

Leave of Absence

Wednesday, April 05, 1995

SENATE

Wednesday, April, 05, 1995

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. Deodath Ojah-Maharaj to be absent from sittings of the Senate during the period April 4 to 11, 1995.

I have also granted leave to Sen. Prof. John Spence to be absent from today's sitting on account of illness.

I have also been advised that Sen. Pundit Gosine and Sen. Carol Mahadeo are unable to attend today's sitting of the Senate.

LATE ARRIVAL

Mr. President: I wish to inform Senators that I have been advised by the acting Leader of Government Business in the Senate, the Minister of National Security, that some of the Government Ministers will unavoidably be a little late for today's sitting. This is on account of matters of state. The Minister of National Security has asked me to extend his apologies to the Senate and hope that everyone will understand the reason for their lateness.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have been advised that His Excellency the President, has appointed Mrs. Eloise Bertrand to be a temporary Senator with effect from April 5, 1995 and continuing during the absence from Trinidad and Tobago of Sen. Deodath Ojah-Maharaj.

I have also been advised that His Excellency the President, has appointed Prof. Kenneth Ramchand to be a temporary Senator with effect from April 5, 1995 and continuing during the period of illness of Sen. Prof. John Spence.

OATH OF ALLEGIANCE

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

[*Sen. E. Bertrand was absent.*]

Oral Answer to Question
[SEN. THE HON. J. YUILLE-WILLIAMS]

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ORAL ANSWER TO QUESTION

**Public and Private Sector
(Severance/Retrenchment Scheme)**

The following question stood on the Order Paper in the name of Sen. Wade Mark:

14. A. Could the Minister of Labour and Co-operatives provide the Senate with the list of companies in both the public and private sectors which have severed/retrenched their employees utilizing the various schemes such as Voluntary Early Separation Plans, Voluntary Early Retirement Plans, or Voluntary Early Termination Plans in the period 1991, 1992, 1993 and 1994?
- B. Could the Minister of Labour and Co-operatives further state the number of employees involved in these schemes, the quantum of money involved in each scheme and the quantum of money, if any, still owed to workers during the period 1991, 1992, 1993 and 1994?

The Minister of Community Development, Culture and Women's Affairs (Sen. The Hon. Joan Yuille-Williams): Mr. President, I would like to seek leave of the Senate to have the answer to this question deferred for a period of two weeks.

Sen. W. Mark: Mr. President, I beg to protest. You will recall when this question came up four weeks ago, the hon. Minister of Labour and Co-operatives requested a two-week postponement. He came subsequently and said because of the nature of the question he required two weeks. I allowed it. Now I am expecting the response today and the Minister who is acting as Leader of Government Business requests an additional two weeks. I am wondering what is happening, because he had asked for a certain period of time and it was granted.

Sen. J. Yuille-Williams: Mr. President, the nature of the problem is the same. The answer requires a lot of statistical data and the information is not available at the moment. I wish to assure the hon. Senator that it would be available within two weeks.

Question, by leave, deferred.

SUSPENSION OF SITTING

Mr. President: Hon. Senators, because of the announcement I gave earlier that some Government Senators would be a little late, I think it necessary, as I

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have already advised the Leader of the Opposition and the senior Government Senator, to suspend the sitting for approximately 50 minutes.

Also, one temporary Senator was not present to take the Oath of Allegiance. If the temporary Senator, whom I understand is somewhere in the vicinity of the Red House, turns up, I would probably allow her to take the oath when we resume.

The sitting is therefore suspended for approximately 50 minutes. The Senate will resume at 2.30 p.m.

1.40 p.m.: *Sitting suspended.*

2.50 p.m.: *Sitting resumed.*

PERSONAL EXPLANATION

The Minister of Finance and Minister of Tourism (Hon. Wendell Mottley): Mr. President, I apologize to this Senate. I had been alerted that I had to do a presentation at 1.30 p.m. and that I had been prepared so to do until matters concerning a Cabinet lunch and certain specific matters between the President and the Prime Minister that had been raised yesterday were to be clarified at this luncheon. Therefore, my presence was required at the lunch and the arrangements which had been struck with this Senate could not be carried out on time.

I, myself, up to about 12.00 noon was not aware that I would be required at that luncheon. Therefore, I do apologize to hon. Senators for the inconvenience that this has obviously caused.

PUBLIC SECTOR (ARREARS OF EMOLUMENTS) BILL

Order for second reading read.

The Minister of Finance and Minister of Tourism (Hon. Wendell Mottley): Mr. President, in my budget presentation in 1992, I indicated that it was the Government's intention to honour the commitments given in the course of the lead-up to the election campaign in 1991, to pay public servants the award granted by the Special Tribunal of the Industrial Court at their current basis.

This award encompassed the consolidation of the cost of living allowance (COLA); a 2 per cent across-the-board increase, and a new COLA formula with effect from January, 1989.

To correct an erroneous report in one of the newspapers concerning a matter that had been raised in another place, this Bill does not at all deal with the return

of the 10 per cent that had been withdrawn by the last government. That matter had not been discussed in the other place, although I did see it so reported in one newspaper article. The matters, therefore, that concern this special tribunal award composed of the consolidation of cost of living allowances; a 2 per cent across-the-board increase and a new COLA formula with effect from January, 1989.

In March, 1992, the Government implemented the Special Tribunal Award—and this Senate should recognize that this award had been, in fact, granted in 1989. So, between 1989 and this Government's first attempt at implementation in March, 1992, all of those matters to which I just referred have been accruing and arrears were accumulating against those items.

In 1992, therefore, we began the process of calculating the actual quantum of the debt to be paid with respect to:

- (i) Arrears arising from the suspension of the cost of living allowance from February, 1987 to February, 1992;

While we have reinstated the cost of living allowance in 1992—when the Special Tribunal Award was implemented—we, as a new Government, found it impossible in our financial circumstances in 1992, to meet the increases in COLA due to indexation. We reinstated COLA, but did not keep pace with the indexation. Even though we had started and kept the main item current, the indexation still caused a further accumulation of arrears from 1992 and onwards.

- (ii) Arrears arising from the non-implementation of the Special Tribunal Award over the period January 1, 1989 to February, 1992.
- (iii) Arrears arising from the non-implementation of the extension of the terms of the award with the employees in certain statutory authorities and other publicly funded bodies; and
- (iv) Arrears arising from the non-implementation, and subsequently partial implementation of the negotiated wage and salaries agreements governing hourly, daily and weekly rated public sector employees.

This necessitated the establishment of a register to record the sums owed to each employee and the submission of a statement of indebtedness to each employee. As we began discussions with the relevant trade unions this was the first matter that had been agreed upon—that there had been general talk about what the debt might be—but in coming to any settlement, it would have to be settled on an individual basis and we, therefore, had to run those calculations for every individual.

This was a long and arduous process, since many of the records of different ministries then had not been computerized, and the staff required to do these computations, in many instances, was the same staff involved in the ongoing current wage-payment calculations which had to be met on time. We, therefore, had to draw staff. We started to put some members of the staff on overtime, but this was unsatisfactory and we had to draw staff from outside these ministries to get these calculations done within a time frame acceptable to both the unions and the Government.

After our initial attempts to determine the quantum of the debt, it became clear that the fiscal requirement of the debt settlement was, indeed, substantial; in fact, in excess of TT \$2 billion.

The suggestion made in some quarters then, that it be settled by means of a lump sum cash payment, frankly, could not be entertained at all. One is talking about back in 1992 when the fiscal situation was difficult and the Government had laid its economic course and outlined that in the medium-term policy document which was laid in this Senate, and that set our economic course. The fundamental pillar to that economic course was a certain amount of fiscal discipline. Only after, we had established fiscal discipline could we move on to deal with the rest of the requirements of the economy; that is, the freeing up of exchange control; the acceleration of the trade liberalization process and so forth.

Therefore, the implementation at that time, of a TT \$2 billion cash payout to public servants, even though the sums were not in dispute, the state could not have contemplated it. Had we done so, in fact, it would have led to very serious damage done to our economy and would have caused huge price increases; massive increases in interest rates in the banking system as a result of trying, thereafter, to contain the injection of money into the economy; and, of course, all of that would have led to even more serious deterioration in our balance of payments and hopelessly postpone the Government's plan back then—known but not yet revealed—to remove exchange controls and liberalize the whole question of foreign exchange dealings. So, the Government just could not concede to that request for cash payments.

3.00 p.m.

Consequently, we proposed instead a series of alternatives to the cash settlement for the arrears owed to public servants. These were difficult negotiations because at that stage, Sen. Draper, myself and Minister Ramrekeringh were leading the Government team. We clearly had to deliver on a

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manifesto promise. In addition, we were not disputing the quantum and the right of the individuals to these payments but at the same time, we were not in a position to meet these payments. Therefore, we sought to establish some *bona fides* with the trade unions by finding non-cash mechanisms in 1992 to begin the settlement of this debt.

We proposed and had approved paid leave or special compensatory time off whereby public servants, on application, could go on leave and be paid for it; offsetting of arrears and current payments due to the National Housing Authority; offsetting of arrears of income tax; offsetting of rental of government quarters; offsetting the cost of purchase of government quarters; repayment of established overpayments; repayment of devaluation loans for education and more recently approved offsetting of payments owed under the Students Revolving Loan Fund.

I am happy to report that in between the approval of these mechanisms and the end of last month, public servants accessed these benefits to the tune of \$57 million, \$41 million of it coming in the special compensatory time off. And this is perhaps noteworthy; of all the public servants the teachers were least able to access their special compensatory time off because of the nature of the function they perform, and the lack of flexibility in the system—the availability of extra teachers and so forth. The Minister of Education was not able, often, to grant special compensatory time off to teachers and, therefore, they were least able to benefit from this particular measure that other public servants found so readily acceptable. Therefore, it was necessary even then to us on the negotiating side, to come forward with some other mechanism that would go some way towards meeting the unions' and the employees' requests without bankrupting the state and causing economic confusion for the rest of the citizenry.

It is in those circumstances that this question of bonds arose. The issuing of tax-free bonds as a further method of liquidating the debt owed to public servants, therefore, represents an interesting development. It appears to have been widely accepted by all the trade unions around the table that held discussions with us. Moreover, these bonds will provide the Government with a means of reducing the fiscal imbalances which could result from attempting to settle the outstanding debt by cash payments such as I have just suggested.

The bonds are non-interest bearing but we have built into it other desirable features that make them attractive. Mr. President, let me highlight some of the features of the bonds which, I must emphasize, are to be issued only in cases where the employees agree to accept these instruments in settlement of their

arrears either through their recognized association, or recognized majority union, or where they are not represented—by an authorized bargaining agent on their own behalf.

While the Government is seeking an initial authorization for the issue of bonds totalling \$2 billion, the amount of bonds to be actually issued depends, of course, on the residual amounts outstanding after the drawdown by these other routes that I have earlier outlined, the SCT and so forth.

The legislation before us provides for an employee to whom a bond is issued to receive in the year in which the bond is issued a tax credit of an amount equal to the face value of the bond.

Under the agreement which was reached in October 1994 with the Trinidad and Tobago Unified Teachers' Association, the bonds will be non-interest bearing and will be issued in five tranches commencing in 1995 and ending in 1999. The bonds will mature within two years of the date of issue and the tax credit in respect of each tranche will vary depending upon the date of issue. Those issued in 1995 will, for instance, carry a 10 per cent tax credit; 1996—15 per cent tax credit; 1997—20 per cent tax credit and those issued in 1988 and 1999 will carry 25 per cent tax credit.

An order to this effect will be published once the legislation has been enacted. If this tax credit cannot be fully set off against the employee's tax liability in the year of income in which the bond is issued, then that employee would be entitled to a tax refund in cash. The persons to whom the bond is first issued may choose to keep the bond or transfer it. If he chooses to transfer the bond he may detach the tax credit and keep it or he may sell the bond with the tax credit. Where a subsequent purchaser of a bond purchases it with the tax credit, he must sell the bond with the tax credit.

Regulations would be prescribed in respect of the denominations in which bonds may be issued and the methods of encashment. They will also prescribe other details such as the form, issuing and recording of bonds, the method of holding bonds. These regulations will reflect largely the outcome of discussions with the representative trade unions and associations. Bonds issued on these terms would also be immediately available to employees for whom there is no recognized association or union where the individual employee agrees to accept the offer. The legislation will enable other public sector employees to be issued with bonds if their recognized associations and unions agree to the terms of the package which we have proposed.

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Employees who are not eligible to receive bonds would each be asked to submit an application for the bonds. In the case of those employees whose merit increases were suspended between February 1987 and December 1994, an application for bonds will be taken to constitute acceptance of the offer of the sum of \$2,125,000 in full and final settlement of the outstanding increment. This amount will also be payable in bonds.

I am referring to the matter of the buy-out of increments which was a very thorny matter in the negotiations between the Government and the respective unions.

Increments, to those of you unfamiliar with the public service, are additional amounts of moneys payable to public servants. It is supposed to be some merit increase that follows an evaluation. These increments had been suspended during the period which I spoke about, and there was a great deal of discussion about the matter with the trade unions. The Government, in particular, pointing out as to the difficulty in precise calculation about what might have been increments properly evaluated and due to those who were so meritorious as against those who might not have been, a highly theoretical area in the eyes of the Government, but disputed by unions as to what exactly would be due in total quantum and due to any particular individual.

