read it through to see these flaws.

Sen. Capildeo: The Senator has to go to St. James to deal with it?

Sen. C. Merritt: Mr. President, although the Government has made this amendment to provide a monitoring mechanism to ensure that the provisions of the Bill will not be abused, my concerns are the same as on the last occasion when this Bill was before the Senate.

The Government should be committed to the welfare of its citizens and, by extension, the control and eradication of the drug trade or the drug menace in our society. This menace, as Senators know, is crippling the social fabric of our society. If the Government is so committed, it would no doubt envisage the formulation and implementation of a programme based on a policy to attack the problem in a holistic manner; that is, both the demand and supply reduction of the trade.

I shall state again that a thorough analysis of this problem may well indicate that the drug problem can be dealt with far more effectively from the demand side rather than the supply side. If a holistic and comprehensive programme is established, mechanisms will be put in place to detect the availability of drugs, the locality of the sources, the identities of the suppliers and users and why these users first began to use drugs. We need to have that sort of data available to attack the problem in a holistic manner.

We need to examine the effectiveness of our law enforcement in curbing the drug trade for the drug problem to be eradicated. There is need for a comprehensive policy to deal with it. The absence of a social service network to effectively treat the problems of drug addiction is evident in Trinidad and Tobago.

At present, there are only a few rehabilitation centres in this country, and they are strapped for funds to execute their functions effectively. The subventions they receive from the Government help to pay only the salaries of their staff.

The Opposition had proposed before, and will propose again, that a national advisory council on dangerous drugs be established.

It should be comprised of members appointed by the President after consultation with the Prime Minister and the Leader of the Opposition. The functions of this council shall be:

- (a) to consider and report to Parliament on measure which in its opinion are necessary or expedient to be taken for preventing the use or misuse of dangerous drugs and for dealing with the social problems connected with the use or misuse of such drugs;
- (b) to take steps to provide proper advice to persons affected by such use or misuse of dangerous drugs;
- (c) to advise the Minister on the steps to be taken to provide proper facilities and services for persons affected by the use and/or misuse of dangerous drugs and to ensure that proper advice is available to such persons and to secure the provision of proper facilities, services, treatment, rehabilitation programmes and aftercare for such persons.
- (d) to educate the public—and this is important—on the use and misuse of dangerous drugs.
- (e) to promote the research into or otherwise obtain information for the purpose of preventing the use or misuse of dangerous drugs.
- (f) to advise the Minister on the setting up of co-ordinating drug councils throughout Trinidad and Tobago in pursuance of its duties and functions therein.

4.20 p.m.

If the Minister would recall, my colleague Sen. Capildeo had called for the collaboration of the various ministries: the Ministry of Social Services, the Ministry of Education and the Attorney General's office to get these programmes going.

- (g) the Council may consult with persons or bodies as it considers appropriate and subject to the section, may regulate its own procedures.

I made the above proposals, cognizant of the fact that the most effective methods of reducing the demand for drugs require the modification of human behaviour. Those persons who do not take drugs must be persuaded not to start, those who are occasional users must be prevented from becoming chronic users; and those who are chronic users must be treated and rehabilitated into the mainstream of our society.

The proposed national advisory council on dangerous drugs would go a long way in achieving the goals I have stated. The year 1994, started with a bang in the crime situation. In the first ten weeks of 1994 there were 12 murders, and most of them were drug related. The drug traffickers have spawned a new and vicious breed of killers in our society.

The drug trade flourishes and the law enforcement agencies seem incapable of curbing it. The gunning down of star witnesses continues; attempts are made to eliminate even those who are in very high, sensitive and protective security. I ask the question: Who would guard the guards? If this Government is serious about eradicating drug trafficking and money laundering it would examine these facts.

Who are the people with access to the ready cash that it takes to buy massive amounts of cocaine from the foreign dealers? They will know that the pusher on the street corner would not have that ready cash, or even the women who are used as drug mules and who pass through, on a daily basis, in and out Piarco airport would not have that cash to purchase the amount of cocaine that is seized in this country today.

In the first place, if the drug pushers on the street or the women who are used as mules had that type of money available to them, they would not be used as drug pushers or drug mules at all. The drug pusher on the street who is being arrested regularly does not have the money to purchase high-powered boats that would meet foreign vessels on the high seas to transact his business. If the Government is really serious it needs to examine who are the people with the money available to them to make those purchases.

One would note that the rich people who are involved in the drug trade are not being tackled at all. They have become untouchables in the society. I am sure if some of the young men and women who become involved in the drug trade could have obtained sustainable employment, they would not have become involved in the first place. If this Government would provide sustainable employment and not the "ten-days" and five-days" available presently, many of the young people today would not be lured into the trade. They would know that the only result of being involved in this type of business is to be dead, or become badly wounded.

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As far as forfeiture and confiscation goes, I am afraid the horse has already bolted. The Government knows—this is a very small society. It is alleged that in Trinidad and Tobago there are existing business concerns which were established from the proceeds of drug trafficking and money laundering. Everyone seems to know of these practices. They talk about these practices in hushed tones in cliques, but they are afraid to refuse the proposition of these very said people.

Although in the Act of 1991 there are provisions for confiscation and forfeiture, I am not aware of any such case before the courts today. The law enforcement agencies seemed unprepared in the past to confiscate the properties or vehicles they might have reasons to suspect were bought with the proceeds from drug trafficking. If since 1991 they had the power to deal with money laundering and they allowed it to continue unabated, what is there in this new Bill that would inspire them to move to confiscate or forfeit properties they figure are bought with ill-gotten gains? If clause 5, which inserts new sections 35 A, B, C, and D, is implemented effectively we could see the coffers of the treasury bursting at the seams. I propose that some of the confiscated proceeds be used to set up rehabilitation centres and foster-care homes. We need centres to rehabilitate the users and those offenders on their release from prison, as well as foster-care homes to take care of their children.

We all have to realize that sometimes both parents are involved in the drug trade, and if for some reason both parents are incarcerated, somebody would have to assume the guardianship of their children. We need more homes. The few available presently are inadequate. These homes are badly needed.

I am aware that there might be aspects of money laundering that would go over the heads of the legislators and the law enforcers. Money laundering does not involve only complex bank transactions. As a matter of fact any economic transaction can be used to launder money. Some people can become involved quite innocently; for example, persons who receive large cash donations for churches and other charitable organizations. They would receive this money quite innocently, not knowing exactly where it came from.

Mr. President, you are aware that a basic fact coming out of the Scotland Yard Report was that corruption exists throughout the ranks of the police service; that there exists in the police service a clique of corrupt officers who protect drug dealers by the misuse of the discipline and transfer system. As far as I am aware, no action has been taken on the findings or recommendations of the Scotland Yard Report.

I am raising this point to make a request of the Minister in the Ministry of National Security to demonstrate to the Members of this Senate how effectively this Bill would be operated when the 100 or so specific officers whom—

Sen. Huggins: Is the Senator still on those 100 officers?

Sen. C. Merritt: Yes. The 100 officers to whom the Scotland Yard team had referred are still within the ranks of the police service. The Minister must clear up the doubts in our minds. I will mention it as long as something is not done about it, because to give them such powers as this Bill is advocating, when they are corrupt—

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. C. Merritt: Mr. President, it is a pity that I did not catch your eye before you suspended. I only had about two minutes again with my contribution.

I would just re-emphasize my point on the Scotland Yard Report. It was reported that within the police force, there exist some corrupt officers who need to be rooted out. If these officers are still within the ranks of the police service, how would the provisions, as expressed in this Bill, be adhered to? How effective would it be if these corrupt police officers are still within the ranks of the police service?

To avoid any slip-ups in the operation of this legislation, the law enforcement agents must be made fully aware of its provisions, and the procedures must be carefully followed. If the Director of Public Prosecutions Office is still understaffed, I cannot see how it would be in a position to create the register of foreign forfeiture and confiscation orders created by clause 5 in proposed section 35 A (4) of this Bill.

