

Leave of Absence

Tuesday, June 06, 1995

SENATE

Tuesday, June 6, 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. Hydar Ali to be absent from today's sitting of the Senate.

I have also granted leave to Sen. Pundit Gosine to be absent from sittings of the Senate during the period June 2 to June 14, 1995.

SENATOR'S APPOINTMENT

Mr. President: Hon. Senators, I have been advised that His Excellency the President has appointed Mrs. Norma Lewis-Phillip to be a temporary Senator with effect from June 2, 1995 and continuing during the absence from Trinidad and Tobago of Sen. Pundit Gosine.

OATH OF ALLEGIANCE

Sen. Norma Lewis-Phillip took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. The Customs (Caribbean Common Market) (Origin of Goods) (Amendment) (No. 2) Regulations, 1995. [*The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith)*].
2. Loan Agreement (Environmental Management Project) between the Republic of Trinidad and Tobago and the International Bank for Reconstruction and Development. [*Sen. Dr. The Hon. L. Saith*].
3. Trinidad and Tobago Free Zones Company Limited Financial Statements for the year ended December 31, 1992 [*Sen. Dr. The Hon. L. Saith*].
4. Trinidad and Tobago Free Zones Company Limited Financial Statements for the year ended December 31, 1993 [*Sen. Dr. The Hon. L. Saith*].
5. Trinidad and Tobago Free Zones Company Limited Financial Statements for the year ended December 31, 1994 [*Sen. Dr. The Hon. L. Saith*].

CALVARY REVIVAL CENTRE (INC'N) BILL
Select Committee Report
Presentation

Sen. Jean Elder: Mr. President, I present the report of the special select committee of the Senate appointed to consider and report on a private Bill for the Incorporation of the Calvary Revival Centre and for matters incidental thereto.

ORAL ANSWERS TO QUESTIONS

Mr. President: Hon. Senators, there are four questions standing in the name of Sen. Wade Mark on today's Order Paper. This is contrary to Standing Order 18 (5). However, it was done with the agreement of the Senate, having at previous sittings agreed to postpone questions for one week or two weeks. Following the decision of the Senate, it turns out now that four questions in the name of Sen. Wade Mark are on today's Order Paper. I seek leave of the Senate to waive the provisions of Standing Order 18(5) to allow four questions to remain on the Order Paper.

Leave granted.

The following questions stood on the Order Paper:

Public and Private Sector
(Severance/Retrenchment Scheme)

- 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?
 [Sen. W. Mark]

**Retrenched Employees
(Outstanding Money Owed)**

- 16.** Could the Minister of Labour and Co-operatives state:
- (a) The outstanding sums of money still owed by employers to employees who were retrenched during the period 1981 to 1991?
 - (b) The names of the companies and the number of workers involved?
 - (c) Could he further state what steps are being utilized by his ministry to have these sums settled? [*Sen. W. Mark*]

**Mark, Castillo and Toney
(Contracts, Awards and/or Assignments)**

- 23.** Could the Minister of Finance provide this Senate with the relevant information pertaining to the number of contracts, awards and/or assignments granted to the firm of Mark, Castillo and Toney for the period December 1992 to December 1994; the names of the companies involved in these assignments; the periods of time involved in these assignments; the fees paid to the firm of Mark, Castillo and Toney for each of the assignments over the same period i.e. 1992-1994? [*Sen. W. Mark*].

The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith): Mr. President, I am advised by the Minister of Labour and Co-operatives that he is still not in a position to answer these questions and I regretfully seek leave of this Senate to have these questions deferred for two weeks.

Similarly, with respect to question No. 23, the Minister of Finance has advised that the answer to this question is not yet ready.

Questions, by leave, deferred.

**Consultancy Firms
(Divestment/Privatization)**

- 26.** Sen. Wade Mark asked the Minister of Finance:
- (a) Could the Minister of Finance provide the Senate with the names of the consultancy firms involved in the divestment/privatization (either wholly owned or partially owned) during the period January 1992 to November 1994?

Oral Answers to Questions
[HON. K. VALLEY]

Tuesday, June 06, 1995

- (b) Could the Minister further provide the Senate with copies of the independent valuation reports involved in the transactions in respect of those enterprises which were divested/privatized during the same period?

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. President, over the period January 1992 to November 1994, Government engaged 31 consultants in the divestment of state enterprises and companies in which the Government had a minority interest. Fifteen of the consultants provided financial services, fifteen provided legal services, and one provided engineering services. Of the 31 consultants, 18 were local firms and the remaining 13 were foreign entities.

The names of the local consultants are as follows:

KPMG Peat Marwick
 Deloitte and Touche
 Pollonais and Blanc
 Ernst and Young
 Wilbert Winchester
 Mark, Castillo, Toney
 Sheila Teelucksingh
 Gittens and Smart
 Alexander Jeremie and Co.
 Ashmead Ali and Co.
 Clico Investment Bank
 De Nobriga and Inniss
 Ralph Armorer
 JD Sellier and Company Limited
 Fitzwilliam, Stone, Furness-Smith, Morgan
 Price Waterhouse
 West Indies Stockbrokers Limited

Dr. Claude Denbow

The names of the foreign consultants are as follows:

First Boston Corporation
Skadden, Arps, Slate Meager and Flom
International Finance Corporation (IFC)
Nixon, Hargrave, Devans and Doyle
Ernst and Young (Barbados)
Yearwood and Boyce
Bankers Trust Incorporated
Banque Paribas/Sir William Halcrow
Slaughter and May
Black and Veatch
Citicorp
Acker Group
Mc Lellan and Partners

Independent valuations were carried out in the divestment of the following companies:

- Trinidad and Tobago Printing and Packaging Company Limited
- Farrell House (1974) Limited
- National Poultry Company Limited
- Caribbean Hotel Development Company Limited
- Arawak Cement Company Limited
- Trinidad and Tobago Methanol Company Limited
- Trinidad and Tobago (BWIA International Airways Corporation)

The valuations range from the valuation of shares to all or individual assets of these enterprises. These valuations served as a guideline in the negotiations with respect to the worth of the divested company. There were also other factors such

Oral Answers to Questions
[HON. K. VALLEY]

Tuesday, June 06, 1995

as the state of the industry, the level of restructuring required and the demand which influenced the final price.

Copies of these valuations have been lodged in the Parliament Library and are available for viewing by honourable Senators.

1.40 p.m.

Sen. W. Mark: Could the hon. Minister indicate which group of consultants dealt with the various state enterprises? Could he provide us with the names of those state enterprises that were involved and the respective consultancy firms?

Hon. K. Valley: Mr. President, that information is provided to this Senate already. When I laid the White Paper on Public Participation we outlined every company in that document. I think there are copies in the library, of the consultants which were engaged in the particular transaction. So I would want to refer the hon. Senator to that document which is filed in the library for the benefit of Senators.

Sen. W. Mark: Could the Minister tell us what were the sums involved?

Hon. K. Valley: Mr. President, I think that information was provided in that document also. If it is not provided and the Senator were to file the appropriate question I shall give him that information.

TRINIDAD AND TOBAGO FREE ZONES (AMDT.) BILL

[SECOND DAY]

Order read for resuming adjourned debate on question [May16, 1995]:

That the Bill be now read a second time.

Question again proposed.

Sen. Carol Merritt: Mr. President, I join this debate by first making a statement here that after all the concerns that were raised in 1988 by the following trade unions, women's groups and different NGOs about not having proper provisions for workers in the EPZs, today we are hereby amending the parent Act of the free zones and there is no human face to this amendment.

In 1988 when the Bill was first debated and the present Government was in Opposition, it raised numerous concerns. It was dissatisfied with the parent Act. I thought seeing that it is seeking to amend the Free Zones Act in 1995, it would have seen it fit to include some sort of protective mechanism for

the workers who would be absorbed in the free zones. In going through the amendments I see not one clause with regard to the workers. I will illustrate later on why the workers who will be absorbed by these EPZs will need some protective mechanisms.

The free trade zones are another creature of the structural adjustment programme instituted by the IMF and the World Bank which was made with developing countries which have a draw-down loan arrangement with them. It is a conditionality. Some commentators have argued that low wage employment is the model for sustainable development. How can low wages and exploitation of our citizens be sustainable development for the many vulnerable women and men who would be absorbed into the free zones of this facilitator country? If this country really wants sustainable growth, the EPZs are not the way to go.

From the information I have received, it is established that the EPZs provide many jobs but they are low-skilled, lowly paid, and in most instances, with poor working conditions, and that 95 per cent or more of the work force are women, judging from the various EPZs which are already established throughout the world. Most of the women they employ are of child-bearing age who, if they become pregnant whilst they are employed by the EPZs, are fired when they go on maternity leave. The records are there to show, and I will illustrate later on.

In Trinidad and Tobago more and more women are becoming single parents and they are the sole bread-winners in households; and from the information I have received and the research I have done, the salaries offered by the EPZs are quite low. The conditions are terrible and it would not benefit our citizens. Do you think that the low wages offered by the EPZs would be capable of supporting a family of five, especially with the steady increase in the cost of living?

Mr. Valley: Mr. President, I wonder if the Senator would give way?

Sen. Merritt: Are you on a point of order?

Mr. Valley: No, I am not on a point of order. If the Senator would give way, to avoid her really going down a path that is really fallacious, let me just say that the normal laws of Trinidad and Tobago apply with respect to the EPZs. The minimum wages as they are with respect to the rest of Trinidad and Tobago would apply. We have minimum wages per industry, for example the security industry. The Minister of Labour and Co-operatives some time earlier made the point that we are looking at minimum wages for the different industries. That is going to apply to the EPZs. There is no need to have a special regime of industrial practices

Free Zones (Amdt.) Bill
[HON. K. VALLEY]

Tuesday, June 06, 1995

for the EPZs. The parent Act—I think it is clause 6—says clearly that the laws of Trinidad and Tobago would apply. So I want to avoid her going on the wrong track.

Sen. C. Merritt: Well I think he wasted a few minutes because I am going to emphasize my point. As far as I know, there is no minimum wages order at present with regard to the garment industries or the assembly industries and if the Government is so concerned about the workers who would be going into the EPZs, it should have established the minimum wages order first.

EPZs are established in a manner where the women are only allowed to perform segmented jobs. When I say, segmented jobs, for example in a garment industry environment, if a dress is being made, one person over a period of time may be doing just the sleeve or putting on the buttons. So it is one type of function being done constantly. There is no scope for promotion or advancement in the EPZs. Do we want that for our young men and women? It is work, but at what cost?

1.50 p.m.

Mr. President, in an EPZ, a target rate is set. When that target rate has been achieved the rate is then increased, and this puts great pressure on the women. One cannot even think of arriving late at the workplace. This is a no no.—One is sacked for arriving late for work.

Most free zones are fenced in with high barbed wire and security gates, and the women are scanned before going in and before going out. They are checked constantly. There is a healthy climate for sexual harassment in the EPZs. Sir, the women are checked when they enter and frisked when they leave the compound.

The amazing thing is that the International Labour Organization—*[Interruption]* Mr. President, the problem with Trinidadians, or some of the people who have reached a certain status in this country, is that as long as something does not affect them or their families they do not care. They just do not care. Those who are trying to sidetrack me this afternoon from stating what I have to say, know very well that none of their children or relatives would be involved there.

Sen. W. Mark: It is poor people's children.

Sen. C. Merritt: It is poor people's children who are already suffering. The Government wants modern-day slavery in this country.

I, as a person who is here democratically, am not allowed to voice my disgust with this EPZ that is being set up. If this is so, it is better that we close down the Parliament, reform the whole thing and let us have a renegade Government. That is what is happening.

Mr. President: Senator, you can be sure that you would enjoy the freedom, as every other citizen, to express your views in the context of the Parliament. I would protect you.

Sen. C. Merritt: Thank you Sir. The ILO has 175 conventions. and there are 180 recommendations for the protection and security of workers throughout the world. These conventions are meant to be applied to all workers and based on international standards, these conventions should apply to free trade zones as well. A review of our Government's labour laws and policies indicates that only 12 of the conventions have been ratified so far.

Mr. President, promises were made in this Senate that some of the relevant conventions which pertain to our country would be looked at with a view to ratifying them. This was about two years ago and nothing has been done about that so far.

As I have stated before, the Government continues to turn a deaf ear to some of the crucial conventions that have been laid down by the ILO, but today, we are here to amend the Free Zones Act without any protective mechanism in place for citizens who might be employed in these fenced-in industries, where sexual harassment and sexual discrimination are rampant and where failure to provide maternity protection, security of employment and minimum wages is the order of the day.

In the countries that have established EPZs those issues I have listed before are the areas which are most violated; maternity leave protection, security of employment and failure to provide minimum wages.

Most underprivileged women have no knowledge of the various toxic, and other dangerous equipment they may have to operate whilst functioning in the EPZs nor how these dangerous working environments can be a threat to their reproductive organs and general health.

In most of the EPZs, internationally, there are inadequate health services available on the job, or none at all. There is improper ventilation and lighting and the noise levels are normally out of proportion. Without the EPZs, we already have problems in the various industries, right here in Trinidad and Tobago, where

Free Zones (Amdt.) Bill
[SEN. MERRITT]

Tuesday, June 06, 1995

proper ventilation is not in place and the noise levels—and I can cite, maybe, the ISPAT plant as one of the areas that have that noise problem presently.

Sen. Rooks: As a matter of clarification, can the Senator please advise me of any of the EPZs in Trinidad operating under these conditions?

Sen. C. Merritt: Mr. President, I am basing my deliberation on the foreign EPZs; those that I did research on. We do not really have any established EPZs in Trinidad and Tobago. *[Interruption]* That is propaganda, Dr. Saith.

No safeguards or kits are provided and no proper sanitary conditions prevail. Have the Minister and his Government taken all these factors into consideration? I would say no, because it has not demonstrated this in the amendment to the original Act. All the Government seems to be interested in is the economic indicators in this amendment. For example, foreign exchange, investment incentives and so forth.

Mr. President, we know this particular Minister is noted for his divestment programmes, but I want to ask him if he wishes to divest the people of Trinidad and Tobago as well. Because, after he divests everything, it is only the people would be left. The people are not being considered in most of the legislation being brought before this Senate.

The Government, like other Caribbean and Latin American countries, seems to be following the examples of the Asian tigers—that is a famous term I keep hearing. The Asian tigers are Korea, Singapore and Hong Kong.

When I did my research, I did so looking at what is happening internationally, because when Ministers deliberate on any piece of legislation, they always look at what is happening outside without applying it to the conditions that exist in Trinidad and Tobago, but now that I am referring to the EPZs that are set up internationally, everybody is upset.

2.00 p.m.

It is said that many companies move to Latin America to take advantage of the incentives there, but the profits are however repatriated. These countries cannot live solely on incomes derived from free trade zones. If so, why is priority given to foreign investors whom most governments view as the salvation for their country? It is not so. They only come to eat out what we have; leave us high and dry and then we are back to square one. The question is: Are free trade zones that beneficial to a country? Would that be beneficial to Trinidad and Tobago?