The Government, therefore, propose a buy-out of this highly contentious, and in our view, inaccurate situation by the method that we have proposed, that is, we were willing to pay \$150 million as a buy-out of this increment or merit increase settlement.

Sen. W. Mark: Mr. President, may I ask the hon. Minister if he can provide the Senate with an appreciation of the actual quantum or some estimated figure of the increments that were due to public sector employees between the period 1989/1995?

3.10 p.m.

Hon. W. Mottley: This is a highly contentious matter because the Government claims that it is not an exact science. By the very nature of what is involved, certainly, people in the private sector would appreciate what I am speaking about. Therefore, to claim an exact quantum that was properly due, I would not be drawn into that, except to say that the Government felt that after a lot of discussion and reaching out beyond where it felt that it should go, the Government felt that \$150 million was a generous offer. Under those circumstances the Teachers' Union accepted that offer and it is around this matter

that the other unions could not find agreement. Therefore, with this element still outstanding in the whole package, only the teachers have accepted the whole package and therefore only teachers are now available to draw down on the bonds which we are discussing here, although we are making provision in this legislation, which, hopefully at a later date, others will accede and follow the teachers and accept the terms of the offer.

Because of the fact that public sector associations and unions have been unable to reach agreement on the whole package with the Chief Personnel Officer, serving employees whom they represent will not be eligible to receive bonds until agreement has been arrived at. The CPO is therefore, as the proper, legal, negotiating officer of the Government, awaiting resumption of these matters with the respective unions.

Despite the delays in achieving our stated objective we are all aware of the complex nature of the task that we undertook since 1992. Most importantly, the Government feels that it has gone a long way in discharging its responsibilities. One must understand that by any stretch of the imagination, \$2 billion outstanding is a very large amount. I will tell this Senate that the Government has had very strong advice both here at home and from the international financial community that, in this particular matter, the Government was skirting dangerously in terms of any settlement that we might make, that no government, as I was once advised, is under compulsion to bankrupt itself. That was the hard advice I had.

Despite that and the risks that we ran, we attempted firstly, in the darkest days of our economy to deal with non-cash mechanisms—as we began to see our way—because many people feel that bonds ultimately is not money. Nothing can be further from the truth. In making these calculations and structuring the bond issues in the way in which we have, and projecting rates of growth into the economy, we believe that we can digest this into our financial system without severe adverse repercussions. We can only do so now and it will represent a significant allocation of the country's resources for public servants. We need to understand that. Therefore, in all of these circumstances I believe that the Government has gone a long way in discharging its obligations.

Sen. Daly: Thanks to the Minister for giving way. Has the Minister made any estimate of what sum of money might be injected into the economy if people exercise their rights to transfer these bonds? As I have his attention may I also ask whether the intention is that the bonds can be transferred without the tax credit?

Hon. W. Mottley: Mr. President, yes, we have done calculations and made assumptions as to how many of these bonds would be discounted from year to year. I will have to get the information out of the Ministry of Finance. I would hope that we made fairly conservative estimates as to what would be the rate of discounting of these bonds and how many public servants would hold on to them to maturity, and how many would be discounting them. The tax credit matter is clear, in that if you buy the bond with the tax credit you have to sell it with the tax credit. That separation is available only to the benefit of the first holder. Clause 6(3) draws reference to that.

This is a thorny issue. I think citizens ought to ponder on this matter very seriously, not so much for the present issue, but for the future, and commitments that have repercussions for all of us, because these are weighty matters which, if handled without proper care or foresight, can imperil all our fortunes. I chose my words very carefully. I think hon. Senators would understand.

I beg to move.

Sen. Rev. Teelucksingh: Mr. President, I would like the hon. Minister to spend some more time on this matter of the quantum of the debt. It is so very important that I believe it is a significant issue among all that he has outlined here today. I would like to know what is the total public service debt? Is it \$2 billion? Is this exercise to determine the quantum complete and conclusive?

Why have I been hearing and reading and the public has been hearing of claims by the Public Services Association that the debt is anywhere around \$4.2 billion? This is very important for us because the public service is important and I would not like to know that we are going back to the days of public servants protesting. Will there be a protracted debate? Is this conclusive today? This is my concern and I think it is fundamental in this debate.

Hon. W. Mottley: Mr. President, I will get the exact amount for him as far as what we have settled. I think Sen. Teelucksingh needs to understand there is a very precise calculation *vis-a-vis* the special tribunal award. Individual public servants would know that Tom Jones is owed \$15,286.19. Where there is a grey area and disputes in respect of the merit increase which I explained a while ago, where there is no precise calculation. The unions are saying that is \$2 billion. The Government is saying absolutely not.

In any event, this question of merit and deserving is not a precise matter like a cost of living allowance. Do you understand what I am saying? Therefore, that is

the area of dispute and to close that grey area the Government has said it owes \$2 billion with respect to COLA and is buying out for \$150 million any claims in this grey area.

3.20 p.m.

That is where the teachers have accepted, but there is as yet no agreement with the Public Services Association and the others. I hope I have made myself clear.

Sen. Daly: Mr. President, are the figures that Sen. Rev. Teelucksingh and I have requested to be circulated fairly soon?

Hon. W. Mottley: Yes.

Sen. Hosein: Mr. President, could the Minister elaborate on the genesis of this problem and state what approach, as Minister of Finance, he would have taken, other than the approach taken by the previous government?

Hon. W. Mottley: Mr. President, that is open to speculation and I am not going to judge the previous government in this matter. They had a financial situation which was clearly difficult; they chose to go this particular route. We now have to deal with the consequences, and I think that is the only relevant matter here now.

Question proposed.

Sen. Wade Mark: Mr. President, I am sorry my colleague is not in his seat at this time. Let me begin by extending an open and public invitation to the hon. Minister of Finance to seek early entry into the incoming UNC government in the light of the PNM's plots aimed at engineering possibly his exit. As a mark of respect to our visiting Head of State, the Opposition would not slug the Government at this time, but we reserve the right to reopen this issue at a later date.

This is a most frightening and oppressive approach that this Government has adopted in the question of settling the public sector arrears issue. I want to remind the Government of a famous adage that those who forget the mistakes of the past are condemned to repeat them.

If we look at page 53 of the PNM's 1991 manifesto, we see that the PNM had indicated that they intended to settle this debt and that the Government was committed to the maintenance of industrial democracy. The PNM said and I quote:

"The PNM will settle this issue by:

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- paying public servants their correct salaries and thus stop the accumulation of arrears."

Of course, they paid them their correct salaries in 1992.

- "- entering into negotiations with the representative unions with a view to arriving at an amicable arrangement for the payment of the arrears, bearing in mind the general acceptance that the arrears cannot all be paid in cash at this time."

They were committed to negotiation and they recognized that all the arrears could not have been paid in cash.

By no stretch of the imagination can this Bill before the Senate be regarded as an amicable settlement on the part of the Government. I will demonstrate that negotiations are still in progress and we are now debating a Bill which seeks to provide virtually an imposition on trade unions to accept the Government's settlement. We will deal with that as we proceed.

The PNM, as you know, has abandoned the principles of dialogue and tripartism in the context of addressing and settling the huge outstanding debt owed to some 100,000 public sector workers, including retirees and those workers who have been retrenched by the PNM Government since it came into power, and before, by the old regime.

We view this Bill as a direct assault on the well-established principle of free collective bargaining, which is enshrined in law as well as in the International Labour Organization's standards and conventions which our country has ratified. I make specific reference to Convention No. 87, which deals with the right to the freedom to organize, the freedom of association and the protection of the right to organize; as well as Convention No. 98, which deals with the right to organize and collective bargaining.

As you know, Mr. President, out of a total of 175 conventions passed by the ILO since 1919, and some 182 recommendations, this Government has ratified a mere 12 conventions to date. Not even Convention No. 144 that deals with tripartism has been ratified by this Government in spite of the mouthings coming from the Minister of Labour and Co-operatives to the effect that the Government will do so.

Negotiations between the majority of public sector unions have not been completed. That is a fact, but as the Minister rightly pointed out, there is an agreement. If negotiations are still continuing with public sector unions, why has

the Government sought to bring this Bill in its present form to Parliament where it takes a broad sweep? It takes into account all existing negotiations and all existing categories of workers in the public sector.

Apart from its flagrant violation of the Truck Ordinance, 1919. Mr. President, do you know something called the Truck Ordinance? It deals with the fact that it is illegal for any government to pay workers in kind. Workers are to be paid in cash. However, the Government has proposed and, as the Minister has rightly pointed out, the public sector unions have agreed, in principle, to accept bonds, given the arguments advanced. I will show a little later on, the deception and dishonesty of this Government which is attempting to fool public services workers into believing that they cannot pay even part of the money in cash. They are saving the cash for something else and we will see.

3.30 p.m.

This Government is seeking to use this Parliament to impose a settlement on all public sector unions, in spite of the fact that negotiations are still taking place among several public sector unions and the Government of Trinidad and Tobago, represented by the CPO in negotiations, the Minister of Finance and the Minister of Public Administration.

The reason they can do so is because this class of workers is a captive class in the society. We no longer have the Masters and Servants Ordinance in force, although it remains on our statute books. That Masters and Servants Ordinance was passed in 1846 under the colonial period and it was based on a contractual obligation which involved fines and imprisonments for violation on both sides; employer and employee.

Various Government Ministers, including the Minister of Finance, the Minister of Public Administration and the Prime Minister have indicated publicly, that they are not prepared to go beyond what they have placed on the table. That is not negotiation, Mr. President, that is dictatorship and the Government is on record as saying that it is not prepared to go beyond what has been offered. There is no room for any further negotiation, hence we have this Bill in its present form.

The Government is seeking, through this Parliament, to impose in a very subtle manner, a final settlement on this particular group of captive employees in the public sector; that is what logically would follow. If one listens carefully to what the hon. Minister said, he said that "he hopes that the other public sector unions would settle for what has been settled". In other words, they have a final

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position on this matter. There is no further negotiation; the Parliament is now the arbiter between the public sector unions and the Government of Trinidad and Tobago. We would have much more to say in terms of amendments as we proceed. They want us to be involved, they want us to take charge, we shall take charge!

As Sen. Rev. Teelucksingh has indicated, even the quantum is in dispute at this time. I know for a fact that the National Trade Union Centre has stated that the Government owes roughly about \$3 billion—\$4 billion to the public sector workers in Trinidad and Tobago. The Government has countered by saying that it owes the public sector workers around \$2.4 billion, so the question as to what is the precise amount of moneys owed to public sector employees is still in the dark.

Even the proposals to settle the outstanding debt to public sector workers appear to be discriminatory and totally unsatisfactory. The hon. Minister mentioned some of the non-cash benefits that these workers are going to be entitled to, if they decide to settle for the Government's offer to offset whatever they are owed. What is significant about these proposals is that the Government is prepared to incorporate increments owed to public sector workers, include their arrears on salaries and cost of living allowances and if they have a mortgage with the National Housing Authority, they can offset their mortgage in this particular regard. For example, if a worker's arrears amounts to \$30,000, which includes the \$12,000 arrears on increments owed to that worker, he can offset that sum to the mortgage payments owed to the National Housing Authority if it comes up to the same \$30,000 or even beyond.

In other words, if one wants compensatory timeoff; to study abroad; or extra vacation leave, in the calculations the Government would include the increments owed to the worker. However, if the worker wishes no vacation leave, no study leave because he is 59 years of age, he is about to retire and he needs that money in cash, the Government says, we cannot pay cash, we are going to pay in bonds. But when we come to the increments that one has earned, that is one's property under the Constitution of Trinidad and Tobago—and I would deal with a judgment that came from the High Court that dealt with the property, moneys—and increment is salary as well, and that is people's property—

When I said it is discriminatory, the non-cash mechanisms would allow workers to get their increments; no problems with that, but when it comes to bonds—from our understanding of the situation—the Government is saying, as far as increments are concerned if they owe the public sector employee \$1.5

billion over the period 1987 to 1994, they are prepared to buy out \$1.5 billion or thereabouts for \$150 million. Now, Mr. President, that has implications for the legal fraternity which I do not want to get involved in at this time. All I can say is that money constitutes property, wages constitute property, salaries constitute property. I just want to emphasize that point so that we would understand what is at stake here and what we are seeking to get the Senate to approve.

Under increments owed to public sector workers, what the Government is seeking to do is to actually force employees to give up; they are trying to get employees to write off to some extent the sum of money that is owed by the State. The question we must ask is whether this is a fair, just and satisfactory arrangement. Is it not discriminatory, Mr. President? There are areas we would like the hon. Minister to examine and to ponder on, as we proceed. Of course these workers are being asked to accept \$150 million in return for \$1.5 billion, and the bonds bear no interest. The hon. Minister failed to develop the point. He said that there were other in-built benefits for the worker; tax exemptions, tax credits.

Mr. President, there are, in fact, judgments from the Industrial Court of this country, particularly the WASA judgment, that forced the Government to provide workers with a certain interest on outstanding sums owed, so there is precedence for an interest payment. The Government goes further and says that they are going to issue these bonds in five tranches starting from January 2, 1995, so whether one has retired, whether one has been retrenched, the Government imposes bonds on the worker. Someone who is 60 or 65 years of age or who is in the twilight zone of his existence, the unions are saying, give these people—*[Interruption]*

I am saying you are edging towards the twilight zone. *[Laughter]* When you reach 60 years you will talk about that—Barry, you gone into orbit now *[Laughter]*

3.40 p.m.