As my colleague said, the changing of the functions of the Director or Public Prosecutions goes against the Constitution. In addition, Director of Public Prosecutions Office is understaffed, so I cannot see how it would be able to institute effectively the provisions of this Bill. However much is poured into both forces in terms of new resources and legislation, until those officers allegedly involved in assisting or protecting drug traffickers are weeded out, efforts to control drug trafficking in Trinidad and Tobago would be sabotaged from the outset.

We give critical support to this Bill, and as indicated by my colleagues, there are some areas in some clauses that need to be dealt with at the committee stage.

Thank you.

Sen. Junior Barrack: Mr. President, I have just a few points to make on this Bill. As you would realize, my colleagues were very thorough and eloquent and as a result I need only to make some very brief points.

In the Explanatory Note I looked at an area which deals with the reasons for the Dangerous Drugs (Amdt.) Bill before us. One of those reasons is the removal of existing impediments to the effective prosecution of drug offenders experienced by the Office of the Director of Public Prosecutions. I hope that when this Bill is passed in this Senate there would be no excuses as to why drug offenders are not apprehended.

We are told that under the existing Act, No. 38 of 1991, hardly any offenders were convicted or charged. I am merely making this point because it is important to note that although nothing prevented us from implementing Act. No. 38 of 1991; nothing significantly happened in terms of arrests, confiscations and charges brought against individuals under this Act. I am saying that if we believe that this amendment as proposed in the Explanatory Note would in fact remedy our inability to deal with the implementation of laws that are passed in this Parliament, then I want us to give this very careful consideration.

There is another reason why this Bill is brought before us today. If you look at Explanatory Note paragraph 2 (c) states:

“the avoidance of problems or the curing of deficiencies relating to the confiscation or forfeiture of the proceeds of drug trafficking.”

Since we have not had any cases of this nature, what was the problem in the past that we were unable to deal with the matter under Act No. 38 of 1991, and what guarantee do we now have that this Government would deal with this matter? I believe that those two areas, apart from the effect of ratifying the 1988 Convention, do not in effect give us any excuse for not implementing Act No. 38 of 1991.

I also make mention of another area which I believe is of grave importance to this situation. That has to do with the effects of the drug trade on individuals who are unemployed and who are seeking some way of meeting their need of certain basic economic requirements for living. As you know, we are in a time when, according to unofficial figures, unemployment is approximately 20 per cent. Even if we take the official figures to be a true reflection of the unemployment situation in Trinidad and Tobago, it is a horrendous situation that we are facing.

It is my opinion that any measures that we are going to implement to deal with the drug trade must in some way or the other deal with matters such as

unemployment. In the long run, once there is a market for the commodity of drugs and people are given the opportunity to make money through it, and there are no alternatives, we should expect—and we can only be realistic in this matter—that some people would yield to the temptation.

5.10 p.m.

The drug trade in Trinidad and Tobago has become a sort of alternative unemployment relief programme. In many ways, drug offenders participate in these activities because they derive some form of income. We have to face it. When the Government in its manifesto promised to deal with the unemployment problem, and not only fails to do so, but also contributes directly by its policies of divestment and lessening of involvement in the economy, it is in fact creating more unemployment. Through that mechanism, it is responsible for the burgeoning of unemployment in the country.

With that in mind, the Government must take some blame for the situation which now exists. It must say that it is responsible for the escalating unemployment. In saying so, it must recognize the relationship between unemployment and certain acts of deviance, which include activities within the drug trade.

This is very important because the area of reduction of demand must be a factor to be dealt with in any serious attempt to handle the drug trade. If there is no demand, there will be no supply; there will be no suppliers, no profitable market and no problem to legislate against in this Parliament.

I want to make these two points because I believe that they are critical in dealing with the drug trade and in bringing some kind of ease to the mass of people who are suffering. There is real suffering out there. The drug trade does not ease it; it offers temporary relief in some instances. It stupefies individuals who like to numb themselves against the effect of unemployment and the condition of not having enough. There are situations where persons are suffering from low self-esteem as a result of not having employment to meet the basic requirements of a dignified life. When we look at these factors we have to admit that if this Government does not deal urgently with the problem of unemployment, it would in fact, be contributing to the abuse of substances and that, too would be adding to our drug problem and the woes that we face.

We have a situation in this country where youths and children are literally vagrants—they live on the streets and participate as watchmen for the drug trade, and our Government has not been able to show that it is serious, by implementing

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programmes to take the children off the streets. They are running up and down Port of Spain participating, in most cases, in illegal activities. Someone asked: where is the Minister of Social Development? I do not know where she is, but it is important that we take note of these things.

It is a serious matter because it is recognized and admitted that along with the drug trade and the drug culture, it is not only a matter of selling, but consumption and the effects of consumption. In communities where there is a heavy concentration of addicts, there is a type of criminal activity associated with that. The neighbourhood is terrorized. People lose television sets. Many of them do not have the money to install expensive security systems, such as burglar-proofing and alarms, and they are left at the mercy of people who are motivated by an addiction—which is unparalleled in the history of addictions—to cocaine. They move in and take out people's things. Some people experience break-ins every week. Not only television sets are stolen, basic foodstuff is also taken.

We have to urge the government to deal with matters of this nature—to look at the area of demand; to look at unemployment and other situations and to bring the social services to bear on this problem.

I thank you.

Sen. Everard Dean: Mr. President, I did not intend to speak on this, I will take five minutes of the Senate's time. I am of the view that this Bill, if implemented, has the potential to take a shower on crime. You will notice that I said "take a shower on crime," and not particularly on the drug trade. As I see it, the drug trade is, in fact, the incubator of violent crimes in this country and if we can attack the drug trade, then, by extension, we would be attacking the other violent crimes that go with it.

To me, history will vindicate my colleagues on the Front Bench on the left of the President's Chair, for lending "critical support" to the previous Bill. Whatever that term means, I hope the critical support mentioned today will really mean support for the Drug Bill. We have seen the dynamism of this Bill since the Senate unanimously passed it on the last occasion. If one is a political watcher one would have seen what happened between then and now, this is why I say this Dangerous Drugs Bill has the potential and dynamism to do many things.

5.20 p.m.

I just want to say a word of praise—I have not heard it come across as yet—to the Trinidad and Tobago Police Service for their heightened vigilance and action with regard to the drug trade in this country. I think they are making an all-out

effort, and the country must be grateful for what we have been seeing and reading over the past few months. I could let the Senate adjourn this evening without giving the Trinidad and Tobago Police Service their just due.

Sen. Prof. John Spence: Mr. President, I certainly endorse what has been said already with respect to the importance of getting the Bill through, and in that regard I would give it my support. However, I would like to congratulate Sen. Bissessar on her presentation. It was a very refreshing one and when one listens to criticisms that are being made about parliamentarians—not just in Trinidad and Tobago but all over the world—I think it is a pity that the young people left before her presentation; it would have been very good for them to hear it.

I was certainly persuaded by the four points Sen. Bissessar made with respect to changes to the Bill. While we all agree that the Bill must be passed, I do not think that we should take the position that if it can be improved we should not improve it. I think we should strive to pass the best possible Bill that we can. It is often the case that by further examination or by a fresh look at things one can see needed improvements, and I think this is what happened this afternoon. There is no reason why the Senate cannot make improvements. This has frequently happened over the eight years that I have been here.

I was impressed by the four points that the hon. Senator made—first of all that there should be mandatory rather than voluntary reporting. This seems to me to be an extremely important point—the point that one seems to be providing wrongdoers with a defence mechanism. I suppose it is fine to protect the innocent. This also protects the guilty so that, certainly, is a point we could consider. Perhaps the smaller point about the types of ships is also important.

The point that struck me most forcefully is the one about the transfer of proceedings. It certainly seems that this is a very important step; that we are taking and I take the point that to give the Director of Public Prosecutions the power to influence the type of court proceedings by being able to transfer the proceedings, would be quite undesirable from the point of view of justice.