Allow me to give some examples of established EPZs in some countries. I would quote from a document called *Training Women in Free Trade Zones*, which was put out by the ILO, ICFE and OWTU. I would quote from the example of the Dominican Republic. It states:

"Industry was established in free trade zones in the Dominican Republic in the 60s, and it has been given a boost due to the facilities offered by the state. The industries in the free trade zones are as follows: garment and shoe industry, electronics, leather, tobacco processing, jewelry, diverse industries. 70% of the workers in the free trade zones are women, of whom 30% come from rural areas. 68% of the women who work in the free trade zones are employed for the first time. Although women are in the majority the discrimination against them is great. Pregnant women are not employed, they are sacked when they are pregnant, which does constitute a violation of labour law. They are paid less than men."

I go on further.

"The use of toilets is restricted, and often a ticket is necessary."

This is what is happening in EPZs in the Dominican Republic.

"The time is limited to 3 minutes. Add to that permanent sexual harassment by the managers and supervisors, and if the woman worker does not give in to this, she is sacked. Most of the women workers in the free trade zones have children and 65% of them are single mothers who are abused by the employer to make them work in sub-human conditions because it is they who are responsible for the care of their children as well as in many cases their parents.

In the free trade zones trade union rights are not respected, and trade union organization is even blocked by force. Trade union leaders and members are sacked. A living wage is not paid in spite of much overtime, and workers are often forced to work 56 hours instead of the 44 hours laid down by the Labour Code. Workers are laid off and then rehired in order to avoid the obligation of paying them benefits."

That practice is happening at present in Trinidad and Tobago—without EPZs.

"Collective bargaining is blocked. In most companies there are no economical eating facilities nor hygienic or sufficient bathrooms nor necessary ventilation. Women are physically abused. Women have to prove that they are not

Free Zones (Amdt.) Bill
[SEN. MERRITT]

Tuesday, June 06, 1995

pregnant in order to be hired. In spite of payments made to social security, the employer does not report most of the workers so that the workers do not receive social security benefits. Some women have had serious illnesses, but since the employer does not pay his contributions, the women have suffered all their lives.

What we have done in the last three years has managed to stop some of these abusive practices. This is what the ILO and the ICEF have done in the last three years to try to eliminate some of the problems in the Dominican Republic. There are numerous examples from which to quote.

In Montserrat there is an EPZ as well. There is an electronics plant, W & W Electronics.

"The conditions of work are deplorable. There are insufficient toilet facilities and these are not defined, with men and women using the same toilet. The ventilation is poor and the work place tends to be hot. The work requires a lot of eye contact. Minuscule pins have to be fitted into minuscule holes, and the lighting is very poor. There is only one exit from the factory. All other doors are not only locked but heavily padlocked throughout the work period. The fumes from the material during the assembly of disk brakes are overwhelming, and there is no safety equipment issued for use while this process is being carried out."

These are just a few of the examples of the established EPZs. If I were to refer to all of the problems, it would take me more than my speaking time. To take in all the concerns expressed here, this Government did not see it fit in amending the Act on the free zones to include protective mechanisms to avoid similar type conditions taking place when the EPZs get on stream here. The priority of most of these foreign investors is to make fast money and get out. They are not concerned with putting in the right conditions and measures for workers. The Government in this country needs to look after proper conditions for the workers.

The question has to be asked: Without the proper mechanisms, what would be the Trinidad and Tobago experience? Most of the prerequisites for the financial success of these zones are in place in Trinidad and Tobago, for example, a liberalized exchange rate, available labour, duty, tax and trade concessions, and an economy which has registered economic growth. And, this country does not have adequate protective mechanisms in place for our workers in the absence of trade unions.

There are no laws which define an acceptable minimum wage nor a specified work week. The Occupational Health and Safety Act presently in force is an antique dating back to the Factory Ordinance of 1928. This Government is looking to establish EPZs but it is not looking to update or amend the occupational health and safety laws. This Bill contains no provision with regard to workers' health and safety.

One has to bear in mind that this Government is anti-union and it demonstrates that every week in this Senate. This is a disquieting sign if it is extended to the EPZs because the World Bank's position implies the ability of the EPZs manager to dismiss a worker without any severance. All potential for exploitation is, therefore, evident in the Bill. To think that this amendment is brought by the caring government who made a big issue of it when it was in Opposition, as I have stated before—How men change their tongues when they get into power. I say anyway, euphoria of power has no memory! The population is constantly being deceived. It will retaliate at some time against all the lies, deceptions and game playing that are taking place in our country today.

Mr. President: Withdraw the word "lies."

Sen. C. Merritt: I would withdraw it, Mr. President. False statements.

Mark my words! Without the EPZs, employers in Trinidad and Tobago are already taking advantage of workers in supermarkets and in the security companies where the workers have to work 12 hours per day for \$20 or sometimes less, from information coming forward. There is no lunch break. The average worker has no one to protect him. If he does not belong to a trade union there is no one to look after his interest.

2.10 p.m.

It is a sad thing for me to quote here. We have expatriates in the country who are exploiting our people. I would like to quote from an article in the *Sunday Mirror* of March 6, 1994, "Slavery at Ispat? One for the Minister, Barry Barnes, to check."

"Concerned sources are calling on Energy Minister, Barry Barnes, to check out the 'slavery' that is going on at the Caribbean Ispat company, Point Lisas Industrial Estate.

Free Zones (Amdt.) Bill
[SEN. MERRITT]

Tuesday, June 06, 1995

According to the informant, workers at the Indian-managed government company at Couva are treated like slaves.

'Those who receive the worst treatment are maids and drivers,' he alleged.

He explained that, sometime ago, the Couva company made a transaction with a San Fernando contractor to supply maids and drivers to them.

'But, the way these poor people are treated, you would swear it is slavery all over again.

'For instance, the maid service is contracted to work full-time, that is, 12 hours a day.

'A maid has to cook breakfast, lunch and dinner at the company's guesthouse, and then go down to the boardroom, a good distance away and personally serve the food to the Executive.

'And, can you imagine that, for those 12 hours of gruelling work, she is paid a meagre \$20. per day,' the source revealed.

'At the end of the month, the maid takes home a little over \$400.

The informant further revealed that no kind of industrial laws are applied to the jobs of these hard-working and unfortunate women.

'The bosses do not pay national insurance, health surcharge or any kind of taxes on their behalf,' he alleged.

'When they are fired from the company, that's it. They have nothing to get.'"

Mr. President, this is only one case that has come to the attention of nationals. There are numerous cases existing today that are not being taken care of. We are asking: Why is the Government putting down EPZs? Why is it putting down systems for the further exploitation of our people, without putting the protective mechanisms in place? Our young men and women will be put into modern-day slavery and everybody is laughing and saying that what we are stating here is not true. They are not taking time to examine what is really happening.

Having EPZs means the exploitation of our local resources—electricity, water, natural gas and roads, and they have numerous concessions. We will not get any returns and, most importantly, there will be exploitation of our young men and women, who will be employed under inhumane conditions and given substandard wages.

How can the EPZs in their present form benefit anybody? Yes, we need employment. Yes, we have several thousand young men and women coming out of the school system every summer without hope of employment. Some are fortunate to go on an on-the-job training programme, but I hear that is another problem. Sometimes three months pass and they do not receive a black cent, and they have to go to work. They need to have something to put in their stomachs on a daily basis, yet they do not receive any salaries. None of the Ministers sitting opposite can tell me that what I am stating is not true. Numerous young people have come to me and complained that they are not receiving the little stipend they are supposed to receive. I want to know if that is exploitation, too, coming from the Government.

We are saying, yes, we want employment for the young people; yes, we want employment for some of those people who have been retrenched, but we do not want modern-day slavery which the foreign investors and expatriates will impose on our people.

I thank you.

The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion): Mr. President, I join the debate today, having listened to the contributions made on the last occasion, which were all of a very high standard. I do not by saying that discount the contribution made by Sen. Merritt, nor, if I speak only to the points raised by Senators Mansoor and Daly, is it any indication that I have disregarded any contribution made in this debate.

The matters that were raised in the contributions of Senators Mansoor and Daly were matters either of a legal or a quasi-legal nature and I thought it appropriate that I correct some of the observations which were made on the last occasion.

You will recall, Mr. President, that at one point the debate got rather heated and I thought that by having the benefit of the adjournment, one could probably bring a more reasoned approach to some of the critical matters raised by Senators Daly and Mansoor. I am certain that the benefit of a weekend in Mayaro, which I had, and I am sure that Sen. Daly had, would also have contributed to the lessening of that heat which occurred on the last occasion.

The Trinidad and Tobago Free Zones Company Limited was established on July 6, 1988. It is a company which was incorporated by the passage of Act No. 19 of 1988 and by way of memorandum and articles of association.

Free Zones (Amdt.) Bill
[HON. K. SOBION]

Tuesday, June 06, 1995

I think it was Sen. Mansoor who had raised the question as to the absence in the legislation of any provisions dealing with the objects and the provisions relating to the directors and their qualifications. It has been found in most modern democratic states that this mode of incorporation provides a more flexible way for the governmental agencies which are involved in commercial activity to conduct their affairs, rather than the old form of statutory bodies which were restrictive in their way of operation and required the use of parliamentary time if any amendment had to be made to their function. So this vehicle has been found in most modern democratic states to be the best for dealing with agencies involved in commercial type activity.

Indeed, Mr. President, you will note that this administration has done much by way of freeing up some of the bureaucratic systems which prove to be a hindrance to investment. The Government, being conscious of the need to create a thriving economic climate to deal with the problems of unemployment and so forth, has seen it fit to do a number of things. I think Sen. Daly himself remarked on the last occasion that he was free of the bureaucracy which surrounded the acquisition of foreign exchange. Those are some of the things that this Government has done with a view to ensuring a better investment climate and a better forum for people to invest.

Sen. Prof. Spence: Mr. President, the then Sen. Valley argued very strongly in 1988—I have his contribution here—that one needed to monitor very closely the activities of an institution such as the Free Zones Company Limited. Could the hon. Attorney General tell us, how it is envisaged that in this climate of relaxation of controls, this monitoring is intended to be achieved?

2.20 p.m.

Hon. K. Sobion: Mr. President, I am certain that former Sen. Valley could defend any statement that he made in 1988 or even before 1988. But certainly, I intend to deal with that question of regulation and control because it was a matter raised both by Senators Mansoor and Daly.

However, Mr. President, the point was made that in dealing with the structure which was utilized in creating the Trinidad and Tobago Free Zones Company, a mechanism which was used has now found favour in most modern democratic states because it provides the kind of flexibility which is necessary in the areas of Government commercial activities. That was the simple point I was making. I will deal with the question of regulation and control as a separate issue.

Before I deal with what I consider to be the most contentious issue raised on the last occasion, perhaps I can dispose of a problem which surfaced on that occasion as well. It has to do with the question of change of ownership. It is a reference to clause 9 of the Bill which sought to delete a provision in the parent Act, which required approval if there were to be a change of ownership by a person operating a free zone.

I think the concern was raised on the last occasion by Sen. Daly. It is a concern which we on this side have considered. What we have done is to provide, by way of an amendment which has been circulated, a mechanism whereby there can be some greater monitoring of the change in ownership within a free zone. We have not gone the route which the parent Act sought to go, because the parent Act required approval. We have gone the way of requiring a notification of changes in ownership within a free zone.

What the Free Zones Company does is to approve an activity. Whilst the company must take into consideration other matters as well, we think it sufficient that by including a provision for notification, at least the Free Zones Company would then be in a position to exercise a greater monitoring influence over activities within the free zone. We have put forward that amendment today. It has been circulated and I trust that it would find favour with those Senators who expressed that concern on the last occasion.

In connection with that issue as well—and the point was made earlier by Minister Valley when he responded to a matter raised by Sen. Merritt—that is the laws of Trinidad and Tobago applying to persons who are within the jurisdiction of Trinidad and Tobago, unless there is some expressed exclusion. I raise that point again, Mr. President, because I think Sen. Daly had a concern and he expressed it in relation to banks. The laws of Trinidad and Tobago and the Financial Institutions Act will apply to banks operating in Trinidad and Tobago, whether they operate in or out of a free zone.

In relation to the statements made by Sen. Merritt—I do not know where her information came from, but certainly, the labour laws of Trinidad and Tobago apply to the jurisdiction of Trinidad and Tobago and therefore apply to any person—and "any person" here meaning, any person, whether he be a natural person or incorporated person, operating in Trinidad and Tobago—is subject to the laws of this country. To make the statement that a person was dismissed because there is a need for that person to go on maternity leave, is clearly an unfounded statement. It cannot be supported. *[Interruption]* The laws of Trinidad and Tobago are there. If a person is aggrieved by the action of any person—

Sen. W. Mark: Mr. President, on a point of order. The Attorney General is misleading the Senate. There is no legally binding law on the statute books of Trinidad and Tobago dealing with maternity leave. So to come and tell the Senate that there are laws to protect women, the Attorney General is virtually misleading the Senate.

Hon. K. Sobion: Mr. President, I am surprised that a statement like that could be made by a person who professes—in other places—to be a trade unionist. Certainly, the laws of Trinidad and Tobago provide for a machinery whereby the rights of workers can be protected; whereby the employer has to treat with a trade union which represents the workers. That trade union is supposed to negotiate with the employer, terms and conditions which form—what is called—the collective bargaining process and develops a collective agreement which binds the employer.

Sen. Merritt: Mr. President, on a point or order. Could the hon. Attorney General clarify for me, outside of a collective agreement—

Hon. K. Sobion: I thought the Senator was on a point of order. Does she want clarification?

Sen. Merritt: What protection is there for workers who do not have a collective agreement? That is the point I am raising here. Trade unions would not be included in the EPZs. They would be banned from inside the EPZs.

Sen. W. Mark: There are no laws in the country to deal with that. None

Hon. K. Sobion: Mr. President, quite frankly, I do not understand the point of order that was raised. But the point I am making is that there was a process established by law to protect the rights and interests of workers. It concerns me that Sen. Wade Mark, as a trade unionist, could make the statement that he has just made.

Sen. W. Mark: And I would make it again.

Hon. K. Sobion: And you would be wrong again. Mr. President, the fact of the matter is that EPZs are not excluded from the operations of the laws of Trinidad and Tobago. That is the simple point that apparently has been missed causing some heat from the other side.

I move to what I consider to be the more contentious issue and that has to do with the control by the Government or the Minister of the operations of free zones. As I understand it, Mr. President, that is the argument that was made. I

may not necessarily have used the exact words used on the last occasion, but the argument had to do with the extent to which there was control over the operations of these free zones.

2.30 p.m.

This Parliament has found itself in a bit of a dilemma in dealing with ministerial or government control over agencies and so forth. There does appear to be some wavering at times as to whether there should be greater control or lesser control. We on this side have argued, from time to time, the need for some greater control in instances where we think it would lead to greater efficiency. The point as I understood it, arose out of the present clause 6 which provides—and I will read the clause. It is a provision for a new section 6A. It says:

"In furtherance of the functions given to the company under section 6(1), the company may authorise an approved enterprise to develop, operate and manage a free zone and exercise any of the functions in relation thereto detailed under section 6(2) (a), (b), (f), and (g)."