Mr. President: May I leave also?

Sen. W. Mark: No, you can stay, Sir. *[Laughter]*

Mr. President, I am making the point that, at least, the Government ought to exercise some kind of consideration in the context of those retirees. In Trinidad and Tobago after one reaches 60 years of age one becomes a nonentity in this country. It is a most dangerous kind of development that we have been practising

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in this country over the years. We have to develop a policy for the elderly in this country where people who have wisdom and knowledge and a storehouse of experience should not be languishing after 60. That is a matter we will deal with in our manifesto as we proceed to government.

But I want to indicate here that the Government of Trinidad and Tobago ought to be considering very seriously providing the retirees with a cash payment. Why is the Government refusing to offer these retirees a cash payment? What about those workers who have been retrenched? There should be some kind of arrangement to provide these people with a cash settlement. The Government is punishing workers, especially those retirees and this attempt by the Government to deny workers what has been accumulated is very dangerous. This is a pickpocket administration, Mr. President.

These public sector workers have suffered long and hard because since 1983 they have not had any salary increases outside of the application of the tribunal award in 1992; and that was a mini amount because the tax system took away every cent or the majority that they were able to gain. Notwithstanding this, these workers also have had to endure about four devaluations between 1983 and the present period—not to mention the negative effects of Government's economic policy.

Increments are established terms and conditions of public officers stipulated in Civil Service Regulation No. 41 and Public Service Commission Regulation No. 36. It is a stipulated regulation and the people are entitled; it is an established term and condition of employment. Increment represents an increase in salary and constitutes one's property which cannot be taken away by the whims of any executive. No executive has that authority. None.

This matter was conclusively proven in the Bernadette Hood-Caesar matter in High Court Action 3015 of 1987 when Justice Mustapha Ibrahim ruled that increment is an increase in salary and once granted it becomes merged with salary and is part of it. The persons to whom payments are due are being denied the right to and the enjoyment of property as long as their entitlement remains suspended—the NAR suspended the people's increment. The non-payment by the state of the applicant's merit increase, when due and payable, amounts to a deprivation of the applicant's enjoyment of his or her property. Increment is the property of the public officer and can only be taken away by due process of law.

In other words, if the Government comes here and is seeking to get parliamentary approval to settle \$150 million instead of \$1.5 billion this Bill

requires a special majority. This Bill does not require a simple majority because they are tampering with people's property and constitutional rights. Under Chap. 1 of the Constitution, item 4, deals with the question of property and the right to enjoyment of that property.

I only caution the hon. Minister to let him know that he is treading on dangerous grounds when he tells this Parliament that whatever he owes public sector workers he can give you a value and he is the Minister of Finance; he has all the facts and figures at his disposal. He cannot provide this Parliament with a value of the increments owed to public sector workers, but he could tell people that he will buy out for \$150 million, and in our estimation it is \$1.5 million. You cannot do that hon. Minister.

The workers' representatives have always expressed a willingness to settle the debt owed to their members by way of bonds—so that is not in dispute—or any other acceptable instruments of settlement. Even though the unions recognized that the Government is "mamaguying" the population about not being able to pay in cash or in lumpsum cash payments, they said "okay, they will take bonds. It is an acceptable principle and position that the trade unions have advanced the only qualification that many of the trade unions have put forward is that they wish to settle the matter in full and not half-way or part-way or quarter-way; not through write-off of part of the workers' accumulated settlement or entitlements which they have earned over a period of time.

I think it is important that we recognize that the unions are prepared to make adjustments and to recognize that the economy is in a situation where we are still at the bottom, we are on the economic floor and we are yet to come out of the black hole in this country, so the unions are sensitive to this. This is why a Public Services Association release on comments on the Public Sector (Arrears of Emoluments) Bill states and I quote:

"The PSA has long indicated its agreement with the use of bonds for the purpose of paying arrears owed to public employees, and in particular, those who are currently in the employ of the Government."

In other words, it is black and white. They have indicated that they have no difficulty, however, they hold the view that retirees and their representatives ought to have their arrears settled in cash. That is a reasonable proposal. I do not think the Government could argue against that.

But this Government is on record, through the hon. Minister of Finance, as saying that he has a death wish for the trade union movement; his death wish was

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to get the World Bank to come to Trinidad and Tobago, when he was in Guyana a year ago, to help him and his Government make the trade union movement disappear and when that question was posed to him here he said, he was being facetious. One cannot be facetious in these matters, that is why the Prime Minister is seeking to have him disappear now. *[Laughter]* He cannot make those fundamental errors. When he tells the trade union movement that he wants to see it disappear he is actually digging his grave. It is not a threat, my good Friend, Sen. Ainsley Mark. Talk to Prime Minister Manning on that.

3.50 p.m.

Mr. President, to show you the kind of attack and assault that the trade union movement has come under since the PNM came into power, and consistent with the wish of the Minister of Finance and Minister of Tourism to have the trade union movement disappear, I want to look at the PNM's score board and to demonstrate to this Senate how many people have been bowled out by the PNM, how many people have been run out by the PNM, how many people have been stumped by this Government and how many people have retired because of injuries.

The following statistics would reveal the number of workers who were clean bowled by the PNM since it came into power in 1991:

WASA		1,000
Port	Close to	1,500
Daily-paid workers	Close to	6,000
PTSC		1,000
Petrotrin	Almost	1,000
Skinner Marine		125
Trinidad and Tobago Printing and Packaging		175
Farrell House		75
Hydro-Agri		40
Public Utilities Commission		49
IDC/TDA		200
BWIA		400
Maharaj Jewellers		35

Mr. President: Are all these workers owed money under this Bill?

Sen. W. Mark: Mr. President, what I am advancing here is that this Government has a record of attacking workers' rights in this country. Many of these workers who have been retrenched by this Government are still owed money. For instance, the daily-paid workers—5,000 of them who have gone home are still owed money. The PTSC workers—1,000 of them—in terms of the arrears, are still owed money. The point I am making is that the Government of Trinidad and Tobago has a history of attacking and assaulting workers' rights in Trinidad and Tobago.

Mr. President, you would recall that when the former government sought to cut public sector workers' wages and to postpone the award of the Special Tribunal, the PNM Government—then in Opposition—was in the forefront of defending workers' rights. How short are our memories? Let us look at some statements made by the PNM Government, when it was on the Opposition Benches in this Parliament, on the question of the taking away of workers' property and rights by the former NAR Government. While the method may differ, the principle is the same because the Government is seeking the support of this Parliament in its endeavours to deny public sector workers their full increment. The Government is cutting people's salaries—it is denying people their increments.

Mr. President, hear what the Minister in the Ministry of Finance, hon. Kenneth Valley—then in Opposition—had to say about property rights. I quote from page 269 of the Hansard of Thursday, February 09, 1989:

"...wages and salaries constitute property of the individual. The right of property is a fundamental human right and as such, one would normally expect a government that has a proper respect for democracy to protect the worker's right to his income."

That is what hon. Valley said in 1989. He went on:

"More importantly, the Government must prove that the action contemplated is a necessity. In other words, there must be an absence of feasible alternatives both in terms of methods, as well as in terms of goal achievements."

He went on to indicate how the Government could have paid the public sector workers. Hear what he said:

"The bill characterizes a government that holds the democratic concept of free collective bargaining in contempt. It characterizes a government that is devoid

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of respect for the norms of industrial democracy. The idea is repugnant. But you know, the old people have a saying, 'out of evil cometh good'.

That was the junior Minister of Finance speaking at that time when the Government was seeking to take away workers' property—as this Government is seeking to do through the imposition of this Bill which we are debating here. Hear what he went on to say:

"Is it fair and equitable for a government to use its governmental powers to expropriate its employees property?"

That was Minister Valley speaking. On page 279 he said:

"Is the Government saying that it has no confidence in the court?"

That was the Industrial Court.

"Or does the Government anticipate difficulty in proving the necessity for its actions? This proposal to expropriate the property of public sector employees through a cut in their wages and salaries, is not really a matter for this Parliament. It should be argued in the courts where the public servant could also be heard. The public servant is not represented in the Parliament."

In 1989, the Minister in the Ministry of Finance, hon. Kenneth Valley, told this Senate that the Government should have gone to the Industrial Court to have that matter settled. He said that public servants could not be represented in Parliament, therefore, the then Government ought to have taken the issue to the Industrial Court for arbitration and settlement.

We see that a few years later the same beat is on. The Government comes to this Parliament and seeks to impose in a very surreptitious style—make no mistake about it, if this Bill is passed and it becomes law, this Government would force workers in this country to put pressure on their trade unions to settle this outstanding debt via bonds. The Minister has said, "no further negotiations, we have now intervened in the collective bargaining process." That is what has happened here. The principle of free collective bargaining is under threat as a result of this development that we are engaged in.

I want to quote what Dr. Keith Rowley said in that same period when there was talk about public servants, people being attacked. I shall quote from page 443 of the Hansard.

4.00 p.m.

Sen. A. Mark: Just a clarification before Sen. Wade Mark goes on to his next bit of quoting. Is he suggesting that the leadership of trade unions must not take direction from the members? Is that what he is suggesting, that there is something wrong with the leadership of trade unions taking direction from their members? I just want to get it clear, Mr. President.

Sen. W. Mark: Mr. President, I think my honourable friend knows me long enough, so I really would not respond to him on that matter, because, really, to respond to him on that matter is mischief.

I am dealing with a principle. I have already indicated to the Parliament that the unions are in agreement with accepting bonds, so that does not arise here. The question here is that you have a situation where workers are entitled to increments amounting to \$1.5 billion, based on our estimation, and the Government of Trinidad and Tobago is telling the public sector unions and their workers by extension, "I will settle this \$1.5 billion for \$150 million and in bonds."

I am saying that it is attacking people's property rights in that context. So I do not understand how his point becomes relevant to what I am saying.

Sen. A. Mark: I am just trying to get it clear, Mr. President, because I heard Sen. Wade Mark say that if this Bill is passed then members are going to be pressuring their trade unions to accept the settlement. Is he suggesting that the members of trade unions cannot direct their leadership what to do? This is what I am trying to get at.

Sen. W. Mark: Yes, they can direct, but what I am saying is that when a government uses its parliamentary majority to muscle its way, to force workers—because this Bill is going to force workers. Of course, the workers can take direction from their leaders, but the point I am making is that when you pass it in its present form, what is going to happen is that workers are going to be putting more pressure on their leaders because of the fact that the workers are under pressure; the cost of living has gone extremely high under the Government; people's salaries have collapsed in real terms. So what is going to happen is that people are going to grab at anything, whereas if you had left this outside of the Parliament and you had engaged in further negotiations with the union, you would have been upholding the principle of free collective bargaining and allowing the parties to meet and treat with each other. But by bringing this Bill here, psychologically and subtly, the Government is seeking to put the unions under duress.

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Whilst in the Bill the Government indicates that workers are free and it is going to make sure that there is agreement, psychologically what the Government is doing is attempting to put the trade unions under duress. That is the point I am making.

Their excuse for paying workers in bonds and other non-cash instruments is that it is strapped for cash. But the Minister of Finance and the Prime Minister tell us that the economy is growing too fast; reserves are healthy; moneys are being realized from the sale of state enterprises. Over \$1 billion has been realized so far. But do you know what the trick is? Public servants are being used as scapegoats on the altar of political expediency by this Government.

The Government has some money to pay, at least, part of its debt, as far as we are concerned, in cash. It can pay some portion of the money, particularly to retirees and to those people who have been retrenched. But do you know what this Government is doing? It prefers to save that money for September. For local government elections money will flow. Next year for elections, money will flow; projects will open all over the place and then we will see the impact on the economy.

Hon. W. Mottley: Mr. President, I wonder if the Senator would not view the \$500 million that we started paying against this award in 1992 and subsequently every year, nor the \$140 million that we will be paying for the indexation of COLA in cash in 1995 as reasonable cash settlements of these matters?

Sen. W. Mark: Mr. President, the hon. Minister knows that all these moneys that they have paid are taxed, so a lot of money comes back to the treasury. So what is the problem? I am saying that this talk that this Government is giving people that if it pays people in cash what will happen to the economy, and so forth, if it pays a limited amount—people are not asking for \$800 million or \$1 billion—pay the retirees at least. What is wrong with that? Why must a man work in this country and when he retires you give him bonds and tell him he has to deal with that in five tranches and he could encash the last bond in the year 2000? By that time he might have died. So who is going to inherit that? His representatives? Let the man, at the age of 62 or 63 at least enjoy the benefits of his work. All we are asking the Government to do is to ensure that it allocates a certain portion of money to those retirees and those who have been retrenched.

If the other workers, like myself, who are youthful take the bonds, no problem. If you want to give me bonds and my union agrees to the acceptance of bonds, we can have an arrangement for that. But somebody who is 60 years—

Minister of Finance, have a heart and see about the elderly. I want to advocate the plight of the elderly here in this country in a serious way, because we are all going down that track eventually.

Mr. President: The hon. Senator's speaking time has expired.

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

Question put and agreed to.

Sen. W. Mark: I am saying that the Government can find creative ways and means of attempting to settle the debt. They have used bonds, and the unions have agreed. But find a creative mechanism to get on to the question of those people. The lower classes of people in this country have sustained the brunt of the steel fist of this Government covered in velvet gloves. This Government is responsible and chargeable for the increasing social ills in our country and it is seeking to intimidate the masses by deprivation. That is what it is doing.