I would support the four points made by Sen. Bissessar and I hope she would formulate them into suitable amendments so that they may be considered.

The Minister in the Ministry of National Security (Sen. The Hon. Russell Huggins): Mr. President, let me first of all thank the Senators for the renewed spirit with which they approached this Bill on the second occasion, surely because they had much more time to digest its contents and assimilate them fully.

I will first deal with a few of the non-poetic points raised by Sen. Capildeo. He questioned the absence of several of my colleagues from this august Chamber. He knows full well that it is really not normal for all Ministers to be present in the Senate or, indeed, the other place when legislation is being tabled, if that piece of legislation does not, in one way or another, impact upon their ministry.

I am certain that the relevant Ministers took note of all the concerns raised in the other place and that when this matter was discussed by Cabinet some time ago, these concerns were raised—and we continue to raise them in other areas. I should like to advise the Senator that the Ministry of Social Development, in fact, has several programmes in place to deal with the social fallout of the drug trade. There is a Ministerial Committee which is comprised of the Minister of Education, Minister of Sport and Youth Affairs, Minister of Health, Minister of Community Development and the Minister of National Security. That Ministerial Committee constantly reviews the programmes in place to deal with the demand reduction programme.

That Ministerial Committee is backed by a body which we call TACADA, which is the Technical and Advisory Council on Alcohol and Drug Abuse. That body has a series of subcommittees which deal with things like treatment prevention, rehabilitation, research and so forth. In addition, there is another body which we call NADAAP which is the secretariat of the Technical committee scheduled to begin a programme in 1995 which is to be funded by the UNDP. So it is not true to say that the Government does not recognize the importance of the supply reduction side of the equation. We are working assiduously addressing that problem.

The question has also been raised with respect to resources for the police to deal with the drug problem. I want to advise this Senate that the Organized Crime and Narcotics Unit which is the main drug interdiction agency, the customs and the OSS have in fact been provided with a great deal of resources both in terms of the resources we can talk about and the resources that we cannot talk about for security reasons. But in terms of those resources that we can talk about, they have been provided with many computers so that they could track and keep on a database all the intelligence they receive both locally and abroad.

5.30 p.m.

We have an actual link-up with the El Paso Computer Centre where, as information is placed into the large computers in El Paso, it can be accessed directly from here, through the OSS. We also have been provided at least one resource—which always seems to be of great concern—vehicles, and all the other

types of equipment which are necessary to carry out their functions. Whilst we may want to criticize some of the donor countries—and I think that criticism in some cases is quite justified—at the same time we have to thank them because they have provided us and continue to provide us with much of the necessary physical resources.

One other area that I am surprised my dear Friend Sen. Merritt did not raise, but I feel certain that my dearer Friend Sen. Mahadeo will be elated to hear is that early next year we intend to commence the complete refurbishment of the Mirror building to house the entire group being under one roof, and to avoid the problems of rats disappearing with cocaine and large sums of money.

The other vexed question of dealing with bank reporting procedures, I am afraid, although I gave an undertaking when we passed the original Act, that is proving to be a little more difficult; it is easier to talk about it than to put it into effect; it is not just a question of putting the provision in place. We have requested the United States Treasury Department to come and give us some technical advice on how to best set it up because it took them about 15 to 20 years to put a system in place which they can, today, say is working satisfactorily. They had many problems that when we started to talk about it we had not envisaged, because as fast as they had put systems in place, those banks that were intent—I am not suggesting for one moment that the banks in Trinidad would be—on acting in the same way, banks set about—and I would not be surprised if they have put special units in place to find ways and means of getting around the reporting system. So it is not just a simple matter of putting some words in a piece of legislation and saying that banks must report these procedures. Yes, they report the transaction. The problem really is what happened from there. It is felt that even if we were to solve those problems this is not the proper place to put such provisions—would not be in a Drugs Bill, but preferably, either in the Financial Institutions Act or in the Central Bank Act. The issue has not been forgotten nor is it lost; it is still being considered.

Mr. President, I should first of all apologize for the absence of the hon. Attorney General, since he came in for so much blows in his absence, and say that he is very much under the weather. I shall not seek to attribute any reason for his absence, but I can assure you, however, it is not for the reason that my Friend Sen. Capildeo sought to put across to the Senate.

Questions were also raised as to what provision was made in the 1994 Budget for equipment for drug interdiction, or what part of the 1994 Budget went into drug interdiction. That is an extremely difficult question to answer because of the

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type of methods used in making allocations to ministries. I have, in fact, been fighting to have a specific sum provided under a newly created subhead in the ministry to deal specifically with drug interdiction, but it does not seem as though I would be successful in that because it is very difficult to break away from the sort of global allocations that are made in government budgeting, for example, under “Goods and Services” and “P.E.” and that sort of thing.

It is very difficult at a moment’s notice to pronounce on what amounts were allocated to any particular function of the ministry. It is easier to say how much money has been allocated to the Police, Defence Force and to Immigration, but to subdivide that and say what fraction of the police budget, which is the largest fraction in the ministry, goes into drug interdiction; and what fraction of the defence force budget goes into the part that they play in drug interdiction is difficult. Hopefully, as time goes on, greater attention would be paid to that. I may not be around at that time.

I think it was Sen. Rev. Teelucksingh who raised the issue of: Why does Germany export materials used to produce cocaine? I think he may very well have asked the question: Why do three-quarters of the signatory nations to the Vienna Convention export materials that could be used to produce cocaine? I think all the Senator has to do is look at the Schedule to the Bill and see the list of precursor chemicals which can be used to produce cocaine. I think it is really an unfair question to ask, insofar as any country is concerned, why it exports a certain product. The principal use of the product may have very, very worthwhile intentions.

Some of those chemicals are used in hospitals, and you cannot possibly run a hospital without some of them. It is just unfortunate that some of the chemicals can be put to making cocaine or manufacturing any other dangerous substance. I really think it is an unfair statement to make with respect to any country.

One of the largest exporters, I am told, of the chemicals which are placed in that Schedule is Brazil, and if the international community as a whole were to decide to take the position that we would not trade with Brazil if it does not stop exporting that, then the whole Brazilian economy would collapse. That is the kind of problem that exists. What I am saying is that the principal uses of the chemicals are worthwhile, but it is just that those who manufacture the cocaine rocks have found a way of using genuinely produced chemicals to manufacture their product.

5.40 p.m.

I must congratulate Sen. Bissessar on her very forceful contribution since it is the first time I myself have heard her in this Senate. She accused the Government

of contempt by having certain errors in the Bill. Reference was made to clauses 7 and 9. I am advised that those matters were detected when the Bill was dealt with in the other House and they were treated, quite correctly, as typographical errors; hence the reason they were not seen on the list of amendments coming from that House. I think in terms of expediency and getting the job done that is the way Parliament treats with such minor errors.

However, the bigger error she did not pick up, and it still exists, it even escaped the other House. That is the reference to Tables 1 and 2 of the Fourth Schedule. If one looks at the Fourth Schedule one would see that there is no Table 1 and 2. Maybe for that she could have accused us of contempt. At the appropriate stage of the proceedings we would rectify that situation.

She then raised the definition of “ships propelled by oars.” At the time of drafting the Bill, we felt that that was not a problem because the provision was really dealing with interdiction on the high seas, and it would really have been stretching one’s imagination to jump in a boat propelled by oars and wend one’s way on the high seas, hopefully, on a trip to the United Kingdom to deliver a shipment of drugs.

We also considered the issue of the proximity of Trinidad and Tobago to Venezuela. There are no high seas between Trinidad and Tobago and Venezuela. The shortest distance, I am advised, is six and one-third miles and the agreed territorial waters, I think, are 12 miles. There is an agreement between Trinidad and Tobago to split it to four miles and to have some joint common zone or something like that.

Sen. Persad-Bissessar: Mr. President, can the Minister kindly indicate whether there are any high seas between Trinidad and Tobago and Grenada, or any of the other islands?

Sen. The Hon. R. Huggins: I do not know. Some of the roughest waters you would get are between Trinidad and Tobago and Grenada.