I think it was Sen. Daly—and perhaps I should refer to the record of his contribution to get the issue clear. On the last occasion the point was made by Sen. Daly. He said:

"I have a problem with the Government giving away its normal regulatory powers."

Then a little later on in the debate, he says:

"I hope it is clear to the Minister now, that I have not misunderstood the clause, I object to it. My objection to it is reinforced when I see that an approved enterprise cannot only operate and manage a free zone, but it can exercise any of the functions specified in section 6(2)(a), (b), (f), and (g)."

As I understood it, Mr. President, the argument is that by providing a mechanism whereby the Free Zones Company can delegate some of its functions, there seemed to be a loss of regulatory control by the Free Zones Company or by the Government. That was the issue which provoked some crosstalk on the last occasion, and perhaps we should try to address that issue.

In the parent Act provision is made for the establishment of the Free Zones Company. At section 6 the functions of the company are set out. Section 6(1)(a), which is the relevant section says:

"The Company shall—

- (a) administer, control, operate and manage all free zones and any other property which may from time to time be vested in it under this Act;"

So that the company is charged with the responsibility, not only of operating and managing free zones, but also with the responsibility of administering and controlling all free zones. You will note, Mr. President, that that is significantly different from what is proposed in the Bill because the delegation which is possible under the proposed clause 6 is to authorize the Free Zones Company to give to any approved enterprise the power to develop, operate and manage. The administration and control of all free zones remain vested firmly in the Free Zones Company. The regulation and bye-law-making powers, in relation to free zones, remain vested in the Free Zones Company, the Government owned entity. That is where the regulatory power resides.

You will note, Mr. President, and I think it is at section 14 of the parent Act that there is a distinct, clear, unambiguous bye-law-making power. It says:

"The company may, with the approval of the Minister make bye-laws for all or any of the following purposes—

- (a) specifying the returns and information to be submitted to the company by approved enterprises;
- (b) prescribing and regulating the conditions for use of a free zone and its facilities and services, including the charges to be made..."

So there is a bye-law power which is vested in the Government-owned Free Zones Company, which exercises the regulatory authority over all free zones.

What the amendment proposes is to provide for a company, other than the Free Zones Company, to acquire a parcel of land, develop that parcel of land as a free zone, construct on that parcel of land, buildings, factories and so forth, and utilize those facilities as a free zone. But the control over the operations of the enterprises which will lease or buy the services provided by that company, is subject to the regulatory control of the Trinidad and Tobago Free Zones Company Ltd.

On the last occasion it was suggested that somehow the Government was, by this clause 6, giving up the regulatory control over free zones to other approved enterprises. It is quite clear on any reading of the parent Act in conjunction with the amending Bill, that the regulatory control remains firmly vested in the Free Zones Company, which as I said is a governmental agency.

Sen. Prof. Spence: Would that extend to the design of the free zone?

Hon. K. Sobion: Again, Mr. President, I do not think I have made the point firmly enough; perhaps the opportunity is now given to me to make it again. The operations of any individual or company, within the jurisdiction of Trinidad and Tobago, are subject to the laws of Trinidad and Tobago. So that there are other regulatory agencies in relation to the design and construction of buildings and so forth; the Town and Country Planning Division will have an input insofar as that is concerned. Perhaps I did not understand the question, Mr. President. Can it be restated?

Sen. Prof. Spence: Will the Free Zones Company have control or say or veto in the design of the company which it authorizes?

This is important because the design will affect the ability to monitor what goes on in the free zone.

2.40 p.m.

Hon. K. Sobion: Mr. President, perhaps, we can look at section 14 of the parent Act again. It says:

"The Company may, with the approval of the Minister, make bye-laws for all or any of the following purposes—

Among these are:

- (b) prescribing and regulating the conditions for use of a free zone and its facilities and services ...
- (d) regulating vehicular traffic anywhere within a free zone ...
- (e) providing for security arrangements ..
- (g) prescribing any other matter or thing, whether similar to the above or not, in respect of which it may be expedient to make regulations for the purpose of carrying this Act into effect."

The bye-law-making power which is vested in the Free Zones Company is sufficiently wide to deal with the matters raised by Sen. Prof. Spence and wide enough to provide detailed regulation, down to vehicular traffic within the free zone site.

Sen. Daly: Mr. President, if that is the argument, would the Government give the country an undertaking that prior to the Free Zones Company exercising any of its powers proposed in this amendment, the bye-laws will be published. If no

Free Zones (Amdt.) Bill
[SEN. DALY]

Tuesday, June 06, 1995

bye-laws are published, then it could do what the hell it likes; it can do what the France it likes.

Hon. K. Sobion: Mr. President, "France," perhaps, "France" is a better place than the other place to which the Senator referred. Having regard to the development path which the Government is taking in this matter, it is quite clear that it will be necessary to have those bye-laws in place before any delegation of that kind can be undertaken. The answer is yes, the bye-laws will be proclaimed. We really need to look at the parent Act in order to consider the true effect of the amendment.

For the record, let me make the point further. If one looks at the functions of the company which are stated in section 6(1), one would see that the company has the authority to:

“(a) administer, control, operate and manage all free zones and any other property ...”

The functions which are set out in section 6(1) are all of the regulatory type, such as:

- “(b) provide and maintain such services ...
- (c) have authority over all goods ...
- (d) permit customs offices ...”

That is the management type of control that is vested in the Free Zones Company.

Section 6(2) deals with the physical function of the Free Zones Company. It states:

“(a) construct, maintain and operate warehouses ...”

To underline the point I am making, one would see that the new clause 6 delegates only those functions which are contained in section 6(2).

Sen. Hosein: Mr. President, since the hon. Minister is talking about the development of free zones, I wonder if he could give the Senate the rationale behind Cabinet's decision to give permission to a company to develop free zones before the passage of this Bill in the Senate?

Hon. K. Sobion: Mr. President, my understanding is that the Government has given no such permission.

Sen. Hosein: Mr. President, is the hon. Minister aware that this matter has been reported on in the newspapers and there has been no retraction by the Government? Is he now saying that the report is incorrect?

Hon. K. Sobion: Mr. President, I am not aware of the report. Perhaps, Sen. Hosein can seek to double check the information which he received. My understanding is that the Government has not given any such permission.

The point I was making is that the delegation is really only in relation to the matters contained in section 6(2) and it is not even with respect to all of the powers in section 6(2). Section 6(2) (a) is one of the functions of the company and that is merely the power to:

- (a) construct, maintain and operate warehouses, factories, commercial buildings, offices, freight sheds, docking facilities, loading and unloading berths, ...

Subsection (2) (b) provides for the company to sell, rent, grant leases, sub-leases and so forth in respect of land which forms part of the enterprise. What we are really doing is delegating the development function which the Free Zones Company has at the moment and permitting other private interests to go out there and establish free zones but all subject to the regulation of the Trinidad and Tobago Free Zones Company.

Sen. Mahabir-Wyatt: Mr. President, the hon. Senator has us slightly confused. In his response to Sen. Hosein's question, am I to understand that he said there are no EPZ companies operating in Trinidad at the present time? What about Nestlé and Nucor? There are several of these companies operating at the present time.

Hon. K. Sobion: Mr. President, the question was whether a private company has been given the authority to develop a free zone prior to the passage of this Bill. The answer to that is no. There are approved enterprises operating in free zones under the parent legislation but no delegation, as is now contemplated by clause 6, has been given to any private person.

Quite apart from that major issue which was raised on the last occasion, and which I think one now appreciates is really not a concern at all, we ought to look at the other areas of control which the parent Act imposes on the Free Zones Company. That point was made in the context of the Government exercising some liberal approach to these free zones and permitting other persons to operate free zones. If one looks at section 13 one would see that the company has to provide accounts to the Minister at the end of each financial year and those accounts are also laid in Parliament. Section 13 states:

Free Zones (Amdt.) Bill
[HON. K. SOBION]

Tuesday, June 06, 1995

- (1) "The Company shall, not later than five months after each financial year or within such further time as may in special circumstances be allowed by the Minister, cause to be made and transmitted to the Minister, a report dealing generally with the operations of the Company during the preceding financial year."
- (2) The Minister shall cause a copy of each annual report together with the annual statement of accounts and the auditor's report thereon submitted to him ...to be laid in Parliament."

So that there remains ministerial control. I think Sen. Mansoor made the point that there was no omnibus provision. If one looks at section 9, which deals with the borrowing powers, one would see that the power to borrow which is vested in the Free Zones Company can only be exercised with the approval of the Minister. I have also referred to section 14 which deals with the making of bye-laws. That power can only be exercised with the approval of the Minister. So that there is ministerial control. Whilst drafting styles are different and in some pieces of legislation one would see an omnibus clause, the parent Act provides for the ministerial control in the sections themselves where the power is given.

May I make the point that as a general principle of company law, the directors of a company are subject to the control of the shareholders and there is a reporting mechanism which is established between the shareholder and the board of directors so that that degree of control and oversight is maintained.

2.50 p.m.

As I understand it, given the present arrangements, the board of directors, indeed, at the request of the Minister, provides minutes of its meetings etc. But those are administrative arrangements and that is where the control is established, where the reporting takes place. Not all of it has to be legislated for in the way that I have pointed out in sections 9 and 14 which deal with the critical areas of borrowing and bye-law-making powers.

I had indicated that this type of vehicle is the type which is used in most modern-day democracies, dealing with activities of the government which are commercial in nature. So that we have the specific controls in the legislation and we have the controls which are created by the general law relating to shareholders, companies, directors etc.

I think that those were the concerns which had been expressed on the last occasion, and although there was some mirth when I made the statement that I

thought they had been allayed, I may say I was only prompted to make that statement based on a question which was raised by Sen. Daly as to whether the bye-laws would be put in place before this delegation took place, and therefore I may have been misled by the question when it was asked. But it is quite clear that on any proper reading of the existing section 6 and the proposed section 6A, that the delegation is not a delegation of the regulatory power of the Trinidad and Tobago Free Zones Company.

I have read some of the contributions and, indeed, I was here on the last occasion for part of the time and I noted that the contributions made recognized the fallacy of the argument which one can term 'the free zones sweat shop argument.' Unfortunately, there are still some persons who believe that free zones equate with slavery; equate with inhumane conditions; equate with the exploitation of women, in particular. But on the evidence of free zones which are operating in other countries, that, quite clearly, is a misfounded view of free zones. The protection of the law of Trinidad and Tobago covers employees within the free zones. The general law of the land regulates what an employer in a free zone can do. I have had the opportunity—I was asked to provide the evidence—to see free zones in Mauritius, and I can tell you that there is no way that one can suggest—it is like Tuvalu; it is a fast developing small country which has made great economic strides in the last 15 years. It is not as small as Tuvalu. In fact, it compares quite favourably in terms of size with Trinidad and Tobago, population-wise, etc. I have seen the operations there and the statements that are being made by some persons about sweat shops in the free zones there are clearly misguided.

Sen. Persad-Bissessar: I would ask the question that was asked by Sen. Rooks a short while ago. What is the evidence with respect to free zones in Trinidad and Tobago? He said that there were some operating here. How many are operating and how are they functioning?

Hon. K. Sobion: I do not recall Sen. Rooks asking me any question, but assuming that Sen. Persad-Bissessar was mistaken as to the identity of the questioner, let me suggest to the hon. Senator that perhaps Minister Valley in his conclusion, being the Minister responsible for the operations of free zones, would be the best person to respond to that specific question.

From my reading of the *Hansard* of the last occasion, I believe that those were the quasi-legal questions which arose in the debate—

Sen. Daly: Sen. Mansoor is not here but I believe he raised the point about inserting conflict of interest provisions.

Hon. K. Sobion: I am sorry. I did miss that provision. But if one looks at the articles of association of the Free Zones Company—and as I say, this is the vehicle which is being used. This is a public document registered in the companies registry—

Sen. Persad-Bissessar: You see, this is the same thing. There is this company that is set up—it happens all the time—you bring part of the information. Sen. Mansoor was very clear. What is this company; what is it all about; how is it set up; who are the directors? As Sen. Daly is now saying, what are the sanctions? You say, yes, here it is; there is this little set-up. Well perhaps it may have helped us a great deal if that was before us when we started the debate, with the greatest respect.

Hon. K. Sobion: Mr. President, I started my contribution by referring to the fact—you see, I am not certain to what extent certain Senators require the Government to provide them with information. We are here to debate an amendment to the Trinidad and Tobago Free Zones Act. It is Act No. 19 of 1988. That Act provided for the creation of the Free Zones Company. I started my contribution by referring to the fact that the Free zones Company was incorporated on July 6, 1988, and I see among the original subscribers one of the Senators in this Chamber. These documents are required to be filed in the Companies registry. They are public documents which are available on request by any member of the public. I really think it is taking it a bit too far to expect the Government to provide hon. Senators with copies of the memorandum and articles of association of the Trinidad and Tobago Free Zones Company. I described the fact that the company incorporation procedure is the kind of procedure that has now found favour in most modern-day societies. It provides a greater flexibility in dealing with that kind of activity as opposed to the statutory type incorporation.

3.00 p.m.

The information is all there and available. Clause 74 of the articles of association provides for the question of conflict of interests of directors in terms of the operation of the company. If I had omitted that point, I thank Sen. Daly for reminding me of it, but that is the situation as it exists at the moment.

Mr. President, I am pleased to have been given the opportunity to contribute to this debate and, hopefully, to have cleared up some of the legal and quasi-legal issues which were raised.

I thank you, Mr. President.

Sen. Rev. Daniel Teelucksingh: Mr. President, once again the free zones concept is in the spotlight and one may enquire, why, since the approval of the Free Zones Act of 1988, this concept of economic development never really blossomed in Trinidad and Tobago? Why it really never got off the ground as it did in other Third World countries? This is a question which we must answer.

Among the papers laid today in this honourable Senate, are three financial statements of the Trinidad and Tobago Free Zones Company. I just want to refer specifically to the 1994 statement which indicates that the capital contribution of Government to the Trinidad and Tobago Free Zones Company is \$5.9 million. That is quite a lot of money to begin with.

The accumulated expenditure in the statement before us being \$5.7 million—I hope it is not inappropriate or rude for me to ask in terms of EPZs—what are the returns on this kind of expenditure over these years? We need to be informed; not only the Senate, but the nation. This is taxpayers' money we are talking about.

We may support the objective in revisiting the free zones as an instrument in economic development, and hopefully, as an answer to our most critical social issue, the unemployment crisis which demands attention. History seems to be repeating itself in the month of June, 1995. One recalls in the Free Zones debate of June 28, 1988, where the then Minister of Industry, Enterprise and Tourism said in this Chamber:

"The Government has, therefore, proposed that a team of four officials, including myself..."

That is the hon. Minister speaking

"should go to Hong Kong..."