The PNM Government knows that workers are desperate and poor. Some are hungry, some on the edge of poverty and would cash in these bonds almost immediately upon receiving them at a discount rate to their rich friends in the banking system and in some of these companies.

I am proposing an amendment in support of my colleague, Sen. Everard Dean, and I am supporting his amendment, that the agents to service these bonds must not only be financial institutions, companies and corporations. Credit unions must be involved along with trade unions. We want an amendment to ensure that the workers can go to their trade union and if they want a loan or want to cash in their bonds, let them have that right as well. Do not leave it just for financial magnets in this country. The trade unions and the credit unions must also be involved. So I support Sen. Everard Dean's amendment and I am proposing an addition to that amendment: the trade unions must be involved as an agent to service these bonds as well.

But the PNM, as you know, does not care. It is prepared to mortgage the stomachs of today's generations, as well as the minds and mental capacities of future generations. What the PNM is doing with this piece of legislation is taking abusive advantage of a weakened trade union movement.

4.10 p.m.

This Government is behaving like a rapist. It is preying on the vulnerable, the weak and the insecure.

Sen. A. Mark: Mr. President, on a point of order. I think the Senator should withdraw that comment about rapist. It is totally unparliamentary.

Sen. W. Mark: Well, a "raperman" government then. Does the Senator prefer that? This Government is a "raperman" government. I have looked through the dictionary for a word for the Senator, but I cannot find one. The only one I could come up with is "rapist" or "'raperman'".

Mr. President: Senator, I believe you can find suitable language—you are quite capable—to mean the same thing.

Sen. W. Mark: Mr. President, earlier I said that this Government has sustained, provided and attacked workers with an iron fist in a velvet glove. Is that more acceptable to my colleague, rather than a "rapist" or "raperman" government? If that is what is acceptable, then I withdraw the statement. I see nothing unparliamentary in describing this Government as a "rapist", but I withdraw the remark if that is going to satisfy my colleague.

What this Senate is witnessing, today, are wolves in sheep's clothing; jackals in lions skin with dribbling equivocation, to believe that people in this country are fools. Shame is a mild word to describe this Government. It is clear that this Government, based on what I have indicated earlier, is engaged in somersaulting and back-pedalling tactics.

What this Bill seeks to do is to rape people's rights, to some extent, and deprive them of their property and privileges. What is interesting is that they offer no concessions to this captive group of workers in real terms. Concessions have been made by this Government. The question is: Concessions to whom? A father cannot look at his children and offer one a banquet and the other, no food. Only a consciousnessless person would do such a thing.

We on this side are arguing that this PNM Government is no father; this PNM Government is not even a stepfather. This PNM Government can only be described as an external aggressor using constitutional means to promote its own acceptable, disastrous and disgraceful activities on this country. The UNC hopes that the public sector workers would wake up soon if they are still in slumber.

We have a number of amendments to propose because we are not going against the workers' will. If the unions agree to engage in bonds we have to respect and support that.

The Third Schedule of this Bill, page 12, section (b)—

"Entities with employees not represented by recognized majority unions"

I do not know who provided the Minister of Finance with this information, but, for the records my union, the Bank and General Workers' Union, along with the Public Services Association represent workers at the Cipriani Labour College. I see, in the Minister's haste to extricate me and my union, he has put the Cipriani Labour College as an entity where employees do not have a recognized majority union.

Sen. A. Mark: They do not have a union.

Sen. W. Mark: The Cipriani Labour College is represented by two trade unions—

Sen. A. Mark: They do not have a union. This is the point the Minister is making.

Sen. W. Mark: That is provocation and I would not entertain that right now.

Sen. Capildeo: Ainsley, you are wicked.

Sen. W. Mark: The Senator is anti-trade union, since he joined the Government, but he used to get all the work from the unions to audit their books. I have to recommend to the trade unions that we take that back. [*Interruption*]

Mr. President, with all due respect to my colleague—I know he is provoking me—I want to tell him and the hon. Minister of Finance, that the Trinidad and Tobago Association of Local Government Authority is represented by the PSA as a result of the Statutory Authorities' Service Commission Act. The Princess Elizabeth Centre for Physically Handicapped Children is represented by the PSA; the Cocoa and Coffee Industry Board is represented by the PSA; the Trinidad and Tobago Association in Aid of the Deaf is represented by the Public Services Association.

On page 13, the Trinidad and Tobago Blind Welfare Association, PSA; Carnegie Free Library, PSA; Trinidad Public Library, PSA; Trinidad and Tobago Racing Authority, PSA; St. Mary's Children's Home, PSA; St. Dominic's Children's Home, PSA; St. Michael's School for Boys, PSA; St. Jude's School for Girls, PSA; Sugar Industry Labour Welfare Fund Committee and the National Lotteries Control Board, PSA.

In other words, the Government has to amend this section. It is wrong to say that these entities are not represented by a recognized majority union.

I want to go to clause 6(1) on page 5 of the Bill which reads:

"The employee to whom a bond is issued under this Act is entitled, in respect of the year of income in which the bond is issued, to a tax credit of an amount equal to a percentage of the face value of the bond, such percentage to be determined by the Minister by Order."

I propose to have this clause amended to read:

"...consequent on agreement with the appropriate recognized association and/or trade unions."

It must not be left to the Minister alone.

Sen. Draper: Mr. President, could I get some clarification? The Third Schedule, on page 11, to which I think the Senator referred, is headed "Hourly, Daily and Weekly-Rated Employees". If one looks on page 10, one would find that the Cipriani Labour College deals with monthly-rated employees which are identified under the Second Schedule. Is the Senator saying that his union represents hourly, daily and weekly-rated employees?

Sen. W. Mark: Mr. President, no. We represent the monthly-rated employees. The point I am making is that the Government in the case of the Public Services Association, is the representation of all these entities reflected on page 10 as well?

Sen. Draper: They are reflected on page 10. If the Senator reads the Bill he would see that.

Sen. W. Mark: If I am to stand corrected on this matter, no problem; the Senator knows I am a very magnanimous person.

I want to go on to some amendments I wish to propose to the hon. Minister. I want to indicate to the hon. Minister that, as I said, in clause 8(2), we propose to add "trade unions" to Sen. Dean's amendment of credit unions. So, we are including "credit unions and trade unions".

In clause 9(1) of the Bill, we propose that an Order of the Minister, under subsection (1), be subject to an affirmative resolution of this Parliament, seeing that the Parliament is now brought into the negotiation process. We want to look after the interest of those workers who are not represented in this Parliament. We are calling for an affirmative resolution.

Clause 10:

"The Minister may make Regulations for carrying the purposes and provisions of this Act."

We are proposing that these Regulations be subject to an affirmative resolution of the Parliament of Trinidad and Tobago, since the Government has thought it fit to bring this Bill. We would like to get fully involved to ensure that the workers' rights in this issue are not in any way infringed.

In closing, all I can do is to advise the Government that rightfully, it ought to have allowed the other trade unions to continue their negotiations. I think that the Government is seeking to undermine the principle of free collective bargaining in a very dangerous and indirect way. We hope, with the necessary amendments we have proposed, that the Government would be able to ensure those rights.

We would have little difficulty in ensuring that this particular matter is addressed and we hope the Minister would give his support to the amendments proposed; depending on his position we would respond accordingly.

Thank you, Mr. President.

4.20 p.m.

Sen. Martin Daly: I would like to make a brief contribution on this Bill. I do so, because the most significant matter about this Bill is the fact that it represents an attempt by a political entity—and in this case the political entity that forms the Government—to fulfil a promise that it made prior to its being elected to Government. I think that is a very good reason for supporting this Bill.

Before we get into the mechanics of the Bill, it is very important to recognize that this is an act of good faith and therefore the Government should be complimented for bringing forward the Bill—it carries out the promise on the basis of which it was elected. There is room for much speculation about whether it needed to make that promise at all, in order to get elected, but that is water under the bridge. The point is it is a signal event in the political life of the country to have a promise so clearly and unequivocally redeemed. That is the main reason why I support this Bill and I compliment the Government on it and hope that it will transfer the lessons from this Bill to some of the other legislation that will be brought before us very soon.

There are very important lessons to be learnt when one performs an act of good faith like this in relation to law and constitutionality. That is the principal reason why I support this Bill.

It is almost as though this Bill came out of a different department, so to speak, of the Cabinet than some of the other legislation with which we have had to deal

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within recent times. There are, however, some technical matters which I would like to raise. Since the Opposition is in support of the Bill, I am very grateful to be able to make my comments before the tea-break, because I anticipate the debate would not go much beyond the tea-break and since the Opposition is supporting the Bill, they would be circulating their amendments very shortly.

I am very glad to get in before them. The fact is, I follow a different practice from the Opposition. I circulate my amendments in print before I speak. I know they find it helpful and I wish they would sometimes help the Independents in the way that we help them—but that is another matter.

Mr. President, there are certain technical matters which I would like to raise. One of them is the tax status of this bond. We have been shown an amendment that was made in the other place which now makes it plain that this bond is tax-free. Therefore, as I understand it and as my colleague, Sen. Mansoor, I believe understands it as a result of certain discussions we have had, to take a simple example, if you get a bond with a face value of \$15,000.00, that \$15,000.00 would not be added onto your income for the purposes of calculating your tax. That means, therefore, that the tax credit is, so to speak, an additional benefit that is being given by the Government. Against that background, I am very unhappy that the country is not being taken into the Government's confidence as to what really is the quantum of that tax credit.

I am disappointed that that is going to be left to be determined by the Minister by order. If the Government has done all of these calculations in order to take the considerable risk—and it is a risk—of passing this legislation, then it really must know and must be able to tell the country what the potential cost of all of this is. The tax credit has a cost and I really think we should be told what the amount of that tax credit is going to be.

Hon. W. Mottley: I take it that the hon. Senator means, not the percentage which is what I read, but the calculations of what it would amount to, the dollar value.

Sen. M. Daly: Yes. Maybe, I am not expressing myself very clearly. I do not like the idea that the percentage has not been determined and I am saying until we know what that percentage is, we would not know what is the dollar value.

Hon. W. Mottley: I read the percentage.

Sen. M. Daly: You read the percentage. I am sorry if I missed that. I do not understand why the percentage is not stated in the legislation if it is already known. I think it should be there, particularly as it is a tax matter. It is important that the Minister, in his winding up, respond to the questions that have been asked by Sen. Rev. Teelucksingh and myself because there is a risk attached to passing this legislation.

The risk is quite simply that many of these bonds may be transferred almost immediately by the holders with possible adverse consequences to the economy. It is important to know what calculations the Government made, in asking us to join with it in taking the risk of passing this legislation. Otherwise, we are taking the risk not on a sound footing. It is very important to know that.

Similarly, Mr. President, I am concerned that no where in this Bill is the receipt of bonds expressed to be in full and final settlement. I have circulated an amendment about that. Certain difficulties about it have been explained to me, but it is very important that the Government has some mechanism if not in the Act, certainly, in the paper work that follows to ensure that for each, so to speak, package of arrears for which you accept bonds that those bonds wipe out that package of arrears fully and finally. That is very important and a mechanism is required for that. I am suggesting that it can be done in the Act but I understand the difficulties in relation to the continuation of non-cash benefits after the Bill is passed.

Mr. President, for what it is worth, I do not accept the argument that this Bill goes beyond enabling the Government to pay off these arrears by means of bonds. I do not accept the argument that it goes any further than that. If trade unions or groups of workers do not want to accept bonds they are free to continue their negotiations and take whatever action they see fit including, I might add, political action. This is a political problem. It is a political action by one government that brought about the problem; and political action is being taken by a different government to eradicate the problem. I do not accept that this is taking away anyone's liberties because you can continue to negotiate, you can continue to take political action if you are not in agreement with the settlement of these arrears by bonds. Indeed, that would no doubt be fertile ground any time that there are hustings in the country. I do not accept that this Bill goes that far, and I put my position on record as saying that is my view.

As always, we receive correspondence and assistance from many people in helping us to form a view about legislation and it is very important that before we leave here today, that we make it absolutely certain that the Schedules are correct.

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I have certain information which I have not been able to check in the time available. It is very important that we make sure those Schedules are correct so that we do not find that there is some error in the Schedule and workers who belong to some particular employer have to wait to get their bonds while other employees have received theirs, while the Government comes back to Parliament to correct the Schedule.

Finally, I support the amendments proposed by my colleague, Sen. Dean, in writing to include credit unions as agents for the bonds. In my respectful view, they should head the list because there is a considerable danger that many of these bonds go onto the market at the same time, the discount rate would be unreasonably high, vis-a-vis the person who would be seeking to transfer the bonds.

I am quite sure that through the mechanism of the credit unions, they may be able to urge restraint in the disposal of the bonds and they may be able to fashion mechanisms for persons to hold on to their bonds if the discount rate at any particular time is too high, or give loans against the bonds as the case may be. I see them as a very important institution in the secondary market that is going to develop in relation to these bonds.

I support Sen. Dean's amendment and for the reason which I have given support to the passage of the legislation.

Thank you.