Sen. Persad-Bissessar: That is not the point.

Sen. The Hon. R. Huggins: I know that is not the point. One has to understand that one has to make decisions at certain times. At the time of considering the legislation we did not think it necessary to remove the reference to ships propelled by oars. If it is the view that one would jump in a pirogue with oars and move, then we would delete it. At the time of dealing with it we did not think it was important because we were of the view that the provision dealt with interdiction on the high seas.

Sen. Rooks: Mr. President, I do not know whether the senator is aware that there is a village on the north coast of Venezuela and Venezuelans go up there when the fishing is good and they live there with their families. Consequently, there is also a group from here that rows to Venezuela and they do their fishing down there. It is a direct course between Colombia, Venezuela, Trinidad and Tobago. I think he has got to look at the boats propelled by oars.

Sen. The Hon. R. Huggins: Mr. President, I said that I do not intend to make that an issue. If the consensus is that it be deleted, I would delete it. I would not argue about who would row from here to where with oars. I just thought that I would explain that at the time of considering the legislation, because we were focused on the high seas, we really did not think it necessary to make that deletion.

I think the question was asked, what are police going to schools for? The police are not going to schools to find out persons who deal in drugs and to wait until the bell rings and as they depart the school premises to arrest them. I know this is of particular importance to Sen. Wade Mark and NATUC. The whole purpose of the community programme is one of education—and that is all that it is about. It is a programme that, as I indicated, started years ago when the focus was really on road safety, where police used to go to schools and educate children on the proper use of the roads and that sort of thing. What I was saying was that it has now expanded into bigger things and we thought that there is need, in some cases, to restart the programme and to heighten the presence of police, not only in schools but in village councils and other small community groups.

Towards this end, we have also sought the assistance of some of the service clubs, particularly the Lions. I think of the service clubs that exist: they have the closest relationship to schools in their particular chartered areas. We have requested the Lions Clubs, as part of their education outreach programmes, to factor in the question of drug abuse education in schools. It is really a community effort.

The question was then raised with respect to the Sixth Schedule which deals with the powers given to the Director of Public Prosecutions (DPP). This is a provision which gave rise to much debate when the parent Act was here. At that time, we had indicated that the purpose of the provision was simply to facilitate the expeditious hearing of matters falling within the purview of the legislation. I do not regard it as being an infringement of the Constitution to give the DPP the power to transfer a matter from one magisterial district to another. I seem to recall that a question was asked, why do we not give it to the Chief Magistrate?

5.50 p.m.

I thought there was the recognition that there should be some sort of leeway in giving the Authority—the constitutionally established Authority at that—the power to deal with this matter. I really cannot accept the argument with the dispensation of justice, and so forth. I think the powers which he already has in the Constitution are very strong.

If a partner of the DPP gets arrested and the DPP wants to help him, I cannot see him deciding to transfer the matter from Cedros to Port of Spain. He can simply exercise his constitutional power and say there is going to be no prosecution, and there is absolutely nothing anybody can do about it. He has that power.

As we were saying, this power was simply to facilitate the expeditious hearing of certain cases because, at the time, there were certain problems being encountered in trying to get matters dealt with expeditiously because of witnesses disappearing, and so forth. The Government found itself, and has continued to find itself, in a position where it has to do all sorts of things to protect witnesses and get speedy trials. When it gets into a position where a speedy trial can be obtained, it is told that the wheels of justice are moving too quickly. This is all the provision is seeking to do because the government recognizes—

Sen. Mahadeo: Thank you very much, hon. Minister. On that very point on which you were saying you did not see giving the power to the DPP as giving him the power to interfere as he already has very wide powers, I remember in my contribution earlier in February of this year, on this very Bill, I had objected to it, and although I made no contribution on it this afternoon because I thought I would be rehashing all that I said to save time, I did not speak this afternoon, but as you raised the question here, I thought I should mention that I did object to it strenuously on that last occasion, and I do so again!

Sen. The Hon. R. Huggins: Well I recognized the fact that you objected to it strenuously, and I also went on to say that at a certain time you came around to a compromise situation where you were then suggesting, maybe, the Chief Magistrate instead of the DPP, but at the end of the day it ended up as *[Interruption]*

Sen. Mahadeo: I must correct this trend. I did not say that, maybe, I would compromise and say the Chief Magistrate would have done it. That is the Minister's statement. What I did, in fact, say on the last occasion—I have got *Hansard* here to support me—is that the Chief Justice has, as we remembered in

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the last Bill, the powers to do certain things—administrative powers—because he wears two caps, administratively and officially, as Chief Justice, to do the legal work.

In the same way, the Chief Magistrate also has a double cap where he is the administrative head of the Magistracy, plus he has judicial duties to perform. Because of that, the Chief Magistrate has always had the administrative power, through the Chief Magistrate has always had the administrative power, through the Chief Justice, to transfer cases from one district to another, or to have a special magistrate go to a special district to do a special case. This is what I was arguing.

Sen. The Hon. R. Huggins: Mr. President, I was in no way attempting to take away the Senator's argument. I was making a pronouncement upon what happened subsequently. I felt that I was doing a good job in saying the Senator eventually came around by her subsequent support of the Bill.

Sen. Spence: Is the hon. Minister saying that he does not see the difference that is being suggested between the DPP having that power and the administrative arm, in the sense of the Chief Magistrate, having the power? I would have given a different example and that is, of the DPP not wanting to get a friend off, but wanting to make sure that somebody was found guilty. That is the danger, not the way he gives it.

Sen. The Hon. R. Huggins: Well, then we get down to the question of the integrity of the Judiciary. We get down into that, because if I am the DPP and I want to ensure somebody gets off, I do not have the power to get him off—it is a decision of the presiding magistrate or the judge, as the case may be, whether he will succumb to my wishes. All I am saying is that where the DPP is concerned, the power he has is that if he wants to get a friend off, I do not see why he has to talk to any judge or magistrate. He just simply exercises his constitutional powers and says there will be no prosecution.

Sen. Persad-Bissessar: Thank you very much, hon. Minister. With respect, the point is not that we are saying that the DPP will be biased, and would try to assist a friend or pressure an enemy, as the case may be. The point, as I see it, as I said, is twofold, that is to say, with the perception that justice must be seen to be done. We are not saying that the DPP is biased and is going to do that to help a friend or not help a friend; or to condemn an enemy—again, it is the office and not the person—justice must be seen to be done. And, of course, there is the

constitutional point which the Minister has already indicated he does not accept. But the point is not whether he can help friends, or not.

Sen. The Hon. R. Huggins: I also really do not accept the point that the DPP transferring a matter from one district to another infringes that principle of justice being done or seen to be done, and so forth. I shall move on.

The question was then raised as to the need for proposed subsections (5) and (6) introduced by clause 9 which repeats and replaces section 47. Proposed section (4) says

“A person is guilty of an offence if, knowing or having reasonable grounds to suspect that any money or other property is, or in whole or in part directly or indirectly represents another person’s proceeds of drug trafficking, he receives, possesses or converts that money or other property.”

I do not think there is really a problem with that. The problem seems to start with proposed section (5) which provides a defence and it says:

“It is a defence to a charge of committing an offence under subsection (4) that the person charged acquired the property for adequate consideration.”

We had indicated the need for that provision because we felt that in order for certain business transactions to take place—and I think the argument was used with respect to an attorney representing someone who was accused of drug trafficking; I think mention was also made of someone, for example, operating in the real estate business—it was felt that there ought to be some leeway given in dealing with proposed subsection (4) to protect a transaction which was, to all intents and purposes, a genuine transaction

In seeking to do this, we not only looked at the Barbados legislation; we also looked at the English legislation. There and then a decision was made to follow the English provision which was worded in the same way under the Criminal Justice Act, 1993. The only difference between our legislation and the Criminal Justice Act is that they then went on to define what was “adequate consideration.”

6.00 p.m.