[Interruption] No, it started there. This Minister of Industry, Enterprise and Tourism telling the Senate in June, 1988—we are in June, 1995 now.

[Interruption] Thank you very much for adding "others" to the team.

"... on 7th July, 1988."

I wonder what became of that Hong Kong visit? I hope it did not cost taxpayers \$2 million.

The Hong Kong connection holds, both for the past Government and the present one, a peculiar attraction, certainly not without its embarrassments. The small tiger of the East continues to fascinate this nation.

Free Zones (Amdt.) Bill
[SEN. REV. TEELUCKSINGH]

Tuesday, June 06, 1995

Among other investors, maybe this Bill would please the heart of this Asian feline whom we have been courting unsuccessfully since 1988, but who so far seems merely impressed with our offer. I hasten to add, lest I be misunderstood, that I know the free zones experiment is meant to attract all and sundry, not only our Far Eastern investors.

Since the recent piloting of this 1995 (Amendment) Bill, strong reservations and concerns were brought to the attention of the Government. Some have been brought today and it would not stop and I hope that these would not be ignored by the Government. Yesterday, Natuc expressed its fears. A moment ago a document was circulated here by a committee called the Free Trade Zones Action Committee. It has to do with the NGOs. At least people are concerned.

The non-governmental organizations; the labour movement, Natuc and the others—I am really hoping that the Government would sit down and listen to the various concerned and interested groups in this country, for we know that decisions based on desperation, and sometimes irresponsibility, can result in serious long-term consequences.

I am very concerned—and I am certain the nation is—about the demands and expectations of free zone investors. I am asking: How long would we be able to fulfil these obligations and at what cost to the country?

Mr. President, look at some of the principal features of this type of economic venture. Free zone investors hope to find cheap labour. With the rising level of unemployment in our country, this is fertile ground for the exploitation of labour with low wages and long hours. I do not know how we can change that. Will Government devise strategies to monitor wages in the free zones?

Another feature of the free zones is cheap and reliable resources. These investors are looking for cheap labour. They are looking for cheap and reliable resources. I wonder if we can guarantee this. I wonder if we are going to invite investors and have them supplied with truck-borne water? It is to be seen if this country can influence PowerGen to provide cheap electricity to the free zone tycoons. It is to be seen if we can persuade Severn Trent to keep the water rates down.

Why should we not be concerned about the assurances we are obliged to give to the free zone actors as we create an attractive environment, promising utilities which are dependable and in abundance, when citizens continue to suffer on a daily basis because of failed utilities, particularly water? If we experience so

much hardship for water in this country for domestic use, would we meet industrial demands? The answer is 'yes,' somebody says, but I suspect it would be still at the expense of our people.

Water and utilities designed for our own people would be redirected and channelled, not only to the free zones, but also to make more comfortable the foreign investors whom we are wooing. Someone advised that EPZs mean exploitation of our local infrastructure. We cannot change that. This is universal. We know this about EPZs anywhere in the world, and Trinidad is not different—exploitation of our local infrastructure: ports, roads, water, electricity. Do not talk about natural gas.

3.10 p.m.

All this is done by foreign capitalists. I want to draw your attention to clause 23 of the Bill concerning exemption from taxes for a free zone enterprise. It makes the Trinidad and Tobago Free Zone (Amdt.) Bill a freeness Bill. It states:

"...shall be exempt from income tax, corporation tax, business levy, or any other tax or levy in respect of sales, receipts, profits or gains arising from the approved activities in the free zone."

Let me add to this, I want to repeat it—cheap labour, cheap utilities, cheap energy, ready-made infrastructure; land and building complexes, as the hon. Attorney General said in his contribution, and now add to this tax-free concessions. This is a real freeness Bill. I ask: Why such indefinite tax holidays? This is totally unacceptable and it does not matter how poor we are, we do not have to be so stupid! After two or three years of proposed tax exemptions, the Government should apply some form of taxation on free zone enterprises, otherwise let the investors go elsewhere. I really believe that. I do not like this clause. It is the most disgusting clause in the Bill and it needs amending.

Mr. Valley: On a point of correction. That is not a clause in the Bill. That is a clause in the Act which was passed way back in 1988.

Sen. Rev. D. Teelucksingh: That makes it worse. It is still an abomination and I am very glad when Minister Valley was there as Senator in 1988, he objected strenuously to that. I do not want to believe that he is supporting that today.

Mr. Valley: Mr. President, let me tell the hon. Senator that is why we are restricting the application; the whole purpose of this amendment is to restrict the application of that EPZ legislation. That is the fundamental purpose of the legislation before the Senate.

Sen. Rev. D. Teelucksingh: Mr. President, I just want to remind you that nationals have been encouraged to save and we have been saving. Poor people who have savings have laboured in this country for many years and yet the Government takes 15 per cent tax on the interest of those savings. I want to remind you that almost everything that people purchase in this country is heavily taxed. The infamous VAT is repressive and yet anywhere one turns in this country, one is being taxed, but the rich tycoons who come from overseas with their millions, within this free zone giveaway, go tax free. This Bill is supporting economic injustice. I cannot understand this.

I want to close. In studying some of the literature on the free zones, I observed that since there are no guarantees on how long an EPZ investor will remain in our country and no strings attached, since there is no real commitment by an EPZ investor to people and nation—this is very important—they are coming here not because they love us, but to see how much they can take away—since they come here and their intention is to exploit our resources and leave at any time, then possibly, in my humble opinion, EPZs must be seen as short-term, ad hoc economic adventures, a sort of economic coney island which is no substitute for long-term investment.

Thank you.

Sen. Prof. John Spence: Mr. President, I do not really feel that it is beneficial for me to repeat the arguments that I made in 1988 with respect to the free zones activity. I spoke against it along with others on that occasion, and I have not seen any reason or listened to any argument on the last occasion or on this occasion to make me change that position. I just want to emphasize one or two points which I think are important. I think they have been mentioned already this afternoon but I want to emphasize them for my own point of view.

The first is the nature of the entity that we have set up. I argued in 1988 that we should have had a statutory authority, rather than a company.

In fact if I may quote:

"I certainly would like to have seen a statutory authority and not a company, because in a statutory authority you can build in safeguards. You can say what is to be done. It is much more difficult in a company under the Companies Ordinance. And I wonder if this is not why the route of a company was taken rather than a statutory authority."

To some extent the hon. Attorney General seemed to make that argument this afternoon. He was suggesting that we are going to have more flexibility from a

company. I really cannot accept that argument because it seems to me that the statutory authority has as much flexibility as is built into it in the Act. There is the possibility of giving it more or less flexibility by the way you refer to it in the Act. In the case of the company, the degree of control, while you may be achieving great flexibility, is limited by the fact that it is operated under the Companies Ordinance. I would certainly support the position that we should not have had an organization of this sort. It seems to be a great pity that we did not take the opportunity of amending the Act to have a real thorough change in the way that it would operate.

I would make one or two suggestions along the way which I would think would help to control this entity better. Before doing so I want to quote again from the last debate, not to score cheap debating points, but because I think it is important, since this Bill is being presented by Minister Valley, for him to give us the assurances that he asked for in 1988. If he is able to give these, then I think, perhaps, we would be on a sounder foundation for supporting the amendments now. To some extent the points that he made then, addressed many of the points which have just been made by the honourable Attorney General.

From *Hansard*. Sen. Valley said:

"So that, Mr. Vice President, to honour my commitment, I shall wind up and in doing so, I say that we will be prepared, as my colleague said, to give support to this Bill only on these conditions."

These are the conditions that I think we ought to concentrate on, which certainly, I think the hon. Minister would concentrate on in his winding up.

"There must be at least minimum, a high degree of backward linkage with the rest of the economy."

I would be interested to know what provisions would be made in this amendment to assure backward linkages with the rest of the economy

"There must be appropriate legislation or regulations to prevent employers in the zone from thwarting the attempts of workers in joining unions."

The hon. Attorney General has argued that the laws of Trinidad and Tobago apply. Listen to what the Senator said at that time.

"One can always say, yes, the law allows trade unions. The point is, what would an employer do if an employee says, 'I want to join Union X,' will that person then be fired the next day? There must be regulations to prevent that."

Free Zones (Amdt.) Bill
[SEN. PROF. SPENCE]

Tuesday, June 06, 1995

I hope that the hon. Minister will outline to us the regulations that will prevent that.

3.20 p.m.

"There must be minimum wages guidelines for all categories of workers."

Not just the ones that are now provided for with our normal laws, but all categories of workers.

"More importantly, there should be a general rule that any employee there cannot earn less than a comparative wage outside the zone."

This has nothing to do with minimum wage.

"Working conditions must be monitored on a continuous basis by Government agents."

That is why I asked the hon. Attorney General the question about the monitoring system. Perhaps we can have some explanation of the monitoring system.

"Yes, we are concerned about the waste and the pollution of the environment and yes, we want Government to take steps to prevent that".

I think we can argue that the EMA Bill which we have just put into effect would have jurisdiction over the export processing zones as well. Let us hope that they will be monitored in that way. "Of course, I agree with Sen. Mansoor"—Sen. Rev. Teelucksingh, I hope you are listening—that the fiscal incentives, especially the tax holidays, ought to be for a limited period.

The minimum that we can do this afternoon to improve the concept that we are developing is to introduce an amendment which would limit the time to which these concessions are allowed.

"When the Minister came here with the EDC, I went on record as having objected to the whole concept of an exemption in perpetuity. It is not the sort of thing that one does. We cannot agree with this pedestrian approach to economic decision making".

I hope that we can get those assurances, but I hope also that the Government will take on board the point that has been made by more than one person in this debate: that there must be a time limit to the concessions.

The points that I have made, which I hope would help to exercise greater control over this company refers to clause 3(2) in which I am suggesting that where the words "the company" appear, we substitute the words "Minister of

Planning and Development." It seems to me that the Minister of Planning and Development is the one who will have an overall view of the country and where new export processing zones should develop. The company, naturally, would have a position in which it would want to have the zones developed from the point of view of export processing zones, but we need to have some entity in the country which is looking at the overall development of the country. It would seem to me that that entity must be in the Ministry of Planning and Development and so the advice to the Minister for the development of new export processing zones seems to me to best reside in the Ministry of Planning and Development. The company has a vested interest in developing those zones and should not be the one to advise the Minister.

The next point that I would make refers to clause 6 in which the company is authorized to delegate certain of its activities and the hon. Attorney General has pointed out the limitation in these activities. I think his point is well made. Even here, it would seem to me that we would be best served by inserting before the words "the company may authorise", the words "with the approval of the Minister". Again, it would mean that the company cannot, on its own, delegate these authorities and that there would be some overseeing, at least, of the manner in which it makes its delegation.

These are the three amendments I would like to see in the present Bill:

- (1) A limit to the time;
- (2) Advice in respect of the development of zones not being given by the company itself, but by the Ministry of Planning and Development; and,
- (3) When the company is delegating this authority, it does so with the approval of the Minister.

That is not to say that I am enthusiastic about EPZs. I said in 1988 and I say it again, that it seems to me that that is not the development path that we should be pursuing. However, if these points which I have raised are attended to in this Bill, it would serve no useful purpose for me to vote against the amendment because the original Act would still be intact. Certainly, I would be very enthusiastic about voting for a Bill this evening that would repeal that Act. That is not possible, so my position would be to support certain modifications to the amendments which I think would go a little further in exercising control.

I support the point which is being made by the Minister of Trade that these amendments, to some extent, limit the operations of the original Act, and the

Free Zones (Amdt.) Bill
[SEN. PROF. SPENCE]

Tuesday, June 06, 1995

exclusion of certain activities such as those based in the petroleum sector. In that regard, I would support those amendments.

Sen. Surendranath Capildeo: Mr. President, this Bill is an exercise in national nihilism. It is the antithesis to the nationalistic instinct which we are trying to build in Trinidad and Tobago. It is a denial of pride in the nation. It is the ultimate capitulation to the economic armies of the First World. It is the First World's dream of the Third World's natural habitat; an eternal state of hewers of wood and drawers of water. This Bill is slave mentality at its best, making massa's already easy life easier.

Mr. President, these are the only conclusions one can come to when one considers our economic position. We are a nation blessed with energy-based natural resources, a fertile land, a predictable climate, an intelligent population and geographically and strategically placed between North and South America and Europe. And what does this Government do? The Government of the day sells everything out and it now wants to create a haven for the already rich of the world. The only things that this Government has not sold out as yet are the souls of our people but with this Bill the bodies of our people will be sold.

When one sits and listens to the hon. Minister of Trade and the other voices echoing in this august Chamber, one has to wonder what kind of nation this is. What is going on here? Where are our priorities? Let us look at the original Act, No.19 of 1988. It is called the Trinidad and Tobago Free Zones Act, 1988. Let us pay particular attention to the extent of the amendments. Because of the time constraint I will run through them very quickly, Sir.

3.30 p.m.

In section 2 of the Act, there is a deletion with respect to the Central Bank. There is another deletion and a redefinition of the Comptroller of Customs; there is an inclusion of natural gas and petrochemical and the petroleum industry; there is an amendment to section 3 and a repeal—new section. Sections 4 and 6 are repealed. Section 6(a) is included; sections 8(d) and (e) are amended. There is a new section 9. Section 15(3) is deleted and substituted, there are new sections (5) and (6). Section 16 is amended, parts are deleted; Section 17, parts are deleted and amended. Section 18 is amended; Section 20, amended; Section 21, repealed; Section 22, repealed and substituted, Section 23(1), amended, Section 24, repealed and substituted, Section 25, amended, Section 27, amended; there is a new section 27(a). Section 29, some parts are deleted and substituted; Section 30, completely repealed. Section 32, amended. There are new sections 32(a) and

33(1); Section 34 is deleted and replaced by a new section 34. Section 38, amended, Section 39, amended with a new section 39. Section 40, repealed. There is a new section 41. The Schedules are repealed.

Mr. President, would you not agree, that instead of having to pass this half-baked piece of legislation, a comprehensive Bill should have been prepared and brought to this Senate? I support my lawyer friend; the Senate must be given all the information and it is not good enough to say, that because a company is in the Companies Registry it is the duty of the lawyers to go and see the documents. Not everybody here is a lawyer. What about the Senators who are not lawyers? Do we not have a duty to them?

The sheer dishonesty, the rank irony of this debate is revealed in the actual words of the Minister. I want to spend an afternoon with *Hansard* on the Minister. Does Sen. Lewis remember Woodford Square "An Evening with *Hansard*?" Let us repeat it. I want to quote this Minister. I want to emphasize the irrelevance of this piece of legislation to the people of Trinidad and Tobago. These are the Minister's own words:

"I think it is known as a fact that the present Government while in Opposition was not enthusiastic about the free zones legislation."

Such a euphemistic word—enthusiastic. He opposed it hell hard but he says here: "The present Government while in Opposition was not enthusiastic..."

I continue to quote:

"On coming into office, given the Government's economic vision to position Trinidad and Tobago as a manufacturing, financial and distribution centre in this part of the world, the Government working on that vision and attempting to put in place the environment to achieve that vision, had cause to review existing legislation especially the existing incentive framework".