Mr. President: I think it is a convenient time to suspend the sitting. The sitting is suspended for approximately 30 minutes and will resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. Muntaz Hosein: Mr. President, in his presentation of the Bill, the hon. Minister of Finance made some startling revelations. One in particular gave us an insight of the thinking of the international financial institutions. I was a bit surprised to hear him reveal it, but I was not surprised that the thinking came from the international financial institutions as advisors to the Government. The Minister said that the advice given to the Government was that paying the public servants would have been tantamount to bankrupting the Government and that no government had a right to bankrupt itself.

When one looks at the advice given in the case of the public servants, as opposed to the advice given on the payment of foreign debt which this country

owes, one would see immediately, that it is quite all right to pay all the foreign debt that is owed, and that would not bankrupt the Government of Trinidad and Tobago, but when it comes to paying public sector workers, that would bankrupt the Government. I wish to point out that for the last three years, we on this side of the House have been putting forward the argument of the intention of the advisors of the Government of Trinidad and Tobago, and the kind of advice that is given to this Government. I believe he must have made an error. I do not think he really intended to say what he said today, because the Government has never accepted that kind of advice in the past, or at least, has never admitted to that kind of advice in the past, but is doing so today.

The Government brings this Bill at the 11th hour, having made an agreement with the teachers' union to solve their problem via the mechanism of bonds. We have no problem with that. The teachers' union in its wisdom believed that is the best solution for their workers and that is fine with us. I do not understand why we must have included in the Bill, mechanisms for other categories of workers with whom the Government has not yet concluded agreement. When that is done what it tells me is that the Government is putting a certain amount of undue pressure on the negotiation with those other unions and representatives of those workers, because it will always be able to point out and say Parliament has already passed this; this is the way to go. That can be used as a negotiating chip on the side of the Government.

Whether that is the best thing for the country at this time is another matter. I do not think the principle is correct; I think it is wrong because when one sits down to negotiate with people, especially one's own people who must carry out the policies of the Government, I do not believe that is the way in which one should negotiate. There should not be that pressure over the heads of those unions that they must go in a particular direction. I object to having this Bill all embracing. It would have been better to deal with the particular issue of teachers with whom the Government has made an agreement. In my view, to deal with all sectors of the public service is bypassing the bargaining process and putting too much pressure on the other unions to bypass the kind of negotiation that is necessary.

In a way it has implications for the future of trade unionism in Trinidad and Tobago. We must recognize the great contribution made by trade unions in Trinidad and Tobago on whichever side of the fence we sit. I am certain that the Minister of Finance, in the deepest recesses of his heart, knows that the trade unions in Trinidad and Tobago have made an excellent contribution to the social

and economic development of the country. We should never try to do anything that is going to make the trade union movement a weaker body, because the weaker the trade union movement becomes in Trinidad and Tobago, the more chaotic it would become for us economically. If one has to negotiate individually with workers it is a nightmarish sort of thing. I do not think any employer the size of the Government would want to have that kind of difficulty. One would never know where one stands and one would never be able to come to any kind of agreement. It would not be a good thing for us.

All of what is happening now needs to be put into context. It is important to look at the genesis of the problem. Why have we reached the stage today where we have to owe this large sum of money that we find—in the words of the Minister of Finance—very grave difficulty to meet the payment? At one time I believe the Minister of Finance mentioned that it was just impossible in 1992 and 1993 to pay the money or to come to any kind of agreement to pay. Clearly, if we are to avoid this kind of catastrophe in the future, it is necessary to examine how we arrived there and by doing that, we would be in a better position to avoid it in the future, whether it be this Government or the next.

We must examine to see if we pay this portion of the public sector debt how that will help our entire public service reform. What will it do for us? We cannot take out of context the question of payment of moneys to public servants and not look at the entire picture as to what is happening in the public service. If one examines it, one will see that in the past the public service had come up for tremendous criticism from everyone. Perhaps, in some cases, it might have been justified and in many instances totally unjustified. Therefore it is important to examine that aspect of it.

5.10 p.m.

One hears that we have a bloated public service—we have too many people—and all the advisers have told the Government that it must get rid of 15,000 public servants. A deadline to the end of last month was given to do that and the Government has been very slow in doing it. If that is so, who is responsible for the public service being bloated? I think we must ask those questions. If the Government wants to be honest, it will admit that it was in charge and is responsible. Are the conditions in the public service now fertile for productivity and will the payment of this money by way of bonds improve the situation? Will it assist in the productivity for which we are looking? Why must we come today, only when the teachers have threatened to strike, to settle it? Why must the teachers be treated in that manner?

These negotiations were since last year. Deadlines were given and still we find that the Government is unable to meet its deadline. It is important that this Government stop behaving in a reactive manner and start behaving proactively, whether it be on this or other issues. But that is the trade mark of the Government. One has to pressure it into action. After all, this is money owed to workers for work already done. It is something that government owes these people. They should not have to beg and cajole; they should not have to threaten to strike to get what is rightfully theirs.

I am suggesting that if we want to get productivity, whether it be from the teachers, the nurses or whomever, we have to change the tactics—the way in which we deal with workers. We have to take them into our confidence, and I do not get the impression that this is happening with this Government or the one before. We need to change that. We need to bring them into our confidence and get them to understand that they are partners in the development of Trinidad and Tobago. We have to behave as though we need and want them and that we are equal partners working towards a particular goal. It is only when we do that, that we will have the absence of this type of adversarial behaviour between the workers and the employers—in this case the unions and the Government. I would like to see the end of that, Mr. President.

What fruit is really being borne by the much-touted public sector reform, and how will the payment of these bonds affect the result of this? Money is not the only thing. Within the public sector—and Mr. President, you have heard the criticism several times over—people who ought not to be promoted, are promoted and people are transferred where they ought not to be and many other things like this.

Mr. President, I would like to make the point, through you, to the hon. Sen. Gordon Draper, that he take cognizance of those things. It is not enough to pay the workers or to computerize the departments concerned. These are all good and important and elementary in my view, but what is important is the kind of system that we put in place which affects people.

There is a case in point which I would like to bring to the attention of the Minister of Finance, and Sen. Gordon Draper who is in charge of that division. There is a Customs Officer called Neville Bridgewater who was recently promoted 13 ranks ahead of his colleagues, on the list of seniority, to the post of Collector in charge of Preventative. When one examines it, he has no special educational advantage or experience and no special training, supervisory or

otherwise, above his colleagues. Somebody has selected Mr. Bridgewater to be the next Comptroller of Customs hence the shortcut. In order to become the Comptroller of Customs—*[Interruption]* Are you on a point of order, Madam?

Sen. Robinson-Regis: I am seeking clarification.

Sen. M. Hosein: I am sorry, you will have to wait until I am finished.

There is a seniority list. When one takes a man 13 places below and promotes that individual—

Mr. President: What is meant by 13 places below? Is it 13 ranges? Is it 13 officers above him?

Sen. M. Hosein: There is a seniority list and this gentleman is 13 places below the post—

Mr. President: What is the date of appointment of these people?

Sen. M. Hosein: Which people, Sir?

Mr. President: The 13 people, including the officer.

Sen. M. Hosein: The 13 persons each have an average of five years more service than the gentleman with the same type of training.

Mr. President: I am speaking about the present date of appointment. That is the appropriate date.

Sen. M. Hosein: I am not certain about the exact date, Sir. It is about two or three months ago.

Sen. A. Mark: A point of order, Mr. President. The Member is being totally irrelevant. I cannot see what Mr. Bridgewater has to do with the Public Sector (Arrears of Emoluments) Bill, 1995. I seek your ruling.

Mr. President: You have made the point en passant and someone sought clarification. I was trying to get you to indicate what you really meant. People make statements about the civil service when they do not really know what is going on. If a promotion is being made: there may be 13 persons with the same date of last appointment holding the same office and the same grade. It really does not matter if they are No. 13 or No. 1; they are all equal in rank and possibly the most suitable is promoted. That is what I was trying to clarify.

Sen. M. Hosein: Let me try to clarify it for you. *[Interruption]* Are you the President, now? Have you been promoted?

Mr. President: He is not being demoted.

Sen. M. Hosein: The honour and respect that we have for the President must never be brought into disrepute even by Ministers. [*Interruption*] When the President asks for an explanation, Ministers must keep quiet and listen. There are many things he has to listen to. I will teach him. Do not worry! I will teach him. I would just like to give the explanation.

The list of seniority takes into consideration dates and the competence of each of the individuals. That is how they get that list. If one is 13 ranks below, it means one must wait until 1, 2, 3, 4 and so forth, and are promoted to the position before one could move up. [*Interruption*]

5.20 p.m.

Mr. President: Hon. Senator, I would advise you to get off that track.

Sen. M. Hosein: I am simply informing the Minister, and I know the Minister of Finance is already aware of it and I also wish to advise, Mr. President, that if this matter is not satisfactorily dealt with, it is likely to reach the courts.

The total debt owed to public servants—I understand—is somewhere in the vicinity of \$4.2 billion. Why are we treating with only 50 per cent? Can the Government treat with the unions for moneys owed to employees which only represent 50, 51, 52 per cent of the workers? What of those workers who are not represented by unions? Can those workers sue the Government? This is a property that is owed to a particular worker, and therefore, that worker has an entitlement to that money, which is that worker's property. I am certain that the Minister of Finance or the Attorney General would like to look into that matter. I wonder to what extent—I am not speaking now in terms of the teachers' union, because I get the impression that that is a settled issue—I am talking about the other workers involved whom this Bill covers. What happens then? Do unions have the right to decide what form of payment they would receive on behalf of workers? I have doubts, Mr. President.

Does the Minister of Finance have proof that whichever union is negotiating with him can speak for 100 per cent of those workers—is that sufficient? This is not talking about something to come, this is money owed to the workers and they have a right to that. I wonder what the law has to say about that? This is something I am throwing to the Minister of Finance at which he may wish to look. With your permission, Mr. President, I want to read a statement from one of the unions on the *Express* dated April 5, 1995. It says:

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"Pay us all our arrears says the PSA

Weatherhead said the PSA had no objection to payment of arrears in the form of bonds and the write-off of debts owed by Government (tax arrears, students loan, NHA loans).

'Pay the arrears with bonds or whatever means, but pay all,' said Weatherhead. 'The PSA is not authorised to negotiate away the property of members.'

I want to repeat that; Weatherhead: "The PSA is not authorised to negotiate away the property of members."

If that be the case, what are we doing here today in this Bill? Would we be called upon a month, two months or three months from today to come back to amend this Bill? Would we have to do that, Mr. President? Here is one of the most powerful unions in the public sector saying that it does not have that authority. What are we going to do? Are we going to negotiate with each and every member? Are we going to come back now and say that we are going to put it in the Bill, that this one wants so much and so forth? Or are we going to find that the Government holds this guillotine over the heads of all the workers saying, "Look here, you must agree because the Parliament has already passed this Bill."

If we agree to this Bill, what about the other creditors of the Government who are catching hell to receive their moneys? What will the Government do about the Caroni workers who have been owed moneys for a very long time? Are they prepared to offer the Caroni workers similar terms and agreement?

Sen. Draper: They are getting better.

Sen. M. Hosein: Oh, they are getting better, I am happy to hear that. I hope that there would be a tax write-off for them as well. What about the thousands of taxpayers who have not been getting their refunds for the past two years? Will they be treated similarly? What about the many private sector contractors who work for the Government and are also catching hell to get their moneys?

Will they be given bonds also with a tax write-off?

These are all questions that the Senate must be aware of and the Government needs to address. It is not sufficient to come to the Senate and say: Okay, give us the authority, let us pay the teachers—with which we have no problem, because as far as we are concerned that is a done deal. The teachers have agreed and the Government is in agreement so there is no problem with that. My problem is

when the government holds this over the heads of other unions which have not yet completed their agreements, it seems to me that the Government is negotiating from an unfair advantage. I believe that is wrong and the trade unions ought not to be asked to do that.

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

Sen. M. Hosein: Thank you very much, Mr. President. [*Interruption*]

Sen. A. Mark: Mr. President, we are looking at Standing Order 43—

Mr. President: The Member is finished making his contribution.

Sen. M. Hosein: No, let him talk, Mr. President, give the Senator the point of order. [*Interruption*]

Mr. President: Sen. Hosein, Sen. Dean will now address the Senate.

Sen. Everard Dean: Mr. President, I would be very brief and had I not offered an amendment to this Bill I would not have joined this debate at all. I have two concerns: one was dealt with by Sen. Mark, and that is the question of paying the retirees in cash. I feel as a group of people, they should be given a different consideration because, after all, they are now home on a reduced income. I believe that they should be given special consideration to have their arrears paid in cash.

My second point is to introduce into the debate the amendment to clause 8(2) of the Bill, which I proposed and circulated earlier on. It says:

"The Minister may by Order designate financial institutions, corporations or companies to be agents of the Fiscal Agent."

Of course, the fiscal agent being the Central Bank.

5.30 p.m.

I am proposing that we include credit unions under this subsection. I am doing so, conscious of the fact, that even the Minister of Finance has gone on record as saying that the credit union is an important mobilizer of domestic savings. We have—as a credit unionist myself—known this for quite some time. In fact, some credit unions are agents for the UTC, a few of them are licensed cambios and the National Insurance Board has, in fact, recognized the credit union as a financial institution to which the pensioners can designate their funds.