These problems, particularly as they related to the services industry, were really drawn to our attention by the representatives from the United Kingdom Attorney General’s Department. They say with the working committee and indicated that in their working paper these were the problems that came up and this was the way they sought to deal with it by putting in that defence to protect certain service industries.

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We went further by including a subsection (6) which limits the effect of subclause (5); and (6) simply says:

“The provision for any person of services or goods which are of assistance to him in drug trafficking shall not be treated as consideration . . .”

so the use of “consideration” in proposed section (5) was limited by (6), so that where services or goods were provided which were of direct assistance to the accused person in drug trafficking, that was not to be regarded as consideration for the purposes of proposed section (5).

We felt then and we still feel that it is necessary to have those two provisions in the legislation in order to ensure that certain businesses, particularly, as I said, the service industry, are not too adversely affected, and frankly, this is the most appropriate way we could have found to do it.

That seems to have covered some of the more salient points that were raised in the debate on this Bill. Some of the other points which were raised were points which I think are always raised whenever anything pertaining to the Ministry of National Security comes up for debate and those will be dealt with at some other time.

Mr. President, as I ended previously, I commend this Bill to the Senate and hope that it receive unanimous support. I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 3 ordered to stand part of the Bill.

Clause 4.

Question proposed, That clause 4 stand part of the Bill.

Sen. Huggins: Mr. Chairman, I beg to move that clause 4 be amended as follows:

At page 3, (2)(a), the reference to “Table 1” be deleted and in (3) the reference to “Table 1 and Table 2” be deleted.

Mr. Chairman: the amendment proposed by the Minister in the Ministry of National Security is that in proposed section 4(2)(a) the words “in Table 1”

immediately after “specified” in line two be deleted and in proposed (3), lines two and three, the words “in Table 1 and Table 2” appearing after the word “specified” be deleted.

Question, on amendment, put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clauses 5 to 8 ordered to stand part of the Bill.

Clause 9.

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

Sen. Persad-Bissessar: Mr. Chairman, I beg to move that clause 9 be amended by deleting in the proposed section 47, subsections (5) and (6).

Mr. Chairman: You want proposed subsections (5) and (6)—

Sen. Persad-Bissessar: Deleted.

Mr. Chairman: Deleted.

Question put.

The committee divided: Ayes 13, Noes 15

AYES

Mark, W.

Capildeo, S.

Merritt, Miss C.

Hosein, M.

Barrack, J.

Persad-Bissessar, Mrs. K.

Spence. Prof. J.

Ali, H.

Daly, M.

Dean, E.

Mahadeo, Miss C.

Teelucksingh, Rev. D.

Oudit, Miss N.

NOES

Huggins, Sen. the Hon. R.

Yuille-Williams, Sen. The Hon. J.

Draper, Sen. The Hon. G.

Callender, S.

Mark, A.

Ojah-Maharaj, D.

Elder, Miss J.

Rahael, J.

Gosine, Pundit R.

Hassim, A.

Maloney, A.

Nanga, J.

Lewis-Phillip, Mrs. N.

Mansoor, M.

Rook, J.

Amendment negatived.

Sen. Persad-Bissessar: Mr. Chairman, we are respectfully asking that subsection (9) on page 20 should read at the end of the very first line subsection (8) instead of (7)

Mr. Chairman: Substitute (8) for (7).

Sen. Persad-Bissessar: And subsection (10) (b) should be—well, there is no subsection (7) but (b). With respect, I do not know if the hon. Minister can indicate to which section he is referring.

6.10 p.m.

Mr. Chairman: Our advice is that these two references which are wrong, were taken up as typographical errors in the other place.

Sen. Persad-Bissessar: But with respect, do we not have to amend what is before us also? I am guided, Mr. Chairman.

Mr. Chairman: They seem to be the type of things that can be accepted as typographical errors. I have a feeling that probably at some stage when the Bill was drafted there was no "8".

Sen. Capildeo: For my own education, is there anything in the Standing Orders to take care of typographical errors?

Mr. Chairman: It is at the discretion of the Chair. But the important thing is this, that this Bill has been passed in a certain form in another place. Our advice is that these two references were, in fact, picked up and accepted as typographical errors, and not the one in "4". That is why those were moved as amendments. There is no problem in making an amendment because the Bill has to go back anyhow. But it apparently was accepted in the other place.

Sen. Capildeo: When it is accepted as a typographical error, what takes place then? *[Interruption]*

Mr. Chairman: The typographical errors would have to be reflected in the list of amendments.

Sen. Spence: Would we be informed of it in writing?

Mr. Chairman: Well, I have it from a source that I believe we can accept that they were typographical.

Sen. Spence: You say they were typographical errors, but what are the corrections?

Mr. Chairman: To clear up everything, the typographical errors are: In subclause (9), the first line, there is a reference to (7), that should be (8). The one in the last line of 10 (a) remains as (7). If that is wrong, they would have to amend it and bring it back.

Are there any more amendments to clause 9?

Question put and agreed to.

Clause 9 ordered to stand part of the Bill.

Clause 10 ordered to stand part of the Bill.

Clause 11.

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

Sen. Persad-Bissessar: Mr. Chairman, I beg to move that clause 11 be amended by deleting the words in proposed 53A(1) "and not propelled by oars." It should read: "'ship' includes every description of vessel used in navigation."

Mr. Huggins: Mr. Chairman, I have no problem with that.

Question put and agreed to.

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

Clause 14.

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

Sen. Persad-Bissessar: Mr. Chairman, I beg to move that clause 14, the Sixth Schedule, which speaks of the DPP having the power to transfer—this is at page 35, the amendment to the Summary Courts Act—be deleted in its entirety. It ends on page 36 with the words, “summary court.”

Sen. Huggins: Mr. Chairman, this is a provision which we feel is absolutely necessary if we are to deal with this whole question of the drug trade and the need for expeditious trials, and that sort of thing. It is something which we have given much consideration to, and we feel it is necessary for the proper administration of justice in this drug era.

6.20 p.m.

Sen. Persad-Bissessar: Mr. Chairman, the proposal, as pointed out, does not affect only offences related to the Dangerous Drugs Act; it deals with any offence. To say that it is for the purpose of dealing with drug trafficking offences is less than correct. It deals with everything, and I am suggesting that this clause be deleted in its entirety. We are prepared to argue further if necessary.

Sen. Spence: Mr. Chairman, I wonder if it can be discovered whether a compromise would be limiting the court transfer to offences under this Act? That would take care of that.

Sen. Huggins: Mr. Chairman, I would have no objection to Sen. Spence’s recommendation if some words could be inserted to the effect that “For the purposes of this Act and notwithstanding any enactment to the contrary”. As I said, we see this position as necessary for dealing with these drug matters.

Sen. Persad-Bissessar: Mr. Chairman, the point as raised by Sen. Spence, even if that is amended, there is the whole constitutional issue that was raised before. It may be for another place—it may be raised elsewhere in the courts of the land—but there is that whole constitutional issue that we are going into an amendment to the powers of the DPP. As I said, the DPP is a creature of the Constitution; his powers are there. We cannot come within this Bill to interfere with that. We have to do it in a different way if we are attempting to amend. If that comes into law, we would be opening ourselves to all the constitutional motions.

Sen. Daly: Mr. Chairman, I think the arguments that have been put by Sen. Persad-Bissessar are very sound, but insofar as the amendment suggested by Sen. Spence is concerned—while I appreciate the force of what is being suggested—I do not know whether in principle it is a good thing for us to pass legislation on the basis that we know what the courts will say. We really have to divide what we do and what the courts say. I would be prepared to accept the compromise against that background. I do not deny the force of the argument, but I am suggesting that maybe that is a matter for the courts.

Mr. President: The proposed amendment is that the very first line of A be amended by inserting immediately after 13 the words “For the purposes of the Dangerous Drugs Act and” to continue reading “notwithstanding any enactment to the contrary...”.