That economic vision is what? To set up what is documented and circulated here today by a committee called the *Network of Non-Governmental Agencies Organisations of Trinidad and Tobago*: I would quote what they said:

"The committee is also concerned with the quiet, surreptitious manner in which important pieces of legislation such as this Amendment Bill are introduced in Parliament without notification of the relevant interest groups, and without allowing time for public discussion of the matter."

Attached to this letter is documentation to show:

Free Zones (Amdt.) Bill
[SEN. CAPILDEO]

Tuesday, June 06, 1995

"In 1988 when interest groups mobilized against the original EPZ legislation, research data was provided to show that free trade zones in developing countries.

- are a misuse of the country's resources
- have minimal net foreign exchange value
- give unfair economic advantages to foreign enterprise
- results in loss of skills already acquired
- block the development of small-scale enterprise thus stifling the initiative of the aspiring small entrepreneur
- contribute to often fatal health risks
- add to the abuse and exploitation of women
- undermine the collective bargaining process
- perpetuate the dependency syndrome."

And the Minister says this is the new economic vision of his Government. What a vision!

The Minister went on:

"On a cursory examination of these pieces of incentive legislation it became obvious that some enterprises could qualify for benefits under each of the above-mentioned Acts, and would therefore opt for the Free Zones Act which provides for exemption from income tax, corporation tax, custom duties and other duties and taxes, in perpetuity."

For as long as Trinidad and Tobago exists on this earth these people are exempted from income tax, corporation tax, customs duties and other duties and taxes. What gives the Government the right to treat the people of this country with such contempt? The quote continues:

"...the committee recognized the need to rationalize existing incentive legislation..."

If this is how they are going to do it, then I suggest that they disband all such committees and never have any more in the future. The hon. Minister said:

"The first thing we are doing in the legislation is to exclude energy-based industries for qualification under the free zones legislation. We are restricting the application of the free zones regime, excluding energy-based companies."

You see, Sir, Nucor is in there already. So they rush now to pass the Bill to exclude other companies. We would have to re-examine that entire Nucor deal when the time comes. *[Interruption]* I do not threaten, I promise. *[Interruption]* Why are you worried about my committee stage? You do not appreciate leadership when you see it. The Minister continues:

"...in the infrastructure for free zones, real estate developers, and so on, would set up free zones and then rent to companies, so that infrastructure cost would not have to be borne by government. Again, one sees that that is one of the amendments being made in the legislation."

On that point, Sir, I want to refer to *Hansard*. I am quoting *Hansard* of May 16, 1995, Sen. M. Hosein:

"I wish to draw the Senate's attention to an article of April 12, 1995 in the *Express*, entitled: First Free Zone Complex Goes Up". In part, this is what this article says:

This is deadly serious business.

"Even before the Free Zone Act is amended, one private sector group has moved to set up a warehouse complex with free zone status in D'Abadie. It is called Intercontinental Business Park Ltd."

"Michale Le Chaloupe, director of the Trinidad and Tobago Free Zone Company, which administers all local free zones, complimented Conrad Sabga of Beaver Construction who is leading the development, on his initiative."

3.40 p.m.

It goes on further to say:

"It has already received Cabinet approval but will not enjoy the tax incentives due to it until the legislation is amended."

In response to that, Mr. Attorney General, the hon. Minister said, and I will repeat carefully what he said, according to the article:

"It has already received Cabinet approval but will not enjoy the tax incentives due to it until the legislation is amended."

Free Zones (Amdt.) Bill
[SEN. CAPILDEO]

Tuesday, June 06, 1995

That is an article in the *Express* of April 12, 1995; today is June 06; there has been no retraction.

The hon. Minister said in reply to that:

"...before a Bill comes to Parliament the Cabinet must agree on the policy. What was referred to is simply..."—

He was referring to Michale Le Chaloupe's statement. Listen to what this Minister says:

"What was referred to is simply that the Cabinet had approved the policy which results in the Bill today. As I said in my contribution, Cabinet approved that since January 1994. If Cabinet does not approve the policy, there would be no Bill coming to Parliament."

Therefore, Michale Le Chaloupe was correct when he said:

"...even before the Free Zone Act is amended, a private sector group has moved to set up a warehouse complex";

And he was congratulating Conrad Sabga of Beaver Construction, who is leading the development, on his initiative. It has already received Cabinet policy. Policy approval was given.

Mr. Valley: Mr. President, I am becoming more and more amazed whenever I come to this Senate. The policy with respect to the Bill was approved by the Cabinet. It went for drafting. If a private sector individual wants to start a development, and the development is not an approved one it cannot be approved until the legislation is passed. However, if he wants to start preparing his land, the Government cannot interfere with that; that is a private matter. The policy with respect to the Bill was approved by the Cabinet since January, 1994. As I said, I am becoming more and more amazed with the learned persons in this Senate.

Sen. S. Capildeo: I was quoting a statement by Michale Le Chaloupe saying:

"It has already received Cabinet approval but will not enjoy the tax incentives due to it until the legislation is amended."

In reply to that the Minister said Cabinet had agreed on the policy—you cannot slip out of it so easily—well, you can wave as much as you like. *[Interruption]*

Mr. Sobion: Mr. President, let me make it quite clear. Cabinet has not received any application from any entity to establish a free zone company as referred to in that article, and therefore has not approved any such application. None having been received. The hon. Senator is quite wrong in trying to construe

that statement about Cabinet having approved the policy. The policy clearly refers to the drafting of this Bill. If one looks at the amendment, nowhere is Cabinet required to approve any entity as an approved entity. That is a matter for the Free Zones Company. He is mischievous.

Sen. S. Capildeo: Mr. President, the hon. Minister was referring to a direct question posed by Sen. Hosein and he responded. So it is either that the *Express* is a stranger to the truth, and the reporter did not know or listen to what he was hearing and he went along and invented words of Le Chaloupe and printed them; or that the hon. Minister could not understand the question of Sen. Hosein. The facts are there, and *Hansard* is there. The Minister responded to Sen. Hosein and said that Cabinet approved the policy.

Mr. President, let us continue with "An Evening in *Hansard*." I want to refer to a clipping from the *Trinidad Guardian* of April 09, 1995. It is an advertisement. We are debating this Bill, it is not yet completed, today is June 06. This is an advertisement. It says:

"The business opportunity of the decade is at the gateway to the Caribbean and America. Introducing Intercontinental Business Park Ltd., free zone, Trinidad and Tobago's first private sector warehouse complex with free zone status."

This is an advertisement on April 09, 1995 in the *Trinidad Guardian* and it says:

"Conveniently situated 5 minutes from Piarco International Airport. Located between the boundaries of the Priority Bus Route and the Eastern Main Road.

- Well-managed, fully self-contained complex with all necessary handling services available on site.
- State-of-the-art security system and support services 24 hours year-round.

For more information on this exceptional business opportunity apply in writing or fax:"

The Member should be familiar with that word "fax", Mr. President.

"Free Zone

c/o Price Waterhouse."

Free Zones (Amdt.) Bill
[SEN. CAPILDEO]

Tuesday, June 06, 1995

Not Mark, Castillo and Toney; Price Waterhouse. The advertisement is there and it justifies what was written in the *Express*, that there is such a company and that the company was merely awaiting the passage of this Bill, so it could finalize its free zone status. The statement was never retracted.

Mr. President, where is the hon. Minister? Where is my Friend the Hon. Kenneth Valley, Minister of Trade and Industry, one-time opponent of the free trade zone, and now, proponent of the free trade zone? Where is he? One-time opponent now proponent. Where is this man? Let me repeat what he said. I wonder if he got a ticket to leave to go to the free zone. Because in Dominica he will need a ticket. Mr. President, listen to this Minister; he really has to be a choice Minister; he had to be chosen by the Prime Minister himself.

3.50 p.m.

Let me repeat the words of this Minister to let you know how serious this debate is, and the irony of the futility of this debate. Listen to the Minister:

"In terms of perspective, while we do not believe that the free zone legislation would result in hundreds of investors coming to Trinidad, we know it is one item in our arsenal, as it were, in our quest to attract investors to Trinidad and Tobago."

What does one make of that? Here is the hon. Minister of Trade and Industry whose business it is to attract foreign capital to help us develop this nation confessing in *Hansard* that he knows the piece of legislation that was brought to the Senate is not good. Why bring it? He went on, and this is the gem:

"While we feel certain that we are not going to get a hundred investors tomorrow, we know for a fact that there is some psychological benefit "

We are talking about the creation of jobs. We are talking about industry, factories and the hon. Member talks about psychological benefit. This is a sick government. There is need to have a committee of psychiatrists permanently in the Cabinet. I read this several times.

Hon. Senator: Valley gone off, boy! Foot in mouth disease.

Sen. S. Capildeo: Mr. President, this opponent, now proponent, went on, Sir. Norma, are you listening to what I am reading from *Hansard*? Eric Williams must be turning in his grave. Listen to the Minister:

"The legislation is on the books, but we do not believe that it will make the world spin any faster."

He is admitting that he is bringing legislation to the statute books of Trinidad and Tobago that will not make the world spin any faster. Why bring it?

"We are saying, however, that it must not apply to our energy sector."

After they let Nucor slip in, he is saying that it must not apply to the energy sector. After he has sold everything out. Then, the classic:]

"There has been no change in this Government's position. We said, in 1988, that the classical type EPZ will not spin the word. We say that again today, and experience has borne that out."

If he is saying that EPZs were not successful in 1988, what has happened in 1995? How has it changed?

"We are saying, however, that there is a psychological advantage in keeping the legislation on the books. It allows us a one-word answer rather than a two-page answer, and we prefer one-word answers."

Nowhere in the history of Commonwealth jurisprudence would one find a statement that says a law is passed because there is a psychological advantage to the law. Nowhere in Commonwealth jurisprudence would one find any legislator getting up and saying that a law is passed because there is a psychological advantage in passing that law and the Government does not want to have a two-page answer; it wants a one-word answer. It may be better to replace this hon. Minister with Ralph Maraj.

Mr. President, just how farcical and ridiculous can we get? This is a jokey Minister and a jokey Government. It would have been better if the hon. Minister had faxed his notes to me or sent me a video tape so that I could have looked at it on TV rather than come here and waste our time with this Bill, because he is not serious about it. But this Bill is serious business.

On page 4 of today's *Express* there is a headline which states:

"NATUC knocks Govt's Free Zone Plans

The National Trade Union Centre (NATUC) says it views with 'serious concern' the government's introduction of the Trinidad and Tobago Free Zones (Amendment) Bill, 1995.

'We wish to remind the country in general and the Government in particular, that it was the pnm in the persons of Patrick Manning and Ken Valley who led the blistering attack in the Parliament against the passage

Free Zones (Amdt.) Bill
[SEN. CAPILDEO]

Tuesday, June 06, 1995

of the Free Zone Act (1988), a Natuc press release said. 'This was at the time when the trade unions, women's organizations and other non-governmental organizations were raising great public outcry against the establishment of free zone companies in the country.

Natuc said these zones have become known internationally as sweat shops.

'Their super-exploitation of workers, poverty wages, atrocious conditions, anti-trade union practices are common features of the companies that operate in these zones,' the trade union umbrella organization said.

Natuc described as 'shocking' the government's latest moves to develop free zones. The aims of the new bill include instituting a new regime for the designation of areas which may or may not be used as a free zone; facilitating greater investments in the free zone; expanding the range of activities that may be undertaken in the free zone; and providing stricter control over these activities.

'What is even more shocking is that the Government has failed to make provisions that would protect the rights of local workers in these zones,' Natuc said.

These rights, it said, include an acceptable minimum wage; a specified work week; minimum health, safety and environmental standards, adequate provisions for the inspection of labour practices; the guarantee of severance benefits in the event of retrenchment or insolvency; the guarantee of maternity benefits; the rights of workers to join a trade union, and protection against victimization for doing so."

These are very serious charges and whatever the Government's view is of Natuc or the trade union movement, they represent people living in Trinidad and Tobago and the Government must respect and honour the people who live here. Notwithstanding the Attorney General's attempted explanation, the Minister must answer some of these points. I repeat:

... an acceptable minimum wage, a specified work week; minimum health, safety and environmental standards; adequate provision for the inspection of labour practices; guarantee of severance benefits; maternity benefits; the right to join a union .."

The hon. Minister must respond to the trade union movement. This is a Bill literally giving away large chunks of real estate of Trinidad and Tobago and putting them into the hands of people over whom we have no control and influence.

Notwithstanding all the protestations of the Attorney General, section 14 is quite clear. Is this not a piece of legislation which my Friend opposed quite honourably, and justifiably so I congratulate him on that opposition. He was thinking then. Something happened. Once one gets into the Twin Towers, all kinds of things happen to one.

Section 14 states:

"The Company may, with the approval of the Minister, make bye-laws for all or any of the following purposes—"

If there is a Minister who talks about the psychological benefit of legislation, what does one expect this Minister to do when legislation is put before him? This is serious business. It goes on:

- (a) specifying the returns and information to be submitted to the Company by approved enterprises;
- (b) prescribing and regulating the conditions for use of a free zone and its facilities and services, including the charges to be made for the use of that free zone and its facilities and services;
- (c) regulating, promoting or restricting the movement of persons, conveyances, vessels and goods in and out of a free zone;
- (d) regulating vehicular traffic anywhere within a free zone and in particular imposing speed limits on vehicles therein;
- (e) providing for security arrangements in respect of a free zone;
- (f) providing for the disposal of unclaimed property within a free zone;
- (g) prescribing any other matter or thing, whether similar to the above or not, in respect of which it may be expedient to make regulations for the purpose of carrying this Act into effect."

Mr. President, this is a state within a state. Section 14 gives the right for a state to exist within a state in Trinidad and Tobago, down to the regulating of vehicular traffic, down to the regulating and restriction of movement of persons, down to imposing speed limits. This is a country within a country and the Attorney General would come here and say that we are all governed by the jurisprudence of

Free Zones (Amdt.) Bill
[SEN. CAPILDEO]

Tuesday, June 06, 1995

Trinidad and Tobago. It has happened in Third World countries in the West Indies. If there is a corrupt government, big business from abroad would buy it out.

If they buy it out and set up their companies in the free zones, you have a state within a state and this Parliament will not be able to interfere with it because you have given them rights in perpetuity.

4.00 p.m.

Mr. Sobion: Mr. President, I wonder whether Sen. Capildeo has understood what he has read. Section 14 gives to the Free Zones Company of Trinidad and Tobago the power to make bye-laws to regulate the activity within the free zone area. It is vested in the Trinidad and Tobago Free Zones Company. It is not giving away in perpetuity anything to anybody.

At this time in Trinidad and Tobago there are certain agencies which have the right to make certain regulations and bye-laws. The Police Commissioner now makes bye-laws with respect to vehicular traffic etc. If he has that power, can that be construed as giving him the power to create a state within a state? The fact is that all we are doing is taking that power which now resides in the Police Commissioner and putting it in the Free Zones Company in relation to a certain restricted area. That is all it means.