In this particular case, as we are dealing with the teachers, I am aware that over 90 per cent of the teachers of this country are members of the Teachers'

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Credit Union in Jerningham Avenue. I believe that if the teachers are given the option to use the credit union as an agent of their deposits we can see a better stability as far as the retention of these bonds are concerned. I feel that—like some other Senators said before me—the way people are strapped for cash, these bonds will go in a very short time and I believe that the credit union movement can offer that buffer if the teacher would deposit that bond with the credit union. I say so even looking ahead, if the other associations would agree to this Bill, I see that we have other credit unions such as Rhand Credit Union which is well known by most people in the public service; Agricola Credit Union on Phillips Street; Cimpex Credit Union in Riverside Plaza and a few more that I would not mention at this point in time. But I believe that the credit union movement as an important mobilizer of domestic savings is a vehicle that can be used to facilitate the distribution or stabilizing the whole question of the bond issue to their members who are teachers and civil servants. I find no difficulty in supporting this Bill, Mr. President.

Like Sen. Daly, I am of the view that it is enabling legislation and if the union does not agree, according to clause 4 of the Bill, then this issue will not move forward. It means that if this Bill is supported now the way it is; it is encompassing for all the associations concerned and as soon as they agree it becomes effective, rather than the Government having to come here to satisfy the teachers and other public servants as the case may be.

With these few words, I offer that amendment.

Sen. Prof. Kenneth Ramchand: Mr. President, the declared object of the Bill before us is to empower or enable the Government to issue non-interest-bearing, but tax-free bonds in settlement of arrears of emoluments owed to employees and former employees. I take it to be that, and I would like it to be that and no more. If all that we are dealing with is a general approval to offer bonds in lieu of arrears of salary, I have no difficulty with the Bill at all. I would like to understand the legislation to be passed as legislation to make available one method of many possible; a method of non cash payment that can be used when agreements have been concluded with unions and associations representing employees.

I am so anxious about rectitude in this matter that I am going to pretend that no agreement has yet been reached with any union. There are circumstances when it may not be unreasonable for a government as employer to propose the present procedure. If the employees are satisfied that the employer has judged its priorities right in deciding what it has money for and what it does not have money

for, and if they are convinced that the Government has considered in good faith, other possible methods of payment like early retirement without loss or diminution of pension, or income tax holidays on current wages for four or five years, it would not be unreasonable for them to consider accepting such an offer as part, at least, of a settlement package.

If it is true that the Government cannot raise the necessary cash to settle arrears of emoluments owed; if settling up in cash would upset such balance as the economy might be said to have; or if the settling of a domestic debt in cash would not be able to be offset by increased productivity and by foreign exchange earnings, which would be surprising since we are given to understand that the economy is growing too fast and that it is being manipulated to create wealth and soon the streets or the roads leading to the banks would be paved with gold; the truth is that there is just not the cash available, then the Government ought to be commended for coming up with a scheme to make payments in tax-free bonds with income tax credits attached. I, therefore, take the Government at its word that there is no money and I commend the Government.

If the economy is in such desperate straits, it may be an act of mercy, a falling of a gentle rain from heaven, as well as an act of patriotism for the associations and trade unions representing employees not to demand their pound of flesh and to accept the alternatives to cash that are being proposed. But I cannot help observing that you can only ask ordinary citizens to make sacrifices. The nation must see, that prime ministers, professors, judges and parliamentarians, high-flying executives and impecunious pedagogues are all willing to accept the same terms, otherwise, everybody would have a right to call upon "Mr. Divider" for a piece of the action. If we all took a pound of flesh, the country which we still think of as ours would look worse than a blotched and bloated tourist cadaver on a sand-fly ridden beach.

5.40 p.m.

At the moment, Mr. President, I am tending towards a conditional support for the Bill, but a number of technical, legal and procedural matters and a sense of political undertones make me feel that it is fraught with difficulties. I realize that I am not the first to bring this matter up, but I have a specific purpose for drawing the attention of the Minister to an Act I am sure he is familiar with—the Truck Act—Chap. 88:07 an Act to prohibit the payment of wages otherwise than in money, the Laws of Trinidad and Tobago, 1918. This is something of an archaic law but it was amended in 1940, 1979 and in 1982 and, as far as I know, it is still

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law. At the risk of repeating what everybody knows, I would just like to read sections 3 and 5.

Section 3 states:

"In every agreement or contract for the hiring of any worker or for the performance by any such worker of any work within Trinidad and Tobago, except as otherwise provided in this Act, the wages of such worker shall be made payable in money, and not otherwise, and if in any such agreement or contract the whole or any part of such wages shall be made payable in any other manner, the agreement or contract shall be illegal, null and void."

Section 5 states:

"Except where otherwise permitted by this Act, the entire amount of the wages earned by, or payable to, any worker in respect of any work done by him shall be actually paid him in money, and every payment of or on account of any such wages made in any form shall be illegal, null and void."

Mr. President, not being a learned luminary of the law, I stand subject to correction and enlightenment, but the ordinary citizen has to be forgiven for holding the view that the right of workers to be paid in money, while not entrenched in the Constitution, is sustained by the laws of Trinidad and Tobago.

I want to make it clear that I do not think it is unprincipled, wrong or a bad thing to seek the power to offer bonds in settlement of arrears of salary, but there is a procedural problem. It seems to me that this Parliament cannot approve the Bill by simple majority. The right to be paid in money appears to have the force of a constitutional right and I believe it would have been more correct to seek to alter that right by the same voting strength—two-thirds majority—that will be required to amend the Constitution. I am not against this offer. I am just worried that the right to be paid in money has the force of a constitutional right and that right can only be altered by the kind of vote that is passed to alter or amend the Constitution.

I come now to two matters which may not solve the immediate problems, but which have a bearing on the nature of industrial relations in this country. I begin with the contentious and controversial question of increments, sometimes called merit increases. It is obvious enough that although it is difficult to calculate the amount due in respect of failure to pay increments, the unions will be asked to take a considerable loss on this item, increments. If the Bill is passed and the proposed buy-out is effected, this should happen on a declared understanding that

anomalies relating to increments in the collective bargaining process will be addressed with some urgency. I mean that there should be an elimination of the ambiguity that allows us to speak of increments and merit increases as if they are the same thing.

As I understand it, when unions negotiate salaries for a three-year or five-year period, the settlement is expressed in terms that indicate a percentage increase; for example, for year one—16 per cent; for year two—10 per cent; for year three—3 per cent, and so forth. In other words, an increment is already built into the salary agreement. I think that if this were to become standard practice, no employer could shilly-shally over the quantum of the increment and, in addition, there would be the opportunity for the institution of a merit increase related to productivity and performance and which non-payment would not be able to be thought of as a debt. A worker cannot be denied his increment but he can be denied his merit increase if he is judged not to have earned it and if the institution can show that in a particular year it just does not have the funds to pay merit increases. I know that what I am saying does not solve the present impasse, but I believe that unless we deal with the anomaly behind this particular crisis the same thing would happen again.

The second industrial relations matter is also an important one since it concerns the principles of collective bargaining. Whether or not there is any intention to undermine the trade unions in this country is not a subject I am about to broach, nor do I know enough to suggest that this particular Bill will enable the Government to undermine the collective bargaining process. If such a possibility exists we must make sure it cannot be realized. I can only declare that we all accept that trade unions have had and will continue to have a function in democratic societies to encourage labour and capital to carry out their responsibilities to one another.

The present Bill does raise a question about collective bargaining. As I understand it—and as has been declared in this Senate—collective bargaining is the responsibility of a union or association registered and certificated to represent a group or class of employees. The union negotiates the terms and conditions of service of the employees. The union negotiates for all the employees, including those who are not members of the union, provided that the union is registered as the organization representing the majority of the workers.

There are some limits to the collective bargaining responsibilities of the unions. It has been argued in the other place that the union does not have the right

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to negotiate how moneys owed to the employees should be paid and the reason is that a union does not have the full rights of agency. If it could be argued that the union has the full rights of agency on behalf of its members, I do not think it can be argued that the union has the full rights of agency for employees who are not members of the union. This is a difficulty that can have long drawn-out consequences and the Government and any union that come to an agreement and wish to utilize the provisions of this Bill would need to take at least non-members of the union into account.

Mr. President, that is all I have to say on these technical and philosophical matters. I will support the Bill but I do so with considerable trepidation and with great intellectual and philosophical misgivings.

Thank you.

5.50 p.m.

Sen. Michael Mansoor: Mr. President, it is always so refreshing to listen to Sen. Ramchand. His language is so delicate and exquisite that one is almost lulled to sleep when one listens to the cadence of his voice and the depth of his philosophy.

I, too, would like to compliment the Government for moving along the road of resolving this very thorny and difficult issue that has affected the lives of so many people in this country for so long. Notwithstanding anything that I will say after this point, I want to go on record as saying that I will support the Bill and that I believe that the Government has done an excellent job in trying to bring the matter to some sort of conclusion, notwithstanding the fact that there may be other negotiations to come, and so forth.

But I, too, felt a great deal of alarm because I had not had the time to study the implications of this Bill as I was away, but when the Minister cautioned us that the cost of this Bill could, in fact, be quite traumatic, if not dramatic, I took it upon myself to try to work out in very rough fashion the cost of this exercise today.

If one assumes for a moment that the Bill was capped at \$2 billion—and there is every indication to believe that it is not capped at \$2 billion and it may be a lot more than that, but for argument sake, if one assumes that it were capped at \$2 billion—and that it were to be disbursed or paid out or issued over a four-year period and there was a \$500 million bond issue in each year, the cost in terms of the tax rebates or the tax credits that would be given would be \$75 million in the

first year, 1995, if the bonds are issued with an effective date of January 1, 1995; the cost would also be in terms of tax foregone or tax credits, another \$75 million in 1996 and in 1997 when the tax credits rise to 20 per cent it would be \$100 million and in 1998 it would be \$125 million. So that the foregone, because of what we are doing today over the next four-year period is in the order of \$375 million, if my figures are correct.

In addition to that, the term of the bond is a two-year term, so that these bonds will have to be redeemed by Government at the end of 1996, in the first instance, 1997, 1998, and so forth. So that a very rough calculation of the cash cost of this settlement, assuming again that it were capped at \$2 billion, is \$75 million in 1995, \$575 million in 1996, \$600 million in 1997, \$625 million in 1998 and \$500 million in 1999.

Notwithstanding the relief, if you will, that we all feel in bringing this matter to a head, the cost to the country is very significant over a very protracted period of time. The figures are quite startling and quite high. So the question that I have for the Minister is whether or not these sums of money were budgeted for in the earlier predictions of the economy in that document which I believe was called the *Medium-Term Policy Framework*, when those forecasts seemed to suggest that there would be fiscal surpluses and that there would be net accretion in the amount of foreign reserves held at our banks and by the Central Bank over the forecast period which I believe ended at the year 2000.

While it is right and it can only be right that the Government, like anyone else, meets its liabilities—and let me make it very clear, this is a liability that we have not paid for a considerable period of time and our creditors are to be commended for the patience with which they have borne with us—the reality is that someone has to pay for all of this. If it is that we are going to end up with massive fiscal deficits and if it is that the result of what we are doing today is that there is going to be a real cost in terms of our foreign exchange reserves, we are all going to pay for it in terms of possible rampant inflation, or maybe even devaluation. Devaluation may not be the correct term, but the currency may slip more than a bit.

I ask the Minister to address these issues, and in particular to answer the question as to whether or not these disbursements, as significant as they are, were taken into account in the *Medium-Term Policy Framework* which the Government put out, I believe, in the earlier part of this year, which projected surpluses in each

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year up to the year 2000, if my memory serves me correctly, and gains in our foreign reserves holdings.

I ask that question in the context of Government's policy of reducing taxes over time for both corporations and individuals and also in a climate when so many of our foreign investors feel that they must get tax holidays of one kind or another. I remind the Senate of the situation that we dealt with just about four weeks ago with respect to one such organization in terms of the new BWIA.

So Mr. President while I commend the Government and I am very happy that the matter has been resolved, through you, I really would like to ask the Minister to deal with these very fundamental issues, because in many ways we are signing, today, a blank cheque, if you will, a cheque which is not capped at \$2 billion by any means and a cheque which really I am not able to say we would be able to honour.

I thank you, Mr. President.

Sen. Carol Merritt: Mr. President, I want to ask the Minister to clear up one question for me in winding up. I was waiting to see if anyone of the other speakers would mention it. According to the information I have as regards the 1,000 retrenched PTSC workers, I understand that their COLA was paid in a cash settlement. I want the Minister to state whether that is true and to indicate to us what was the settlement given to retrenched workers at Port Authority, at Public Utilities Commission and the Industrial Development Corporation. I ask this question because it seems as though the Government is not consistent in their settlement terms, so we need to address this.

The other point I want the Minister to address is, where the unions who have not reached an agreement or a settlement with the Government, what is the alternative arrangement? Would there be continuing negotiation? Because from the information I have the Government is not responding to the letters that the unions are sending to them to continue the negotiations.

Could the Minister clear up these two points in his winding up?

Thank you, Mr. President.

The Minister of Finance and the Minister of Tourism (Hon. Wendell Mottley): Mr. President, this debate has been very useful and I hope that some of the matters raised here would receive wide publicity in the nation's press, because several Senators have raised matters of fundamental concern to the nation. For instance, Sen. Muntaz Hosein was querying how we got here and how we might

learn from these lessons to avoid these pitfalls in the future. That is a very important matter raised by Sen. Hosein and something that ought to be deliberated upon in the national media and by responsible correspondents.