Sen. Capildeo: Mr. Chairman, I still have a difficulty with that. I am looking at the *Hansard* of what I said, and I want to break the rule that I made earlier that I was not going to repeat the speech but I want to read it again:

“This is an attempt to allow the Director of Public Prosecutions to transfer proceedings from one court to another whenever he considers the interest of justice so requires. I am objecting to that. I want that clause deleted in its entirety. At this stage of our jurisprudential development, it is not for the DPP to juggle courts and magistrates. That is not his function. The Chief Magistrate and the Chief Justice—there is enough residual power within those offices to ensure justice. I will ask for the deletion of that clause.

That is the mental block I have. If we already have the two senior officials of the Judiciary, the Chief Justice and the Chief magistrate, with the power to shift magistrates, and the places where courts would sit, why do we want to burden the system by giving the DPP, who has enormous powers under the Constitution, powers outside the Constitution now?

Sen. Daly: Mr. Chairman, believe it is still the plan that we have to return tomorrow [*Interruption*] Oh, I see. This is an important point. If the power already exists in some other authority, then my earlier view about taking the risk that the court will strike it down is diluted because the power is there already. I do not know the answer; the people advising the Minister should know.

Sen. Capildeo: Mr. Chairman, we have a former practicing magistrate sitting here who has enormous experience in the magistracy. We are lucky. I think Sen.

Mahadeo will agree with that the Chief Magistrate can shift a magistrate wherever he wants. Is that not so?

Sen. Mahadeo: Mr. Chairman, that is the point I made earlier. In my contribution to the Bill in February of this year, I too had objected in much the same way and on the very same grounds that Sen. Capildeo just reiterated.

Sen. Capildeo: The Chief Justice could direct the Chief Magistrate to do certain things. Could he not?

Sen. Mahadeo: That is right.

Sen. Capildeo: Therefore, the power is already residing with the two most senior officers. Why give that power to the DPP who has enormous powers already?

6.30 p.m.

Sen. Huggins: Mr. President, in view of the sharply divided views, I beg to move that the committee report progress.

Sen. Mahadeo: Mr. Chairman, I do not understand the term “progress.”

Mr. President: It is just a technicality; a formality of ending the committee proceeding now, and moving that the committee resume at the next sitting.

Senate resumed.

PROCEDURAL MOTION

The Minister in the Ministry of National Security (Sen. The Hon. Russell Huggins): Mr. President, I beg to report progress. I move too that the committee reconvene its deliberations at the next sitting of the Senate.

Question put and agreed to.

Sen. The Hon. R. Huggins: I also beg to move that the sitting of the Senate do continue until the final consideration of the Bill to amend the Corporation Tax Act.

Question put and agreed to.

CORPORATION TAX (AMDT.) BILL

Order for second reading read.

The Minister in the Ministry of National Security (Sen. The Hon. Russell Huggins): Mr. President, I beg to move.

That a Bill to amend the Corporation Tax Act, Chap. 75:02, be now read a second time.

Sir, this Bill is consequential upon the Bill passed earlier in the life of this Senate which is known as the University Students (Guarantee Fund) Act, 1994. You will recall that the Government entered into an agreement with certain banks for the purpose of assisting students in obtaining loans. I think it was to the extent of 90 per cent of the fees in order that these students could obtain tertiary education at the University of the West Indies.

This agreement came about as a result of the decision taken by the university to increase fees, thereby, making it absolutely necessary on the part of the Government to intervene to assist the majority of those students who would not have been able to attend the university because of the increase in those fees.

One of the conditions in the loan agreement between the banks and the Government, is that the Government would do all that was necessary to provide an exemption to the banks from taxation on the interest income arising from those loans made to the students.

The main effect of that provision was to make the loans cheaper to the students because it was agreed by the banks that the benefits would then be passed on to the students, and as a result, the loans would effect become cheaper. In fulfillment of its obligation the Government is now the Act by adding a new paragraph S, which reads:

“Interest accruing on loans granted in furtherance of the University Students (Guarantee Fund) Act, 1994, by lending institutions listed in the Schedule to the Act.”

When read with the parent Act it would give full effect to the agreement made by the Government, and as a result, will facilitate the Government in complying with its obligations to ensure that our young people obtain the tertiary education to which they are entitled. It is all in keeping with the Government's thrust in education and that is simply what is before us this afternoon. Without further commentary, I beg to move.

Question proposed.

Sen. Wade Mark: Mr. President, I was attempting to avoid speaking today but, my hon. Colleague has forced me to my feet on this question of the Corporation Tax (Amdt.) Bill.

As we understand it, the purpose of the Bill before us is to enable the Board of Inland Revenue to grant tax exemptions from interest accruing on loans granted under the University Students (Guarantee) Fund Act, 1994.

The target group in this instance is the commercial banks, as listed in the Schedule to the said Act. The Bill will make the exemption retroactive to January 01, of 1993. As the Minister indicated this Bill goes hand in hand with the University Students (Guarantee Fund) Act, 1994 which was passed some time in August. The question we pose to the hon. Minister is: Why this consequential Bill? Why has the Government taken so long to bring this Bill to this Senate, having regard to the importance of this exercise?

It is our view that this provision ought to have been included in the original Bill having regard to the statements made at the time by the Minister of Finance who introduced that Bill. Clearly, this Bill before us looks after the interest of the financial sector in the main, and not at the student population as the hon. Minister attempted to advance, and, particularly those who are seeking entry into the university at this time.

This Government has imposed an enormous fee structure which has not been assisting poor families in accessing education at the University of the West Indies. This is where the role of the Government becomes very important. What precisely is the role of the Government in the funding of tertiary education? Recently—I believe it was Saturday—there was a graduation ceremony at the University of the West Indies at which the Chancellor, Sir Shridath Ramphal, indicated that we are still low in terms of enrolment in the region.

We are still enrolling only about five per cent of those persons who could benefit from tertiary education. As a developing state he was indicating that we need to focus on about 15 to 16 per cent if we are serious about confronting the developing challenges which we all know about.

6.40 p.m.

There is little information in this Bill to indicate to the Senate precisely what is involved. The Minister was extremely brief in his presentation. I maintain that in spite of the late hour we shall never be used as rubber stamps in Parliament.

We need to have the necessary information to make whatever judgment we have to make at the end of the day. For example, I ask the hon. Minister: What would be the actual rate of interest that these students would be charged? Would they be able—having committed themselves to this arrangement with these commercial banks that are there, not to see about social aspects of development. Their bottom line is money and profit. They want people to repay whatever loans are accessed. There is a Government that is guaranteeing those loans.

Mr. President, you would know that, today, in Trinidad and Tobago, a number of students are graduating from the University of the West Indies and cannot find employment in the labour market. How would they repay these loans when the Government of this country has liberalized this economy and has retreated from a leader of development, to the role of night watchman in our economy and society, when unemployment and underemployment are rampant.

When we have an hon. Minister of Finance telling the young people of this country and students that employment can no longer be found in the public service, but at KFC, Pizza Hut, McDonald's and Securicor as a private security guard—if one is lucky and one's son or daughter is bright and can become an engineer, then one can work with Nucor.

This guarantee fund that the Government has committed itself to establishing is really to assure the bankers. The people who are going to benefit from this scheme are really the bankers. I have nothing against bankers making money, but I am saying that they need to have a social responsibility in our society as well. The Minister has not told us how this scheme will be operationalized. *[Interruption]* He should have brought us up to date.

Sen. Huggins: Do you want us to come and repeat the same thing over and over?

Sen. W. Mark: We would like the hon. Minister to tell us, apart from the rate of interest which the students would be charged by these commercial banks, having regard to what he has indicated, what are the qualifying requirements being demanded by these banks. The Minister has indicated that the Government is committed to providing people with the possibility of access to higher education. This is what this scheme is about, so that those persons who are interested in pursuing higher education at the tertiary level would be able to gain access through this loan arrangement guarantee scheme that the Government is establishing. What are the requirements to access these loans?

If we have brilliant young people in this country and they are qualified, but their fathers and mothers have been retrenched by the PNM Government, and they do not have any collateral or security, but wish to go to the University of the West Indies, I ask the hon. Minister to tell me how these children would be able to access these funds. Would they be able to qualify?