Sen. S. Capildeo: Mr. President, out of respect for the office of the hon. Attorney General I did not object to him standing up and making another speech.

What this section 14 begins with and what I have demonstrated here with the words of this Minister—section 14 says:

" The Company, may with the approval of the Minister, make bye-laws..."

The point I am making is that if you have a Minister who is *non compos mentis*, if you have a Minister who is capable of being seduced, or if you have a Minister who is not all there or he is not nationalistic enough, he can create a state within a state.

Let us see the shift in the attitude of this Government, and I want to take off where Sen. Daly left off. Let us look at section 6 in the original Act:

"The Company shall—

- (a) administer, control, operate and manage all free zones and any other property which may from time to time be vested in it..."

And it goes on:

- (b) provide and maintain such services...
- (c) have authority over all goods...
- (d) permit customs offices...
- (e) make provision for adequate fencing..."

And a whole lot of things. Let us go to the proposed section 6A:

"In furtherance of the functions given to the company under section 6(1), the company may authorize an approved enterprise to develop, operate and manage a free zone and exercise any of the functions in relation thereto detailed under section 6(2)(a), (b), (f) and (g)."

The point was made that if you have a company which is doing any business under this clause, that company would be subject to the laws of Trinidad and Tobago. Reference was made to a section 74, I think it was. But I want to demonstrate the shift—and it is a significant shift—which has taken place in this Government. It is a shift that must have all citizens bothered. Again, this is in keeping with what Sen. Spence was suggesting in 1988 that there should have been a statutory corporation.

When you look at the Trinidad and Tobago Export Development Corporation Act, and when you see that safeguards laid down there, beginning in section 5 which sets out the board which must manage it; section 6 which deals with the director; section 7 which says who can and who cannot be a director; section 8 which says you must name all the members of the board and you must publish it in the *Gazette*; section 9 which sets out all the functions that the board must do; section 10 which gives the board the power to appoint committees and so on and to advise it, and section 11 which says—and this is not in any company's articles and memorandum of association; this is the laws of Trinidad and Tobago:

"A director whose interest is likely to be affected whether directly or indirectly by a decision of the Board on any matter whatsoever, shall disclose the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.

- (2) A disclosure under subsection (1) shall be recorded in the minutes of the Board..."

And so on. It continues:

Free Zones (Amdt.) Bill
[SEN. CAPILDEO]

Tuesday, June 06, 1995

- "(3) For the purposes of this Act, a director who holds an indirect interest in a company or undertaking where his spouse, parent, child, brother or sister or the parent, child, brother or sister of his spouse, holds a direct interest in that company or undertaking.
- (4) A director who fails to make disclosure of his interest as required by this section is liable on summary conviction to a fine of five thousand dollars."

If for an Act like the Trinidad and Tobago Export Development Corporation Act, the government of that day in its wisdom saw it fit to include all these restrictions and/or sanctions, how much more would we expect that in an area of free zones where they will be a law unto themselves, such a provision be included so that at least the people or the people's representative would have some control over what is taking place in the free zones. But there has been a definite shift in Government policy and that shift is that this PNM Government has abandoned its responsibility to the people of Trinidad and Tobago. It has thrown caution to the wind and it hopes for a windfall from private enterprise, and that will not work. We are too small and unstable a nation for us to merely privatize everything; sell out everything; give away large chunks of our real estate in free zones without the intervention and safeguard of Parliament, and hope that we would receive a windfall. We are too small a nation for that. This Government has abandoned its responsibility and does not care any more for the people of Trinidad and Tobago; it cares for the dollars and cents.

Let us turn to what Sen. Rev. Teelucksingh alluded to briefly, the financial statement of Trinidad and Tobago Free Zones Company Limited. I refer to the financial statement of December 31, 1994, page 2. This is where it is important that we have some kind of control over these companies.

4.10 p.m.

"Current Liabilities

Sundry creditors and accruals - \$294,699"

as opposed in 1993 to \$180,294. Of course, we had no explanation. We would be told that is the company's business. Three hundred thousand dollars to sundry creditors?

Mr. President, in 1993, the Korean Expo cost \$145,928. Now, what was the benefit of that Korean Expo? *[Interruption]* Thank you, Senator, and \$2 million to go to Hong Kong. What is the benefit?

"TIDCO Implementation \$306,765"

Do you remember the Tidco implementation?

"Far East Mission 16,544"

I do not know which part of the Far East. If going to Hong Kong cost \$2 million, what could cost \$15,544? How far east is that? *[Interruption]* When we reach environmental protection we would talk about that.

"Expenditure:

Salaries and related costs	\$375,214
Directors remuneration	75,600
Office rental	189,170
Telephone	32,063
Motor vehicle expenses	32,833
Office supplies and stationery	12,178
Legal fees	12,000
Consultancy fees	71,292"

Mr. President, with expenses of this kind, where are we going? Salaries, nearly \$400,000; directors remuneration nearly \$100,000; office rental, nearly \$200,000. Who were the consultants? Seventy-one thousand dollars in consultancy fees. Consultants for what?

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

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

Question put and agreed to.

Sen. S. Capildeo: Mr. President, on page 4, the most significant of all the big expenditures we can talk about. I think Sen. Rev. Teelucksingh said the Government had advanced some \$5 million. The cash at bank, \$46,764 which is a lot of money to these people.

Sen. Rahael: Why do you not refer to the deposits?

Sen. S. Capildeo: Which deposits? The one at Unit Trust of \$193,044?

Sen. Rahael: Yes.

Sen. S. Capildeo: All right, \$193,000 and \$46,000 are \$239,000, but salaries come to nearly \$400,000. Who is being fooled by that? Furniture is \$153,784. What are you all sitting on there? Is it plush velvet right through? Fixtures and fittings—this must be like the Prime Minister's gym—\$115,651. Equipment—God knows what kind of equipment, whether it is weight lifting—\$94,718.

Mr. President, with a financial statement like this, the Government should abandon this Bill and look seriously at the whole concept of free trade zones.

I close by asking this Government what are their priorities. I issue a challenge to this Minister of Trade and Industry that with the same urgency and enthusiasm with which he has brought this Bill, he do something to boost agricultural production in this country. I want the Minister to immediately—while he is seeking to pass this piece of legislation to help the foreign investors—help the local farmers by immediately waiving all duties on farming equipment like tractors, trailers, harvesters and irrigation systems, sprayers, etc.

I want the Minister to subsidize the cost of seedlings, fertilizers, non-toxic chemicals, weedicides and such things to promote agricultural production. I want him to finance a massive cloning scheme and rehabilitate all cocoa, coffee, coconut and citrus plantations in this country. I want him to provide money for aquiculture for the spawning and breeding of fish and oysters for my boy around the Savannah.

Mr. President: Senator, I believe you are addressing the wrong Minister.

Sen. S. Capildeo: No, Mr. President. This Member is the Minister of Trade and Industry, and agriculture is going to form the basis of trade in the next Government.

Mr. Valley: Mr. President, he is still addressing the wrong Minister.

Sen. S. Capildeo: Mr. President, I want to end with the question of the priorities of this Government: Just how much more important are free trade zones to the life of Trinidad and Tobago than agriculture or the local industry? What is the difference? Where does the priority lie? Is the priority for the foreign investor or for the local investor? I would like the Minister to answer that question.

I thank you very much.

Sen. Kamla Persad-Bissessar: Mr. President, the Minister has much to reply to because the lawyers have started on this side. We started with Sen. Capildeo and we would continue because there are many laws that this Minister would have to answer to.

Mr. President, like Sen. Capildeo, I spent the weekend with *Hansard*. Not at Mayaro, like my friend on the other side.

When this debate started, some of us felt that we would not need to speak, but it has reached the point, after hearing the hon. Minister and the hon. Attorney General, when we must speak. All that has gone on seems to be an attempt to bamboozle this Senate, and the nation, with high sounding rhetoric. In fact, the hon. Minister, when Sen. Capildeo was quoting from *Hansard* said, "Yes, that is good talk." High sounding rhetoric, but empty words.

What can it be, except rhetoric? It would appear not to be just rhetoric, but hypocritical rhetoric when this Minister stands in this Chamber and tells us that,

"the purpose of this amendment Bill is to provide a streamlined, transparent, legislative..."—big words—"administrative environment to encourage and facilitate the establishment of new export projects in their radically transformed world economic and political environment of the 90s and getting ready for the 21st Century."

4.20 p.m.

After one hears the words, the question that really comes to mind is: What on earth do these words really mean? I listened first, in amazement, to the hon. Minister, then incredulously and then with dismay at what one can only call the contortions, or perhaps, I should say the contribution of this Minister. I could not help wondering whether the Minister was really serious when he said in this debate:

"There has been no change in this Government's position. We said, in 1988, that the classical type EPZ will not spin the world."

My colleague Sen. Capildeo has already referred to these words. I believe that these words will haunt this Minister.

"We say that again today, and experience has borne that out. We are saying, however, that there is a psychological advantage in keeping the legislation on the books."

Free Zones (Amdt.) Bill
[SEN. PERSAD-BISSESSAR]

Tuesday, June 06, 1995

This he said after he had already told us:

"The purpose of the amendment is to provide a streamlined, transparent, legislative and administrative environment to encourage and facilitate the establishment of new export projects in their radically transformed world economic and political environment of the 1990s, and getting ready for the 21st century."

Again I need to ask: What do these words mean? They appear to the Minister to be something else but to us, apart from sounding nice they are contradictory. They are duplicitous. On one hand he is saying it is not going to spin the world and do anything, and on the other hand he is saying that the purpose of this amendment Bill is to take us and do all these things. What are we to believe when within his own contribution—as I said, some may call "contortion"—there are these apparent contradictions? One would not want to call them hypocrisy or duplicity for which the PNM has gained a lot of notoriety elsewhere.

In supporting my colleague on this side, perhaps the answer lies in the psychological something that this Minister sees in this Bill. Moreover, the words evince a clear change in the position of the Government despite the protestations of this Minister. He said that there has been no change in Government's position. Those who listened to the debate in 1988, some of them are here in this Parliament; those who followed it in the newspapers would remember that the Minister himself and those Members who are now in the Government, but who were then in Opposition, were exceedingly hostile—as Sen. Capildeo and others have said on this side—to the parent legislation.

Mr. Sobion: What side was your position?

Sen. K. Persad-Bissessar: Mr. President. I will say to you I was not then in a position of government, and I am not now in a position of government, but we will soon be there.

I am saying that despite their protestations this whole EPZ system was likened, as Sen. Merritt said, to slavery and indentureship. The most graphic description was given by then Sen. Rowley in the debate of June. He really echoed what was being said by the other Members. It is important in this debate that we recall the concerns that were raised then because those concerns are still before us today. In *Hansard* dated Wednesday June 29, 1988, then Sen. Dr. Rowley said:

"In the context of the debate, reference was made to slavery."

If I may point out that the reference that was made to slavery then in that debate was made by the Prime Minister, the Member for San Fernando East, in the Lower House. Sen. Rowley continued:

"It was not because the person was being flippant, it probably was because the person, like me, was being very sensitive...But those of us who are children of slaves, live by the concept that children of slaves will never easily put on the yoke again.

...if we are a little thin-skinned when we see developments which, in 1988, could lead to modern-day slavery. Because, you see, slavery is a thing that is not confined to the seventeenth, eighteenth and nineteenth centuries...There are forms of slavery in the world today as there is still piracy. Sen. Ramrekersingh pointed out the findings of rational people who studied some of the ills that can be associated with export processing zones, and in the context of the 1980s some of those things will equally fill the bill of slavery like some of the actions that took place in the seventeenth and eighteenth centuries right here in Trinidad and Tobago."

He continued, and this is important.

"Therefore, it is difficult, even if we are dealing with a problem like excessive unemployment, for us to take as the way out, an avenue which history has shown most likely will lead to degradation of our women."

How is it then that the Minister has said to us there is no change in the position of the Government with respect to EPZ legislation? If this Government is now coming to this Parliament and saying to us in this amendment Bill, that we want the support of the Parliament to get the amendments through, then it is not enough for the Minister to come and tell us about streamlining, administrative, facilitating and taking visions to take us into the 21st Century. He must now tell us what, how and why it is that conditions have changed from 1988 to what they are now in 1995, so that we could support the amendments brought to this legislation.

If they have had a change of heart then they should be honest and say that they have had a change of heart. Do not tell us there is no change in the Government's position because it is obvious from what was said then, and what we are hearing now, that there has been such a change. This Government is asking again for support for this legislation. Again, when the PNM was in Opposition—and as my colleague Sen. Merritt nicely put it about what happens when one gets into power,

Free Zones (Amdt.) Bill
[SEN. PERSAD-BISSESSAR]

Tuesday, June 06, 1995

the euphoria of power; I am sure the Minister and those on that side who were there, their memories would take them back to when that debate was going on. What was very important that came out from the PNM benches was their concern that certain conditions be met in order to assist them, or elicit their support for the 1988 legislation.

The hon. Prime Minister Manning, hon. Minister Valley and Dr. The Hon. Keith Rowley made it very clear in 1988, that they would not support the EPZ legislation unless there were certain conditions that were met. As we have heard this afternoon some of those conditions have not been met. The most important of those have to do with the condition of the workers. If we look at that *Hansard* again, we would see that the hon. Prime Minister, when he was in Opposition pointed out that the system of industrial relations and collective bargaining of the country ought to be scrupulously respected.

He also said that the conditions of work in the EPZ must be clearly established by law and scrupulously adhered to. The Prime Minister, then in Opposition, said with respect to the EPZs if the Opposition were to give support for it, there must be safeguards against disregard for the health and safety of those who would be employed in the EPZs. All of these we would like to see enshrined in the law. The hon. Minister who is now proposing this Bill had this to say as a condition for the support of that Bill.

"There must be appropriate legislation or regulations to prevent employers in the zone from thwarting the attempts of workers in joining unions."

This is very important because this is the very argument that was advanced by the hon. Attorney General in support of this Bill, but was used by the hon. Minister against the Bill. He said:

"One can always say, yes, the law allows trade unions. The point is, what would an employer do if an employee says, 'I want to join union X', will that person be fired the next day? There must be regulations to prevent that. There must be minimum wage guidelines for all categories of workers. More importantly, there should be a general rule that any employee there cannot earn less than the comparative wage outside the zone. Working conditions must be monitored on a continuous basis by Government agents."

How familiar all this sounds because it is the very concerns mirrored in the OWTU document which was referred to by my friend and which was passed to us here from the network of non-governmental organizations and signed by Hazel Brown, Merle Hodge, Dr. Keith Nurse, Narida Baksh-Soodeen and Sheila Rampersad.

Again, in the Free Zone Action Committee statement, the very concerns are still being raised. So it is regrettable that now that the PNM is in Government, and has the power to insert the relevant clauses for the protection and safety of the workers that it was so concerned about in 1988, there is nothing in the amendment which deals with all these concerns that had been expressed at that time. In looking at the amendment Bill, one has to ask where in the legislation is the insertion that will ensure no exploitation of workers in the EPZs. Where are the factors dealing with occupational health, safety, minimum wages, a proper work week and so forth?