I was careful to say—and this answers again, both Senator Hosein and Sen. Mansoor—that we were advised that had we settled everything in cash immediately, then it would have either bankrupted the country or forced a level of adjustment on the rest of the population so cruel as to have, perhaps even Sen. Ramchand's words not be capable of expressing the grief and misery that the rest of the population would have had to suffer as a result of so rapid and cruel an adjustment to make accommodation for such a heavy cash settlement. One way or the other, either the country be bankrupt by the populist measures to have one's cake and eat it too, or take the necessary adjustments in terms of expenditure restraint or revenue increases to deal with the cash settlement that would have forced a level of adjustment upon every ordinary citizen, the likes of which one could not begin to contemplate.

6.00 p.m.

We have not done that. We have deliberately avoided that kind of extreme, but this comes to the point that Sen. Mansoor raised, and which I have been signaling throughout this country—even at the time of the settlement—to note the terms of the settlement. It is the responsibility of the Government and the Minister of Finance to clearly outline the terms under which this settlement was arrived at and what the real costs to the society are. I believe the Government has gone to the extreme limits that it might have gone to in this settlement, and why, certainly, we feel that there is no capacity anymore for further adjustment in this matter.

I would outline what I mean. Due to the tax credit feature alone—this is not the non-payment of tax on the bonds, but the tax credit features—we have calculated that over the life of these bonds, there will be a loss of revenue of \$364 million attributed to that feature alone. That is in lieu of the fact that these bonds are non-interest bearing. Therefore, we wanted some inducement in order to be fair to the public servants, and also to induce them to hold the bonds, rather than immediately cash them. Since they are non-interest bearing, the tax credit would escalate down the line. This is a feature we felt would cause, not total, but some element in holding the bonds.

I do not have the calculations here. I have found it impossible, within the time the matter was raised and the availability of the information in the Ministry of

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Finance, to say exactly what was the element for discounting which the Ministry of Finance used when we made our calculations as to the fiscal impact of these bonds settlement on our affairs. I cannot provide that information right now, but I do have the gross calculation as to how we saw the macro-economic effects of this settlement impacting on the economy.

We have calculated that the total impact on the Exchequer would be \$571.3 million in 1995 and in that is our calculation of how much would be immediately discounted and how much would be held. I cannot give the Senate the details at this time; \$590 million in 1996; \$609 million in 1997; \$628 million in 1998; \$628 million in 1999, for a total settlement of just over \$3 billion is the impact of all of this.

This is not chicken feed. This calculation was done as an essential part of the 1995 budget presentation. Therefore, we had to make accommodation for it in terms of revenue increase and expenditure suppression to make way for this item in the 1995 budget, and so again would we have to, almost until the year 2000. That is the price every citizen of Trinidad and Tobago bears for this settlement.

In arriving at this settlement with the Teachers' Union, and hopefully, with the rest of the public service, we made the calculation on the same basis for the rest of the public service as we have agreed with the teachers. We have gone to our limits. Even in calculating those limits, we are making certain presumptions as to the projectory of the economy; its rate of recovery and growth and we are not infallible. Certainly, we are open, as always, to external imposition of circumstances that we are not always capable of crystal-balling.

I want Trinidad and Tobago to understand these facts clearly. It is all well and good to come to this Senate and cry about what has happened in the past; workers' rights and entitlements; constitutional rights and so forth, but if the price of that settlement is to have all of us go under, then, surely, that price is too high. I want Trinidad and Tobago to understand it now, clearly, that we are paying a price and that we should avoid putting ourselves in this situation in the future.

Let me go on to deal with some other matters raised by hon. Senators. The question of the credit unions and the amendment proposed by Sen. Daly: We have been a little careful in prescribing who the agents are, but I believe that Sen. Dean's and Sen. Daly's arguments are sound and the inclusion of the credit unions as agents could assist the Government in this exercise. Certainly, the teachers union and credit union could play a very noteworthy role and we would propose to accept that amendment.

The matter of the Truck Act and the settlement of essentially wage matters other than by cash—the first matter is that—this thing began on a negotiated and agreed basis with the respective trade unions. The second matter is that in any event, the Truck Act is quite clear, in that it does not bind the state. Section 6(1) of Chap. 3:01, of the Interpretation Act states that:

"No written law binds or affects in any manner the State or the State's rights or prerogatives unless it is expressly stated..."

The state is not bound in this regard.

6.10 p.m.

Mr. President, the final matter I wish to raise is the amounts on which this settlement is based. Senators have been informed of the exact amounts as we have calculated and we are saying that, clearly, we have established the limit at \$1.95 billion as an indeterminate amount. But we have given Senators an indication of approximately \$200 million that is still under discussion *vis-a-vis* COLA for the daily-paid workers. We expect some kind of settlement there.

In the \$1.95 billion, is not included an amount for daily-paid workers which we have not finally negotiated, but an indication is given as to where we see those negotiations trending.

The Ministry of Finance is using this figure and we have made the adjustments in our budgetary process to accommodate this. We have no capacity, as we see the economy unfolding to go any further than this.

Mr. President, I beg to move.

Sen. W. Mark: Mr. President, I had raised the issue about the discriminatory nature of the settlement and I referred to the non-cash measures in the event of the setting off.

I raised the question of somebody who has an NHA mortgage. Inclusive in that person's arrears would be the increments that have accrued to that worker. I asked the question: How come when bonds apply to workers who seek to have a settlement via that route the Government is saying that it will write-off their increments at \$150 billion, but if I have to take a non-cash settlement the increments that are due to me would be calculated in the overall settlement? I would like to get some clarification on that.

Hon. W. Mottley: Mr. President, I omitted to comment on Sen. Merritt's query. I am not in possession of that information. Perhaps, it could either be provided through a parliamentary question, *vis-a-vis* the PTSC workers.

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As regards the last matter raised by Sen. Wade Mark, he is under a misunderstanding in that there is a specific and hard calculation that every worker receives the amounts outstanding relating to him personally, that is, COLA—\$14,205. And in the case of teachers who have agreed—\$2,125.00 buy-out on increments totalling approximately \$16,000.00. He, with that statement, can access bonds, NHA settlement, SCT and so forth. There is no discrimination.

Question put and agreed to.

Bill accordingly read a second time.

PROCEDURAL MOTION

The Minister of National Security (Sen. The Hon. Russell Huggins): Mr. President, I beg to move that this Senate continue to sit until the third reading of the Bill under consideration.

Question put and agreed to.

PUBLIC SECTOR (ARREARS OF EMOLUMENTS) BILL

Bill committed to a committee of the whole Senate.

Senate in Committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

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

Mr. President: There are amendments circulated.

Sen. Daly: Mr. Chairman, I beg to move the following amendment to clause 2: in subclause (2), delete the words "a deceased employee and their legal personal representatives" and substitute the words "and the legal personal representative of a deceased employee" therefore.

Question put and agreed to.

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

Clause 3.

Question proposed, That clause 3 stand part of the Bill.

Sen. Huggins: Mr. Chairman, Sen. Daly had an amendment which we looked at. Unfortunately, whilst I agree in principle with it, I would like to read the suggested re-worded amendment.

I beg to move an amendment to clause 3 by adding a new subclause (5) to read as follows:

"Acceptance by a person of bonds issued under this Act shall constitute full and final settlement of the arrears of emoluments owed to such person and in respect of which he accepted the bonds."

Sen. Daly: A much better version. Thank you very much. I withdraw mine.

Mr. President: The amendment originally proposed by Sen. Daly and revised by the Minister of National Security is that a new subclause (5) be added to read as follows:

"Acceptance by a person of bonds issued under this Act shall constitute full and final settlement of the arrears of emoluments owed to such person and in respect of which he accepted the bonds."

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clauses 4 and 5 ordered to stand part of the Bill.

Clause 6.

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

Mr. President: There is an amendment proposed by Sen. W. Mark.

Sen. W. Mark: Mr. Chairman, I beg to move that clause 6 be amended as follows:

"In subclause (1) add after the word "order" in line 6 the following words: "consequent on agreement with the appropriate recognized association or trade union."

The question of negotiations is critical in this particular context of the amendment that is being proposed. The Government did indicate that it has reached its limits on the question of negotiations, but on principle the Government should continue its negotiations with the recognized associations and trade unions.

Mr. President, if tax credits are going to form part of the overall package that is proposed by the Government as an incentive to induce persons to finally settle, it is our view that there ought to be some agreement on this question involving the trade unions or the recognized associations. The Minister would simply have the authority which I know he would have, but at least he would have to exercise this

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authority in conjunction with the unions arriving at some agreement in the final analysis.

We are proposing that there should be an amendment which would reflect an agreement on the tax credit as proposed by the Government.

I know they have a schedule indicating that over a number of years credit would be 10 per cent in the first year, 15 per cent, 20 per cent and 25 per cent.

6.20 p.m.

I am suggesting that seeing that has been arrived at with one union and the Government is yet to conclude agreements with other trade unions, it would be in the interest of industrial democracy and the spirit of collective bargaining to ensure that there is some agreement with the recognized associations and trade unions. If the Government is committed to the principle of collective bargaining and adheres to the principle of negotiations, and not impositions, I think this amendment which has been advanced by this side would be gladly accepted.

Sen. Huggins: Mr. Chairman, the position as put forward by Sen. W. Mark is not one with which the Government could agree. This is an area in which the Minister of Finance, and I would say by extension the Cabinet, should really have unfettered jurisdiction. I would really be hardpressed to consider a position whereby the Government, in determining what a tax credit rate should be, should do so in agreement with a representative association. For that reason, the Government cannot support that amendment.

Sen. W. Mark: The question here is negotiations and if the tax credit is part and parcel of an overall settlement. No one is taking away the authority of the Cabinet or the Minister of Finance. All we are saying is that in the process of negotiations, at least the associations or the recognized unions should have an input, rather than for the Government simply to impose its will on the recognized trade union or association. No one is taking away the rights of the Cabinet or the Minister of Finance to deal with these matters.

We are saying that since it is an overall package which we are seeking to arrive at, there ought to be some agreement involving the recognized trade unions and associations, except for instance if the Government is saying, as the Minister of Finance, that this is the end of the matter and the trade unions have to take it, leave it or forget it. That is the dictatorship that we are seeing coming from the hon. Minister.

Sen. Capildeo: I just want to make one enquiry about this. I could see the reason here because if this is part of a negotiating process, and it is within the power of the Minister, in any event it has to be that the Minister could give a tax credit. Generally speaking, this particular tax credit in clause 6(1) is not in the norm of a tax credit given to the working population of the country. This is with respect to the negotiations that have taken place and which allow the Minister to arrive at clause 6(1).

If it has been a negotiating procedure until then, why now eliminate it and tell the employee that he cannot negotiate from this point on and you will fix the tax credit? What you are effectively telling him is that you have taken him along a certain path and you are going to cut it off now. This gives a lie to all the suggestions of negotiation coming down the line. This tax credit is not to be confused with tax credits generally. This tax credit is limited to clause 6(1). It arrived here by way of negotiation and therefore should be completed by way of negotiation.

In any event, all it means is that nothing is detracting from the power of the Minister. It means that the person, through his representative, would have a voice in the matter. It is a question of principle. It is not a question of the power of the Minister being eroded. If the principle had been one of negotiation, I do not see what is the fuss and scare about allowing the representative to continue the negotiation, or to fix the tax credit. Put the figure down, so there would be no question at all.

Sen. Huggins: As I have said, the whole question of the determination of tax credit has to be looked at in the wider context of Government's whole taxation policies. I would really be hard-pressed to agree to such a proposal.

Sen. Capildeo: I am limiting tax credit to clause 6(1) and not the tax credit which the hon. Minister is speaking about. He is speaking about tax credit generally. I am limiting it to clause 6(1) tax credit which has arrived *via* negotiations. Therefore I am saying to continue that negotiation.

Mr. Chairman: We cannot hear five or six voices at the same time. Can I hear Sen. Ramchand, please?

Sen. Prof. Ramchand: I am sure that the Minister would agree that the tax credit is part of the inducement to the union to settle on certain terms and therefore, they should know what is the kind of tax credit. They can argue about it and you can then say no, we would only get a certain amount, but since it is a

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negotiating instrument, people should know what they are negotiating. If I go to a store and a man says buy 10 of these and I will give you a discount, that would be useless to me. I have to know what kind of discount I am getting. If he says 2 per cent I would say that is rubbish.

Mr. Chairman: I think we have had enough opportunity for everyone to express their views.

Question put.

The committee divided: Ayes 7 Noes 16

AYES

Mark, W.

Capildeo, S.

Merritt, Miss C.

Hosein, M.

Barrack, J.

Persad-Bissessar, K.

Ramchand, Prof. K.

NOES

Huggins, Hon. R.

Barnes, Hon. B.

Draper, Hon. G.

Robinson-Regis, Hon. C.

Callender, S.

Mark, A.

Elder, Miss J.

Rahael, J.

Hassim, A.

Maloney, A.

Nanga, J.

Lewis-Phillip, Mrs. N.

Mansoor, M.

Rooks, J.

Mahabir-Wyatt, Mrs. D.

Daly, M.

Sen. E. Dean abstained.

Amendment negatived.

Clause 6 ordered to stand part of the Bill

Clause 7 ordered to stand part of the Bill.

6.30 p.m.