Sen. A. Mark: On a point of order, I seek your ruling, Sir. The corporation Tax (Amdt.) Bill which is before us is to enable the Board of Inland Revenue to grant tax exemptions to commercial banks. It seems that Sen. Wade Mark is

taking us into what one might consider a very extraneous sort of discussion. It is my view that he is being irrelevant. I seek your ruling please, Mr. President.

Mr. President: Point of order sustained.

Sen. W. Mark: This Bill before us deals with not only the amendment; we also have to focus on the previous University Students (Guarantee Fund) Act. This is what is stated here. I am asking relevant questions to this particular issue. It might appear to be a very limited and simple exercise but we have to look at it in terms of the context in which this Bill is presented to this Parliament. I am seeking clarification in an effort to make a decision on this matter at the end of the day. This is why I am asking the hon. Minister in terms of the operations of this exercise how it would work in a serious way.

We are arguing that when this Bill is passed and these banks have the ability to now gain exemption from their taxes insofar as interest is concerned, we would like to find out from the hon. Minister what mechanisms have been put in place so that when students attempt to access these loans from these commercial banks, they are not turned away. We know the banks in this country.

You are asking the Opposition to support a measure that would exempt the commercial banks from paying taxes on their interest on arrangement to grant loans to students; that is going to cost the taxpayers of this country money. I want the Minister to tell me how much it would cost the taxpayer over a period of five years. You must have a projection. We on this side want to know what kind of mechanism we are putting in place to ensure there is no discrimination. You know that we have a banking system that discriminates against people, particularly of the poorer classes.

6.50 p.m.

We should also like to know what mechanism will be put in place to ensure that students who require access to loans are granted the necessary loans. Who will gain access? We should like to know. These are things that the Government need to clear. They cannot come here at this late hour, drop a Bill and think that we will just say, "Aye!". We do not operate like that. If they come at eleven o'clock, we are going with them. That is the way we operate here. We are fully loaded. Whatever they bring, we are ready for them. *[Interruption]*

Sen. W. Mark: His chance will come to sit there. Right now he is not there.

We would like the hon. Minister to give us an appreciation of the mechanism which has been established, and to know whether access to university education will now be based on one's ability to repay as opposed to one's qualification and

ability to excel in the various disciplines. We are asking the question in the context of this loan arrangement—whether those who are well deserving of a scholarship or access to a loan in this instance will be by-passed.

We have no guarantees. We live in a liberalized economy now because more and more the government is liberalizing it. The bottom line is no longer the human being and his condition; it is just profit. It is profit versus people in our country today and the policy of this Government is putting profits before people...*[Sentence expunged]*

Mr. President: Senator, I know you did not get a chance to have some fun in the Smokey and Bunty business, but I cannot allow that remark to pass. It will have to be excised.

Sen. W. Mark: The fact is that I was just referring to a statement in the newspaper, Sir. That was not my statement.

We should like to know, given the particular measure which is before Parliament, precisely what kind of educational structure this Government is promoting. Is this Government promoting an elitist structure in this economy and this society? Is the Government legislating measures in this Parliament so that only those persons who are rich can have access to the university? *[Interruption]* We should like to know. I do not deal with televisions. I am dealing with a contribution.

Mr. President: Sen. Wade Mark, you are reflecting on a decision that this Senate has already taken. The points you are raising were raised previously when the substantive Bill was being debated.

Sen. W. Mark: I am arguing that this Bill looks after the interest of the banking community, and I did not argue that point then. We have a Bill before us—on which they want the Opposition's support—and we are saying that we have a right to pronounce on a matter in which the main actors involved are the banking community. This is what we are pronouncing on in our contribution. We are arguing, therefore, that this Bill looks after the banking community's interest, and that if that is so, then ordinary people's ability to access higher education under the arrangement now before Parliament will become more and more a nightmare.

Mr. President, you know the banks in this country are becoming richer at a time when there is much misery, poverty and destitution in our society. The banks are recording massive profits at a time when unemployment and

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underemployment are on the rise. As I said, I have no problem with banks making money, but I am saying that they have a social responsibility to this country.

Look at the net profit of Royal Bank—\$64 million. The Bank of Commerce earned \$15 million, and the Republic Bank recorded some \$64.3 million. We are therefore trying to find out, if when these students access these loans from the banks and they leave the university and are unemployed, whether we are not spinning top in mud. Are we not committing the same errors we committed with the Students Revolving Loan Fund?

We would therefore like to suggest to the Government that in dealing with that question there ought to be some kind of programme where when students access these funds, the Government has a national development policy to direct and channel those skills into directions that are necessary for the transformation and development of our society.

We would be spinning top in mud if we sent students to the university, through their accessing loans, and when they came out of the university there is no employment for them. If they cannot repay their loans, taxpayers of this country would now have to underwrite that expenditure. The reason for that is, there is no employment. The Government is promoting unemployment. *[Interruption]* The Senator still has a hangover. He misadvised the Prime Minister.

We should like the hon. Minister to tell us why this Parliament must be engaged in retroactive legislation when there is a policy, insofar as this Government is concerned, not to do so. Why do we have to give support to a Bill which is retroactive from January 1, 1993? What is the cost involved?

Does the Government want us to give it blind support? We do not buy cat in bag. We make that point over and over. Let us understand that if the Government wants support on this matter, it must give us information. This Bill is retroactive, as I said, from January 1, 1993, therefore, we would like to ask the hon. Minister who has piloted this Bill, what is the cost. *[Interruption]* I am going to seek protection from you if you continue. In fact, you might make me go on a little longer, you know. I am trying to wind down. *[Interruption]*

7.00 p.m.

I am asking the hon. Minister to tell us what is the actual amount of money that taxpayers are going to be asked to pay in an effort to ensure that this Bill becomes a reality.

We are saying that the reason we are in this crisis—and the university finds itself in this situation where students cannot have access to a university

education—is that the Government has the largest outstanding debt to the University of the West Indies. The Government is not paying its bills and it has the university in a virtual tailspin because of that outstanding debt.

The reason we have to deal with this Bill here today is that this Government is on a course of privatizing education. This Government is committed to a policy of privatizing tertiary education and we make a prediction here, that if the PNM returns to power it will privatize secondary education. What is sad about it, is that institutions that you know about, Mr. President, that were established by the people, to train the people, to upgrade their skills, are being closed by this Government. The university is on the brink of collapse because this Government owes it hundreds of millions of dollars.

Sen. A. Mark: Mr. President, I rise on a point of order.

I am referring to Standing Order 35 (1) which states:

“...a Senator shall confine his observations to the subject under discussion.”

I ask for a ruling. I am pleading for a ruling, Mr. President.

Mr. President: Sen. Ainsley Mark, I sustained your first point of order; some of us can take hints and some cannot. The situation continued, I tried to make the hon. Senator understand that he was talking about the Bill that deals with the guarantee of loans and not the Bill before us. But it is difficult for some people to go through a whole day without speaking.

Sen. W. Mark: Sometimes I take objection to some of the remarks which are directed at me. I am appointed here by the Leader of the Opposition and I have the right to speak. If people do not want to hear me they can seek your permission to leave. Why bring a bill at 6.35 p.m.? What must we on this side do when the Government brings a bill at that time? If the Senator wishes to run out and go to Smokey and Bunty's go! But do not try to terrorize me and encourage the President to terrorize me at the same time.

Mr. President: Sen. Wade Mark, you will withdraw that remark.

Sen. W. Mark: Yes Sir, I withdraw that remark.

Mr. President: Sen. Wade Mark, you have the right to talk within the authority of these Standing Orders. There are rules about relevance and irrelevance, and you have been very irrelevant this afternoon. About 75 per cent of the half hour that you have been speaking has nothing to do with the Bill.