4.30 p.m.

With the greatest respect to hon. Attorney General, it is not good enough to say that the workers in the EPZs will be subject to the normal laws of the land. This argument is another hypocritical one, because in this country there are no adequate protective mechanisms for workers in the absence of trade unions. The hon. Attorney General admitted that when he said, in response to the question on maternity, that the trade unions can have collective bargaining. Outside that, there is no legislation which deals with it. Perhaps the hon. Attorney General can provide legislation dealing with the whole question of maternity benefits, which is an issue which has been taken up by NGOs and by women's groups time and time again. This has not crossed the hon. Attorney General's mind because he will tell us to win the bargaining process with the trade unions.

I am saying that, apart from the trade unions, there are no adequate protective mechanisms in the laws of this country for workers. There are no laws which define an acceptable minimum wage, nor specified work week. The Occupational Health and Safety Factors Ordinance, which is presently in force, is a dinosaur. It dates back to 1928.

I say again that in the absence of trade unions, there are no adequate protective mechanisms for the workers in this country. This becomes particularly important when one is dealing with the free zones. We have heard the research from our colleagues on this side and from the Independents with respect to EPZs in other parts of the world and the conditions found there. The hon. Attorney General said that we cannot call them sweat shops anymore. That might be old. That might be in the 1980s, but I will ask him to look at the document by the NGOs to which I referred, from Hazel Brown, Merle Hodge, Dr. Keith Nurse, Rowida Baksh-Soodeen and Sheila Rampersad dated June 6, 1995. In this

Free Zones (Amdt.) Bill
[SEN. PERSAD-BISSESSAR]

Tuesday, June 06, 1995

document, they no longer speak of 1988 conditions in EPZs; they have updated their research and it is noteworthy that they state:

"In 1995 we can provide new additional evidence on the effects of these zones in the Caribbean. A study of the Dominican experience prepared in November 1993 for the United States National Labour Committee shows that:

- (a) the cost of living for a family in 1992 was US \$376 per month; Zone wages were only US \$99 per month ..."

It goes on—the Dominican experience updated. There is further information in this document which the hon. Attorney General should have a look at before he finally decides with respect to this legislation.

Mr. President: Will you be much longer?

Sen. K. Persad-Bissessar: Yes. I think so, Mr. President.

Mr. President: It is a convenient time to take the tea break.

Sen. K. Persad-Bissessar: May I conclude this point, with your leave? This will only take one minute. I will need more time after the tea break. Thank you.

Mr. President, I had said before that there are no adequate protective mechanisms in the absence of the trade unions. Now, this is very worrisome. There have been signals, a marked anti-trade union stance and a marked anti-workers stance sent out from this Government, so that there is great cause for worry about what will take place in these EPZs.

With your leave, Mr. President, I will continue after the tea break.

4.35 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

Sen. K. Persad-Bissessar: Mr. President, before we took the break I had made reference to the conditions that this Government, when in Opposition, had insisted should be included in the parent legislation in order for them to give support to the Bill. There was another condition that the PNM, in Opposition in 1988, wanted to have inserted in the parent legislation in order to give support to it. This had to do with the limitation of the fiscal incentives.

Sen. Mansoor has already mentioned that point and I would just make reference to it in passing. In 1988, the Minister said that fiscal incentives, especially tax holidays, should be for a limited period and that he objected to the whole concept of an exemption in perpetuity. We have heard several speakers this afternoon on that point. But here it is the legislation still retains perpetual exemptions with respect to the taxes and duties.

There was also a third condition of the PNM and that had to do with what they termed, a meaningful transfer of technology. That is, that they would support EPZ legislation if there would be a meaningful transfer of technology, and in particular, there must be training associated with the setting up of industries in the EPZs.

In the debate on this amendment Bill, even though the Minister said that one of the purposes of the Bill is to facilitate the transfer of technology by creating a conducive environment for firms that possess pioneer and other technology to locate in Trinidad and Tobago, he has not explained how the technology would be transferred. The Minister has not pointed to clauses in the Bill that would facilitate this kind of transfer. Perhaps in his winding-up the Minister would be kind enough to point out the clauses in the Bill that would facilitate the transfer of technology and that would make for training in the EPZs. Otherwise his remarks with respect to facilitating transfer of technology would be another set of empty words.

There was great concern in 1988 and the concern remains. Again, the PNM was exceedingly concerned, as were the other people in the nation, with the whole question of the Free Zones Company. I do not want to flog a dead horse because I think Senators Mansoor and Daly and my colleague Sen. Capildeo have gone into that whole issue. I do want to point out though, that at that time this was one of the conditions for support of the legislation. The Prime Minister, then in Opposition, expressed concern with the whole question of the Free Zones Company; the nature of that company, the responsibility of that company. The PNM said that they had grave doubts about the wide powers of the company, the role of the company as a middleman in terms of being able to give away, to ascribe, to farm out land that is put under its control. The company could buy utilities and sell utilities, a middleman kind of role.

How is it then that the hon. Minister can seriously stand in this Chamber and say that this amendment Bill makes for transparency, when the very concerns that were expressed in 1988 remain as they relate to the Free Zones Company? Where is the transparency in the light of those concerns?

Free Zones (Amdt.) Bill
[SEN. PERSAD-BISSESSAR]

Tuesday, June 06, 1995

I have said that both Senators Mansoor and Daly have mentioned the difficulties and the concerns with respect to the Free Zones Company. I share that view, and I would ask the Minister to give us some more information about this. How is the board selected? Does the board reflect a cross-section of views in the community?

The Minister in this debate tells us that one of the purposes of this amendment Bill is to restrict the application of the EPZ legislation. It seem to me that nothing is further from the truth. Apart from excluding the energy-based industries for qualification under the free zones legislation, I fail to see any other restrictions in this amendment Bill. Indeed, the Bill appears to be doing the opposite. For example, in section 3 of the parent Act, the President, could, by order, designate the free zone, and the Point Lisas free zone was specified. Now section 3 of the parent Act is repealed and replaced, the present and precise areas that are not free zones and the Minister can now designate a free zone. If I understand this correctly, it seems to me that free zones would be cropping up all over the country. How is it then that this is restricting the free zone legislation?

Another example in this legislation. The Minister has said that one of the purposes would be to expand the range of activities to be undertaken in free zones. Again, I ask, how is expanding the range of activities restricting anything. It appears to be doing the opposite.

Clause 18(c) and (d) in the Free Zones (Amdt.) Bill, far from restricting anything, takes away a restriction. I respectfully ask the Minister in his winding-up to tell us why it is that that restriction in clause 18(c) and (d) is taken away. The effect of the amendment is to delete the restriction from the parent Act from taking what it termed 'dangerous explosives' into the free zones and permitting the same under conditions specified by the Trinidad and Tobago Free Zones Company. The amendment is now removing that restriction and will permit the dangerous explosives in, under conditions that the Free Zones Company will specify. Why has this restriction been removed? If the Minister would be kind enough to explain, we would be very grateful for his explanation. That, too, appears not to be restricting anything, but in fact, to be expanding it.

When we look at clause 3(5) of the Bill, my colleague, Sen. Hosein had pointed out the need for a time period of 30 days to be included in this subclause, as a time period for delivery of an order after publication in the *Gazette* to the Registrar General. The order is made and published within 30 days to be lodged

with the Registrar General. Perhaps there should also be a time limit imposed in this subclause from the making of the order to the date of publication, because there is nothing which gives any time frame from when the order is made to publication.

Clauses 3(7) and 8(a) are very interesting clauses in the Free Zones (Amdt.) Bill. Exceedingly interesting, in the light of the concerns expressed by Senators Capildeo and Hosein about the article in the *Express* with respect to a company that was setting up as a free zone company in anticipation of the legislation, because both clauses 3(7) and 8(a) appear to give retroactive powers. I would respectfully ask the Minister, and I consider it exceedingly important for him to tell us what contingencies these clauses in the amendment Bill are intended to deal with. Why is it necessary to make the order retroactive? I would explain a little, Mr. President.

5.15 p.m.

Clause 3(7) of the Bill provides:

"An Order made under subsection (2), may take effect at any time within a period of ninety days prior to the effective date of the Order."

Listen to what it says because it is a contradiction. It says that the Order can take effect at any time within a period of 90 days prior to the effective date of the Order.

It seems very unclear. It seems to be saying that the order can take effect before the effective date. That is, perhaps it is an intention to have the order retroactive. To all intents and purposes, the order can therefore be in effect for 90 days but nobody knows about it. Mr. President, it is a very curious clause in the legislation, and it is not the only one. When we look at clause 8(a) similarly, it proposes to allow an order to take effect on a date prior to the effective date, a retroactive order, in other words. This raises problems of implementation.

In the parent Act the order under section 8 simply had to specify a date on which the enterprise is deemed to have begun. Now it is that the order is going to take effect on a date prior to its effective date. It is very, very, curious. I would ask the Minister to explain what contingency these two clauses are intended to deal with.

It is important, as I said before, in the light of the *Express* article of April 12, 1995 referred to by Sen. Hosein, Sen. Capildeo, the case of the Intercontinental

Free Zones (Amdt.) Bill
[SEN. PERSAD-BISSESSAR]

Tuesday, June 06, 1995

Business Park Limited which has begun construction of the warehouse complex with free zone status in anticipation of the legislation. Is this why the Bill is now making provisions for retroactive orders? Because there are these people sitting and waiting on it? Mr. President, it is in effect bringing a Bill to the Parliament and then dating it 90 days backwards. Why are we doing this? The Minister would have to explain why there are two clauses in this Bill giving retroactive power. We cannot support that; unless his arguments are very coherent, there is no way that we can support that retroactivity.

Mr. President, the whole question of accountability is raised by clause 6. There has been much talk this afternoon about clause 6. It is a clause for concern, and with the greatest respect to the hon. Attorney General, I do not think the issue ended after he spoke; there is still cause for concern. This proposes to authorize an approved enterprise to operate in a free zone, but there is no provision in this case for accountability. Under this clause it appears that such an enterprise will not be answerable to the Parliament, through the Minister or otherwise. The country will be kept in ignorance with regard to the actions of that entity. If this is so, another concern arises, namely that the Minister can place the management of a free zone out of the ambit of the Free Zones Company, and therefore, out of the ambit of accountability. I think that no one in this Parliament or this nation could gainsay the importance of accountability. I would ask the Minister to look again at clause 6 to see if he should really take this out of the ambit of the company, and therefore, out of accountability.

Clause 8(b) creates an offence where a person provides information which is false or deceptive. Mr. President, the word "deceptive" is deceptive. It is a very subjective word. Perhaps, the drafters through the hon. Attorney General could have a look again at that word "deceptive" and see if we cannot have a word that would give us a more objective measure.

Clause 14(2) and (3) provides for where the Comptroller inspects records, materials, and goods and so forth, and finds that there is a deficiency in any of these; save for certain exceptions, he shall charge customs duty payable on such deficiencies. Perhaps in addition to just paying the duties an offence could also be created with respect to subclauses 14(2) and (3).

Clause 28 provides that where the Minister is satisfied that an approved enterprise has persistently contravened the provisions of the Act, he takes action against such an enterprise. Perhaps, it would be more prudent, and with respect to the drafters, to specify "persistent contraventions" by giving it a number of

contraventions rather than leaving it open to subjective interpretation; "persistently contravening." Would this be 5, 10, 15 or 20? What would be persistent for the Minister? Perhaps a more objective standard could be used in assessing that particular clause.

With these words, I would like to say that apart from not being convinced by the contributions of the hon. Minister and the hon. Attorney General there is indeed great cause for concern with the legislation which is before this Senate. It is true that the EPZ legislation is already on the books, but it is also true that this Government had the wherewithal to bring, as Sen. Capildeo said, a more comprehensive revision of the EPZ legislation to take account of the concerns that were raised in the past and which are still being raised with respect to the legislation. In such circumstances we would find it exceedingly difficult to support the amendments that are before us. Unless the hon. Minister Valley, in his winding-up, can provide some of those answers it would seem that on this side we would not be able to support this legislation.

I thank you very much, Mr. President.

Sen. Junior Barrack: Mr. President, I have just a few questions to ask on this matter. My learned colleagues have been very eloquent and thorough thus far, and I know our leader on this side will go into this matter in greater detail. As a type of introduction for the leader I should like to ask these questions: How many jobs have been created by the EPZ legislation in effect? How many jobs do we expect will be created as a result of this amendment?

Mr. President, when I consider the words of the Minister of Trade and Industry that the Bill will have a psychological effect, I want to get that kind of information coming from him, because we have had a Bill that came before us that had a psychological effect. The Dangerous Drugs (Amdt.) Bill, 1994 had a psychological effect, because thus far it has not been able to achieve its objective. But people are of the opinion that a significant amount of work has been done by the Government as a result of the passage of the legislation. Here we have the Minister of Trade and Industry, a type of Houdini, a legislative psychologist who comes to this Parliament to legislate to psychologically appease the unemployed in this country. I would like to know if he is serious; he has to be a joker. There is a significant amount of unemployment in this country; the crime situation is alarming and the types of crimes that are committed, though violent, are also tied

Free Zones (Amdt.) Bill
[SEN. W. MARK]

Tuesday, June 06, 1995

to economics; for example, robberies, burglaries, crimes dealing with petty trading in drugs and so forth.

5.25 p.m.

Here he is saying that we are having this big piece of legislation going through Parliament but it would only have a psychological effect. The people who are unemployed would hear that the EPZ Bill is being debated in Parliament, the Minister of Trade and Industry said that it would create jobs but he knows that it will not do so. They would say, "Listen, we will relax because we will get jobs." He is insulting the intelligence of the people of Trinidad and Tobago, and it is not the first time.

I am not disappointed by the action of the Minister of Trade and Industry because I expect that kind of callous behaviour from him and other Members of this Government. They have persistently brought this country to the brink of disaster and I am not expecting them to do anything else. That is why I am here, so that we can replace them and get things done in this country in the way in which they ought to be.

Hon. Senator: If the Senator has a dream he should play Lotto or Play Whe.

Sen. J. Barrack: Mr. President, as far as I am concerned, the Senator is almost insignificant in the Parliament. If one looks at the type of psychology and philosophy operating within the global market, one would see a certain trend, and it is important to observe that trend. The First World countries have developed a system which is forcing Third World countries to go into competition, land and labour, for First World capital. That is having a disastrous effect upon the social composition of Third World countries. This EPZ situation is not exempted from the type of philosophy which is operating on the global market which our leaders have not yet been able to look at in any profound way.

What is happening is that Grenada, St. Vincent and the rest of the Caribbean, the Far East—Africa and so forth—are competing with one another, driving themselves down into the ground, destroying the social fabric, creating all sorts of disturbances within the social system of their country in order to attract capital. If any other country in the world might have to do that, this country does not, for the very reasons that Sen. Capildeo so eloquently put forward. We have natural resources that are in demand internationally. We have land; we have intelligent and skilled people. All we need is a government with the will to organize the various factors of production in Trinidad and Tobago, put them together, and then we could start making some kind of progress.