Clause 8.

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

Sen. W. Mark: Mr. Chairman, I beg to move that clause 8 be amended as follows:

In subclause (2), insert after the word "companies", the words "trade unions".

We had suggested that trade unions become an agent in terms of servicing these bonds. We would have liked to see trade unions playing a very active role in this matter. I do not know to what extent it can be incorporated, but the Minister of Finance indicated to me that he was dealing with the question of financial institutions, and apparently trade unions do not fall under that purview. I am still hopeful that the Minister of Finance can offer some explanation as to where and when trade unions would be allowed to enter the financial market so that they could play a very critical role in the whole mobilization of domestic savings.

What we are talking about is trade unions, in this era of structural adjustment and liberalization, finding new niches in this new perspective that we are creating here. Here is a very creative suggestion coming from the Opposition to ensure that the trade unions become part and parcel of this overall arrangement. The trade unions should have some kind of leeway in that regard, because moneys have been collected by workers who belong to trade unions and credit unions. They should have an option as well in terms of where they would like to deposit their bonds. I am saying that this is an area on which I would like to hear the Minister

of Finance saying when and where the trade unions would be called upon to play this dynamic role in the financial order, given the transformation, backward as it is, of this liberalization process. *[Interruption]* I do not have to convince myself. I am clear about it. The credit unions are important Sen. Mahabir-Wyatt. I recognize it and I support it. I am just dealing with the question of how we incorporate the trade union in this whole process.

Mr. Mottley: Mr. Chairman, what is required is a fiscal agent. When we publish the regulations—they are drafted right now—it will be clear as to the functions that will be performed by the banks, and now the credit unions, to discharge these responsibilities, and the need for certain kinds of disciplines inherent in financial institutions to discharge them. That is alien to where the trade union movement stands at the moment in terms of their organization, skills and capacity. It is true that we are trying to have trade unions go in certain directions, take up new responsibilities and so forth, but in terms of the present capacity to discharge a specific function, it is clear that they do not fit the bill.

Sen. W. Mark: Can the hon. Minister indicate when the trade unions will be able to fit that bill?

I am a very reluctant person to withdraw these matters, but in the light of what has been said by the Minister of Finance, I reluctantly withdraw this particular amendment. However, it is an area we would want to raise again.

Amendment withdrawn.

Mr. Chairman: We also have an amendment by Sen. Dean. Sen. Dean your amendment has been slightly revised by the Minister to read:

In subclause (2) delete the words "or companies" and substitute the words "companies or credit unions".

Question, on amendment, put and agreed to.

Mr. Huggins: Mr. Chairman, there is a further amendment proposed by the Minister as follows:

Insert after subclause (2) the following subclause:

"(3) In this section 'credit union' means a credit union society registered under the Co-operative Societies Act."

Question, on amendment, put and agreed to.

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

Clause 9.

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

Sen. W. Mark: Mr. Chairman, I beg to move that clause 9 be amended as follows:

In subclause (2) substitute for the word "negative" the word "affirmative". I would like to ensure that the Minister of Finance is properly guided. Sen. Daly was making the point that we need to be very careful with the whole Schedule. We have to ensure that people are not denied their rights. In this context, I think that any decision on the part of this Government to tamper with this Schedule should come back for debate, if necessary. I am referring specifically to page 12 of the Schedule.

I shall give a concrete example. At the Cipriani Labour College there is a certificate of recognition that says that a particular union is recognized for all the non-academic staff. They have not categorized them as hourly, daily, weekly or monthly. The certificate just says non-academic staff. We know we just represent, to some extent, people on the monthly staff. The fact is that the Government is putting into the schedule entities with employees not represented by recognized majority unions hourly, daily and weekly. This is only one example. Remember there are a series of examples which I brought to your attention. Because of the fact that we are not too clear on this matter, I would like to suggest that we provide this Parliament with the authority to examine these things before they are finally settled.

Sen. Huggins: Mr. Chairman, I find it amazing that Sen. Wade Mark can come here and say that he is not sure whom he represents in the Cipriani Labour College. As a matter of fact, at this time there are no hourly, daily or weekly paid workers at the Labour College. The reason for including Cipriani Labour College in the Second Schedule is that somebody may come out of the woodwork. One never knows. I do not know what may have happened since the decision to stop paying whatever was due to these workers. Someone may have migrated and may then realize he is entitled to some little payment and then comes back. Provision is therefore made for that.

6.40 p.m.

Sen. Wade Mark makes these accusations about Government doing certain things to deprive people: I do not know why he should be entertaining such devious thoughts. Mr. Chairman, this is really not something with which to waste

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Parliament's time. If, for example, we want to add a name, the Government would have to come back here and spend a whole afternoon debating whether we add "Wade Mark" to a schedule or not. There are more important things that require an affirmative resolution but, surely, this is not one.

Sen. Capildeo: Mr. Chairman, clause 9(2) says:

"An Order of the Minister made under subsection (1) is subject to negative resolution of Parliament."

When I see that the First Schedule deals with members of the Judicial and Legal Service, I would say this should be affirmative and it should be brought here. I want to see what is being done with the judges. I have a personal interest in that. I will read from the First Schedule, under "Employees":

"(a) Persons referred to as Top Managers in the Public Service in the Twenty-Third Report of the Salaries Review Commission except the Secretary to the Integrity Commission."

I do not know why they left out that poor gentleman or lady. But if such important persons are going to be involved—

Sen. Huggins: That person does not get a cost of living allowance, he gets a salary.

Sen. Capildeo: If such important persons are going to be involved, bring it here let us see. *[Interruption]* What is the harm?

Sen. Huggins: This has to be ridiculous if, for example, the Secretary of the Integrity Commission is entitled to COLA—

Sen. Capildeo: I do not mean the Secretary to the Integrity Commission.

Sen. Huggins: Do we want to bring an amendment here to include COLA and spend an afternoon debating whether the secretary is entitled to COLA or not? They cannot be serious! Mr. President, we cannot agree with that amendment.

Sen. Capildeo: We are talking about top managers and members of the Judicial and Legal Service Commission, but this Senator is not serious at all.

Sen. W. Mark: We maintain our position, Sir. *[Interruption]* May I have the attention of the hon. Leader of Opposition—of Government Business? I am just anticipating your role later on, Sir. *[Laughter]*

Mr. Chairman, I would like to, not necessarily withdraw; but I was persuaded to some extent and on that basis I can give the assurance that when that is tabled

in the Parliament we shall be moving the necessary resolution to have it debated, if necessary within 30 to 40 days and we hope that the Government would give it top priority.

Mr. Chairman: Are you withdrawing your amendment, Sen. Wade Mark?

Sen. W. Mark: Yes, I am withdrawing the amendment.

Amendment withdrawn.

Clause 9 ordered to stand part of the Bill.

Clause 10.

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

Mr. Chairman: Sen. Wade Mark, I take it that the same thing applies.

Sen. Huggins: The same position, Mr. Chairman.

Sen. W. Mark: What is the same position, Mr. Chairman?

Mr. Chairman: Where you had the similar amendment, I take it that the same argument—*[Interruption]*

Sen. W. Mark: No, no, Mr. Chairman, clause 10 is a different "kettle of fish" because clause 10 says:

"The Minister may make Regulations for carrying the purposes and provisions of this Act into effect, and, without limiting the generality..."

What we are saying is that even if the Government is not in favour of an affirmative resolution, regulations have been made, and it ought to be brought to the Parliament of Trinidad and Tobago because we are into this matter. The Parliament is being asked to settle this matter and we have been brought into the picture. We would like to see the regulations which have been drawn up. If the Government does not want to support the affirmative aspect, we are calling for a negative aspect so that the regulations can be tabled here for the parliamentarians to see.

We cannot see how the Government could have an objection to regulations being tabled in Parliament, even on a negative basis. We are prepared to compromise on a negative resolution but not to say that it is the same thing and we are going through. This is a serious matter, Sir, and I do not see anything wrong with the Government accepting that proposal.

Mr. Chairman: Sen. Wade Mark, are you aware that there is a Regulations Committee in each House?

Sen. W. Mark: Yes, Mr. Chairman.

Mr. Chairman: And it may depend on a slight amendment to the Standing Orders to ensure—*[Interruption]*

Sen. Huggins: Mr. Chairman, whilst I was minded to compromise with Sen. Wade Mark, I do not like the idea of compromising for compromising sake, and really, all this clause gives the Minister the power to do is to say that the bonds may be \$5, \$10 or \$100; it makes provision for the transfer of these bonds. Again I am hard-pressed to see why—

Sen. W. Mark: What is wrong with those regulations being tabled in the Parliament? I do not see anything wrong with it. I am prepared to take out the negative—

Sen. Huggins: I am certain that copies of the regulations could be provided to all Members of this Parliament. I have made regulations before under the Immigration Act that does not require the negative or affirmative resolution and I see copies on the desk there.

Sen. W. Mark: There is a difference when one sees these regulations on a desk. When there is a negative resolution of the Parliament we have a 40-day period, is that right?

Mr. Chairman: Yes.

Sen. W. Mark: But if we just pick up something in the *Gazette* would we take that same route?

Sen. Huggins: Mr. Chairman, the sense from these Benches is that the position remains as is.

Sen. W. Mark: Mr. Chairman, I really find it a bit difficult to understand the Government's arrogance on this matter. This is a simple proposal that I am making; that the regulations should be tabled here subject to a negative resolution. Why would the Government want to resist that? They want us to support a Bill but yet we must wait until a *Gazette* comes out before we see the regulations. Mr. Chairman, we are not compromising on this amendment.

Mr. Chairman: The regulations are not law until they are published in the *Gazette*.

Sen. W. Mark: We are not compromising on the question of a negative resolution in terms of the regulations. We believe that it is a simple matter and I am prepared to compromise "negative" instead of "affirmative". I do not understand why the Government is behaving so contemptuous this afternoon.

6.50 p.m.

Sen. Huggins: Mr. Chairman, I do not understand what he means by that. As I said the regulations will come here and I really fail to see how disagreement could be described as contemptuous or arrogant. Sen. W. Mark disagrees with us all the time, yet he says that he is magnanimous.

Sen. W. Mark: Yes, but I withdrew so many things this evening, do you want me to withdraw myself now? *[Laughter]* *[Interruption]*

Sen. Huggins: Mr. President, let me just suggest something. We are not agreeing with negative or affirmative, however, I will be prepared to agree to an amendment whereby we simply say that the Minister will cause the regulations to be laid in Parliament. Since I get the impression that the Senator wants to see these regulations and he obviously is harbouring some fears that these regulations would be hidden somewhere in the Ministry of Finance and be kept away from them.

Sen. W. Mark: Mr. Chairman, could you guide me on this matter? If the regulations are laid in the Parliament would any Senator have the authority, within a 40-day period if it requires—I am not saying that it will take place—to file a motion and have it debated within the 40-day period?

Mr. Chairman: You can file the motion by arrangement. There are other provisions that can be exercised. I am not prepared to go into that now.

Sen. W. Mark: Mr. Chairman, will you say that *[Inaudible]*

Mr. Chairman: If one looks at all the laws in the country the whole purpose of this is delegating authority, and if one has to make orders in the interest of good Government they have to be published in the *Gazette* and all Members of Parliament get the *Gazette*. So one should be aware of that whether it is laid or brought subject to a negative resolution. The Regulations Committee needs to be given the authority to examine all subsidiary legislation published in the *Gazette* and report from time to time. Right now it does not function because it has very limited powers, it cannot really discuss the merits or demerits of the particular regulation.

Sen. W. Mark: Mr. Chairman, in the interest of expediting this matter, you know I am prepared to stay here until 10.00 p.m.—

Mr. Chairman: No, we would not allow you to stay until 10.00 a.m.

Sen. W. Mark: But in the interest of expediting this matter I would reluctantly accept the proposal advanced by the Minister that it be laid in Parliament and so forth. Although it was not what we were thinking about, but we would accept it.

Sen. Huggins: Mr. President, could I suggest that clause 10 become clause 10(1) and that a new clause 10 be included to say "the Minister shall cause the regulations to be laid in Parliament".

Mr. Chairman: There is a revised amendment proposed that clause 10 now become clause 10(1) and a new subclause (2) be added to read as follows:

"The Minister shall cause the regulations made under subsection (1) to be laid in Parliament".

Question put and agreed to.

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

First, Second and Third Schedules ordered to stand part of the Bill.

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

Senate resumed.

Bill reported with amendment.

Question put, That the Bill be now read the third time.

The Senate voted: Ayes 24

AYES

Huggins, Hon. R.

Barnes, Hon. B.

Draper, Hon. G.

Yuille-Williams, Hon. J.

Robinson-Regis, Hon. C.

Callender, S

Mark, A.

Elder, J. Miss

Rahael, J.
Hassim, A.
Maloney, A.
Nanga, J.
Lewis-Phillip, Mrs. N.
Mark, W.
Capildeo, S.
Merritt, Miss. C.
Hosein, M.
Barrack, J.
Persad-Bissessar, Mrs. K
Mansoor, M.
Rooks, J.
Mahabir-Wyatt, Mrs. D.
Dean, E.
Ramchand, Prof. K.

Question agreed to.

Bill accordingly read the third time and passed.

Motion made and question proposed, That the Senate do now adjourn to Tuesday, April 11, 1995 at 1.30 p.m. [Sen. R. Huggins]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.58 p.m.