Sen. W. Mark: I want to make it very clear that this Bill before this Parliament is designed to promote a kind of system of education that is going to ensure that ordinary people do not have access to tertiary education in Trinidad and Tobago. We are saying that the role of the Government in the development process is to ensure that the resources necessary for that process in our country are directed accordingly. I am arguing, on behalf of the UNC, that this Bill is not accomplishing that objective. This arrangement that the Government has sought to impose on this Parliament in an effort to ensure that students get access to funds, I am arguing, is not going to achieve the objective, and I have the right to advance that point.

If the Government is serious about helping students in accessing education at the university level, then it has a responsibility to provide an enabling environment, to provide the incentives to stimulate growth and development in our economy, so that when those students graduate from the university they can gain meaningful employment and not go and sell chicken and chips or be sales clerks in stores.

Sen. Draper: You said that before.

Sen. Merritt: And he could say it again.

Sen. W. Mark: We are not prepared to engage at this time in rubber-stamping any measure before this Parliament. We would like to ask the hon. Minister: at the end of a stint at the university, what rate of interest would be placed on the backs of the student population? At what percentage is it going to be? Below the base rate, the prime rate or the discount lending rate? We would also like to know when students leave the University of the West Indies, how much they would have to pay in terms of interest.

This Government is encouraging the brain drain. It is encouraging our students to go to the university, access taxpayers' money and at the end of the day, because the Government does not have a policy to promote employment, many of them have to leave this country.

We would like the hon. Minister—seeing that this thing is somewhat in effect, as I understand it—to provide us if he can with the data on loans disbursed to date in order to determine the level of income brackets and the students who would have applied in the process. We would like to find out, as I have said, what this package is going to cost the taxpayers of Trinidad and Tobago and we would like the hon. Minister to address this issue.

Young people in our country would like to make a contribution, they would like to help this country, but in order to do that, the Government needs to do

something about providing the kind of environment necessary. With all our dreams of becoming the financial and business centre of the world, with all our dreams of becoming externally competitive and penetrating international markets, those dreams would only be realized in an environment in which we place sound investment in our human resource base.

If we do not promote our human resource skills and channel them into productive and meaningful activities, we are going to witness mainly cosmetic changes, or what I call fleeting illusions of progress in our country.

Mr. President we would hope that in this context contributions from the university can go a long way taking this country into the 21st century with the kind of resource personnel that we have to train and develop.

7.10 p.m.

I would like the hon. Minister to focus on those areas that I have mentioned in terms of providing us with clarification. The contempt on the other side is demonstratively clear, because of the fact that they do not need a three-fifths majority for this Bill. In the interest of the population, in the interest of the University of the West Indies and the students there, and in the interest of taxpayers, our duty and responsibility—I make it very clear, without favour or fear—is to speak on behalf of the nation of Trinidad and Tobago. We speak on behalf of the people who are going to be affected.

We would like the hon. Minister to address our concerns and ensure that at the end of the day whatever measure is passed in this Parliament, is passed with the clear understanding and knowledge that we had the necessary information and the necessary wherewithal before us, so that we could arrive at a meaningful conclusion in terms of any deliberate judgment.

Thank you very much.

Sen. Prof. John Spence: Mr. President, I am sorry, it clearly is very late, but I cannot let the Minister get away with the type of introduction that he made. He gave the impression that the Government was responding to something that the university had done. He forgets that before the university introduced fees there was the Government cess, and by agreement between the university and the Government the cess was converted into fees. So it is not correct to say that the Government is now trying to help the students for whom the 'bad' university have made life difficult. I would just like to ask the hon. Minister how he hopes to guarantee that the banks pass on their corporate tax exemption to the students.

Thank you.

Sen. Rev. Daniel Teelucksingh: Mr. President, I just want to express a concern in the form of a question. I do not know whether it is similar to the concern of Prof. Spence. The amendment has to do with granting tax exemptions to banks for loans granted to these students. I want to ask the hon. Minister: what about when the students graduate and they begin to service these loans, will there be similar tax exemptions or tax credits granted to these students?

They go together, and the only way I would support an amendment like this, granting tax exemptions to banks, is if the Minister could inform this honourable Senate whether the Government is considering granting tax credits, as at one time some kind of concession was granted to parents who had children at university. If when these loans are being serviced, this is considered by the Board of Inland Revenue, only then I think I would be free to support this amendment today.

Thank you very much.

The Minister in the Ministry of National Security (Sen. The Hon. Russell Huggins): Mr. President, let me just say that there seems to be the perception I would not say on the part of the entire Opposition Bench—but there seems to be a perception of my Friend Sen. Wade Mark that because the Government introduces a Bill at 7.00 o'clock we expect that it is to be rushed through and that sort of thing. Let me disabuse his mind of such thoughts, because when we come here, we come here to do the nation's business, and if it takes us until midnight we will do the nation's business until midnight.

I do not intend to go into all those matters raised by Sen. Wade Mark. Those were matters which were properly raised and as far as I recall were addressed when we were debating the University Students (Guarantee Fund) Act, 1994. I am not going to be caught, with all due respect, in a situation where, because there is some relevance to a piece of legislation which was passed before, and maybe the Senator forget to raise certain things then, that he is going to try to deal with them now.

As a result, the only relevant issue which I detected emanating from Sen. Wade Mark's speech was the question of the rate of interest that would be charged to the students. My information is that the rate of interest is somewhere in the region of 5 1/4 per cent below base, somewhere in the region of 10 1/2 per cent. As far as I know also, there is going to be a moratorium on the repayment of the loan which is going to be one year after the students graduate before actual repayment starts.

I take the point raised by Prof. Spence and I was in no way really trying to blame the university for the predicament in which they have now found

themselves. Maybe in my brevity I forgot to put in proper context the historical passage of university fees.

As to the points raised by Rev. Teelucksingh. I am not in a position to say whether tax credits will be given to the students. As a matter of fact, I think even if it were the Minister of Finance standing here he would not be able to make that statement. The whole question of taxation is one which is addressed in a particular context of raising revenue and it has to be looked at against the background of many things.

I recall that there were times when—they were not called tax credits—there were tax deductions allowed for many things, and as time went by these things were removed. I think even tax credits today have been reduced considerably. I do not know, but next year we could very well be facing a situation where we have no tax credits at all. I do not know. So I would like to be put in a position where I am second guessing the Minister of Finance and the Budget Division on the question of taxation.

Sen. Rev. Teelucksingh: Mr. President, may I ask a question? Does the Minister in the point we are making see the logic that if you grant exemption to this group that it is logical, just and fair that it should also be granted to students?

Secondly, can we make a request, although the hon. Minister of Finance is not here, since the Minister is a Member of Cabinet and there are other Members of Cabinet here, that this matter be brought up at his Cabinet meeting? It does not have to be here.

7.20 p.m.

Sen. The Hon. R. Huggins: Mr. President, I have heard the hon. Senator and I will see what I can do.

Sen. Rev. Teelucksingh: Thank you very much. I will follow it up.

Sen. W. Mark: Mr. President, I had asked specifically whether the hon. Minister could give us an appreciation of the cost involved in the exemption seeing that this is retroactive January 1, 1993.

Sen. The Hon. R. Huggins: Mr. President, I really do not have that kind of information here with me. There are many inputs in arriving at that type of computation and rather than put myself in a position where I would be misleading the Senate, I would advise the Senate to use the parliamentary questions procedure to get that type of detailed information.

Sen. Prof. Spence: Mr. President, I do not think the hon. Minister answered the question I raised as to how he would guarantee that 45 per cent would be passed on to those students.

Sen. The Hon. R. Huggins: Mr. President, as far as I am aware, there is monitoring body within the Ministry of Finance. I think there is provision in the agreement, and it is going to be monitored very closely by the Ministry of Finance.

This piece of legislation is simply to facilitate the Government giving effect to one of the conditions of the loan agreement, and I commend it to the Senate.

I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

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

Senate resumed.

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

Motion made, That the Senate do now adjourn to Tuesday, November 22, 1994 at 1.30 p.m. [Hon. R. Huggins]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.25 p.m.