As I said, I would not be long and I know my Friends are relieved. I just wanted to ensure that we get some kind of answer from this Government concerning the real intent or effect of this piece of legislation—how many jobs will be created and how many jobs have, thus far, been created.

Mr. President, I thank you.

Sen. Wade Mark: Mr. President, I rise to speak on the Trinidad and Tobago Free Zones (Amdt.) Bill 1995 and to indicate from the very outset that if for some reason we were not clear about the state of health of the present regime—the Manning regime—I think that over the last three-and-a-half years it has been made manifestly clear to the population that the PNM is on public relations only. It does not have any projects, programmes and/or policies to rescue and transform our economy and our society. Therefore, the PNM government has collapsed in office. It is just a matter of time before its body is removed to the mortuary. We believe that very shortly the masses will have the opportunity to take its body to the mortuary and to the cemetery.

Our Constitution is very clear. If one looks at the preamble one would see that our Constitution has been founded on certain values and principles. We are supposed to have a belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institutions of national life.

We have a Bill before us which was brought before this Parliament without any consultation, discussion or dialogue with the relevant interest groups in Trinidad and Tobago, whether it is the National Trade Union Centre of Trinidad and Tobago, the non-governmental organizations. I do not know if the employers were consulted but the National Trade Union Centre was not. Yet, the Government expects co-operation and support for its policies whatever form they may take and however weak they may be, from the trade union movement and other organizations and interest groups in our country.

I have also attempted to examine the various documents put out by the PNM both as a party and as a government to determine where this whole question of the free zone concept originated and, try as I may to go through the PNM manifesto which was written for it. I could not have located any section of this document that supports the concept of free zones. It is clear that the PNM had an about face; it had a shift in gear, for what reason we do not know. All we can assume is that the Government is absolutely bankrupt. It is rudderless; it has no captain steering it anywhere and the whole country is heading for the rocks.

Free Zones (Amdt.) Bill
[SEN. W. MARK]

Tuesday, June 06, 1995

Nowhere in the PNM manifesto is it recorded that the PNM is committed to the reintroduction, restriction and expansion of the free zone concept which its leader, while in Opposition, vehemently opposed, and which we shall address at a later stage.

5.35 p.m.

We looked at the *Medium-Term Policy Framework* which is a document that is guiding our economic destiny, printed, published and circulated by the Government of Trinidad and Tobago, and there is no section in this document—we looked at all the Government's programmes, at the policy matrix—but we could not find any section that dealt with free zones.

The question here is: Why is it that the Government has suddenly decided to latch on to this concept of free zones which they so violently opposed in 1988? Is it as a result of the recent eye-opener that the Government experienced while it was in Hong Kong? Because as we speak we understand that there is a delegation from Hong Kong in the Republic of Trinidad and Tobago. We also understand that there is a visiting team from the Dominican Republic. We ask ourselves whether there is a link between the Hong Kong delegation, the Dominican Republic delegation and this present piece of legislation that we are debating in the Parliament today.

If the PNM Government had any programme or any serious sense of vision for Trinidad and Tobago we would not have been placed in the position in which we are today. I am talking specially about the younger people in our population. Clearly the Bill is a pathological response to an increasingly insensitive Government, desperate to provide some element of employment to an increasingly uneasy population.

In spite of all that the Government would tell us, we have an unemployment rate of close to 25 per cent, when we look at the rate of unemployment and under-employment today. When we combine those two it is closer to 25 per cent and representing more than 120,000 citizens. When we add to that figure the 20,000 young people who would be leaving the school system at the end of July we see no hope for those young people under a PNM administration.

Export processing zones are not things that came out of the sky. They are part of a global economic strategy that is anchored in an export-oriented development philosophy that is driving many developing countries towards, what they call, rapid modern industrialization. It is part of the neo-liberal strategy of development that is now being pursued with excessive speed by this Government.

The Government would have to tell us on this side, having analyzed this particular philosophy, or this particular concept, what are going to be the benefits accruing to this country when such a strategy is adopted. We think that based on the literature, these export processing zones are supposed to achieve certain objectives. They are supposed to generate foreign exchange. Of course, we know that is not going to be realized in our context, because we do not even know which industries are going to be attracted. We do not know, for instance, what are the plans of the Government to attract those particular industries, given some macro-economic plan of development that it may have. So there cannot be any kind of information at this time, coming even from the Government, on the question of how much foreign exchange will be generated as a result of the intervention of these foreign investors.

This EPZ or free zones strategy of development is supposed to also generate and promote employment, given the admission by the Minister himself, even though he is aware that there would not be many jobs, but he is hopeful that jobs will be generated and promoted. We must also recall that it was this same Government when it was on the hustings, when it was desperate for political power, told the entire population that it had a blueprint to solve unemployment. I think Sen. Rahael was a member of that committee which was chaired by the now Minister of Finance, the Hon. Wendell Mottley. It told the entire country: "Put us in power and we shall deliver the jobs." This Government has been in power for three and a half years and the only jobs it has been able to generate in this country are low-paid, unskilled, low-productive jobs.

If you look at the workers who are employed in the various training schemes you would realize that this Government is the leading exploiter of workers in Trinidad and Tobago. It is leading the private sector in demonstrating how it can super-exploit workers in this country. There are close to 10,000 young people of this country working for \$20.00 a day in various institutions. In other words, the Government employs these people and tells them the basis of their employment is on-the-job training. They are working the same eight hours as anybody else in the company, for \$20.00 per day and people have been working for three and four years under that kind of arrangement.

You would recall this Government said that the blueprint did not work, because it was a "mamaguy." Then it went to a second phase, which was to hold, what is called, an unemployment symposium at the Chaguaramas Convention Centre. That turned out to be a second "mamaguy" the population. In other words, the free zones are supposed to promote employment. I am saying that the

Free Zones (Amdt.) Bill
[SEN. W. MARK]

Tuesday, June 06, 1995

Government told the population that it would be able to provide employment. Three and a half years later we are being told, "Let us try this particular strategy again. Even though we opposed it, let us see what it would bring." The psychological legislator is telling us, "Let us see what psychological impact it will have, so we will bring it."

It is really amazing that in 1995 we can have people leading this country with such incompetence. Another factor that is supposed to result from these free zones is the transfer of technology and skills. Again without a plan, without some integrated comprehensive approach to our development process, we would not be able to guarantee any meaningful transfer of technology and/or skills in this country.

5.45 p.m.

Also, the establishment of forward and backward linkages in our economy would not be guaranteed unless we have an integrated, well-planned strategy of development, where one would be able to target the kind of industries one would want to come to one's country in a very selective way.

A country should not open its doors for every Tom, Dick and Harry to enter. A government does that when it is visionless and has no direction. Every opportunity Minister Valley gets to cut a ribbon to eat a pizza, he would do it. Do you know why? Because the Government of Trinidad and Tobago does not have a plan. He opens McDonald's, KFC and Pizza Hut and sits down there—I do not have a problem with the Minister eating heartily, but what is that doing to bring about the kind of transformation in our economy and country?

The PNM is visionless. The PNM does not know what it is doing. The Government of this country is leading 1.2 million people down a blind alley. That is the living truth. As the Prime Minister said, they are hoping to bounce back. This must be a game we are playing. One does not bounce back in politics especially when one does not deliver the goods.

Mr. President, we have a situation today where the Government is seeking to get us to support a measure that is going to provide generous incentives to foreign investors who invest in various parts of the country. This question has to be looked at very seriously in the context of our own situation in Trinidad and Tobago. The Government has relinquished its role as leader of development in the country.

No longer is the state involved actively in economic development. The Government is retreating very hastily from that process. It is as a result of this

retreat that we have legislation like this before us today. The Government is gambling; the Government is playing lotto, lottery and play whe with the lives of 1.2 million people. The Government cannot leave everything up to the private sector. Our policy is extremely clear on this question. One cannot relinquish responsibility for economic development. That is what the Government is doing. It has pulled away from the direct responsibility for intervention and has now decided to leave it to the private sector.

The private sector has its positive and its negative ways. Therefore, we have to find a formula whereby the private sector can play a positive role, but the state has to be the leader in that whole arrangement. Therefore, the public sector must take charge and lead in this regard.

That is why, for instance, if one looks at the Government's programme in its *Medium-Term Macro Policy Framework* one would see that the Government is seeking to retrench itself from the process of development and hoping that through export-led growth, we are going to have employment generation, economic stability and transformation of our economy.

Mr. President, we believe that unless we are able to bring about structural adjustment in our habits, values and attitudes, one can go to Hong Kong, the Far East or North America how many times one wants, it is not going to change the condition we operate under in Trinidad and Tobago. We must be in charge of our country. We must take charge of our economy. As one famous economist said, we must take up our bundle and walk. We must pull ourselves up by our own bootstraps if we are serious about development and transformation.

We know that the Government does not have to introduce a bill or an amendment to the Free Zones Act to ensure job insecurity or the violation of workers' rights. The PNM has now become very efficient; it is known and has developed a reputation for violating workers' rights and bringing about a greater fear and sense of job insecurity amongst the population in our country today.

This Government lacks credibility. No matter how many Bills we bring to this Parliament that require a simple majority, no investor is going to come to this country and invest in any free zone in any significant way.

The Government is without creditability at this time. Any government that can perform in the manner that this Government has performed over the last three and one half years, and particularly over the last few weeks, is not going to inspire confidence in our local investors or foreigners who are willing to invest in this country.

Free Zones (Amdt.) Bill
[SEN. W. MARK]

Tuesday, June 06, 1995

If one can fire someone by fax, or by television; put a man to act as Minister of Foreign Affairs and dismiss him after 10 days, that generates a kind of crisis in confidence, whether one likes it or not. The PNM has done serious damage to the country's international image. We are trying, through this Bill to attract foreigners to our country? How can one trust such a Government?

We must recognize that there are constraints to investment and development. This Bill, whilst it might look innocent, really touches at the core and gives an appreciation of the kind of philosophical direction that this Government has taken and continues to take.

When one has growing political instability in a country, it will not attract nor invite foreign investors. There is a growing social instability in our country as well. One only has to look around and one would see the landscape that is before us. One sees a picture of homelessness, joblessness, frustration and hopelessness. We have almost 25 per cent of the households in this country living in poverty, according to the World Bank, representing close to 400,000 people who do not know where the next meal is going to come from.

Mr. President, remember we have over 196,000 children attending over 460 primary schools in this country. Where are they going? What kind of life is the PNM preparing for them? What we have in this country is much social and growing instability.

5.55 p.m.

Crime is up; the suicide rate is up; growing hunger, poverty and teenage pregnancy are there. The social fabric is collapsing in the country. These are constraints to development. Local businessmen do not want to invest. They are afraid. There is excess liquidity in the banking system today because people are not investing in the economy as they are supposed to. The economy is supposed to have grown by 4.7 per cent. Where is the growth being reflected in people's living and working conditions? One cannot talk about an economic turn around in an economy, without addressing the high levels of unemployment. From where is the economic turnaround going to come? From where is the Athens of the Caribbean going to emerge? Where are you going to get the financial and business capital when at every corner one passes on Frederick Street there is a young woman or man sleeping under some cardboard? Where are we going with that kind of economic growth and development?

The PNM Government just does not understand what it has to do. It is a group of political infants. Children have been put to do men's jobs. It has betrayed and

failed the population. The population is frustrated. In fact we are predicting that at the next election in this country, the population, as they did with the NAR in 1991, will wipe the face of the PNM out of the political earth. We have no doubt about that. PNM is going! It will not come back again! We have certain constraints.

The point I am emphasizing is that we cannot continue along this path of the magic formula. It is not working. The market place as is being promoted by the Minister of Trade and Industry and Minister in the Ministry of Finance is not working. It has failed and it will continue to fail. It does not matter how many development concessions or fiscal incentives may be offered; they will not deliver any real transformation. We have been giving away all kinds of incentives from the 1940s and 1950s and Trinidad and Tobago still remains a country that is underdeveloped. We live in a country today where the gap between the haves and the havenots is widening; wealth is being distributed in a very skewed way, and where power and privileges are moving more and more towards a particular class and group in our country.

We have to understand that the strategy of investment facilitation as is manifested in this Bill is not going to deliver meaningful goods, services and jobs. What would happen is that our children would go to school pass their CXC and GCE examinations and they would be hired by Pizza Hut at \$200 per week. To work at Pizza Hut today, one must have five O'levels and two A'levels and if one wants to be a supervisor, one must have a first degree. That is the kind of society that we are preparing for our children. I am not sending my daughter to school to qualify to sell chicken and chips. Not even in America would they demand those kinds of qualifications for unskilled Americans to sell chicken and chips, hamburgers and pizzas. They come to Trinidad and Tobago and get our Minister to cut ribbon on these matters.

As far as we are concerned we believe that the Bill which is before Parliament represents yet another ad hoc measure. It is part of a fix and start approach adopted by this Government without any strategic plan. Therefore, the strategy of investment facilitation which was supposed to increase the level of economic activity, generate employment, promote exports in agriculture, manufacturing and services, especially tourism, are not working. We are of the view that the Government has to play a more dynamic role in the economy.

This is why a United National Congress Government does not envisage the concept of the free zone or the EPZ playing any meaningful or critical role in our

Free Zones (Amdt.) Bill
[SEN. W. MARK]

Tuesday, June 06, 1995

own overall development strategy to resolve and redress the issue particularly of employment generation in our country. We believe that job creation will form a very key plank of our platform. If we are to address this question, we will have to focus on the agricultural sector. We have made it very clear that that sector has to be completely reorganized and reoriented if we are to deal with the problem of unemployment and give people some sense of sustainability in their employment and in their lives. If the Government is interested in finding solutions to the problems of unemployment, we do not have to give away our country.

It is extremely heart-rending when one looks at clauses 34 and 22 of the amendment Bill and realize that the Government has expanded—

Mr. Valley: Mr. President, I do not know what the hon. Senator is looking at. As far as I know the Bill I have before me has 29 clauses. I wonder whether he is quoting correctly when he talks about clause 34 of the Bill.

Sen. W. Mark: I am talking about clause 22 of the Bill on page 16. There is section 34 (1) (2) (3) and (4) of the Act. I am dealing with the Trinidad and Tobago Free Zone (Amdt.) Bill 1995, not the parent Act.

We want to put it to the Senate at this time that it is misleading to tell this Senate that the Government is seeking through these amendments to restrict the activities of free zones in the country. It did it in one small way. Nucor got in and the Government does not want another Nucor to come in. The Government has added to the concessions that were in the parent Act. In other words, there appears to be more concessions being given to investors in this particular Bill that is before us than what is contained in the parent Act.

Apart from the exemption from income tax, corporation tax, business levy, and any other tax or levy on sales, receipts profits or gains, in respect of those services, there is a situation where companies would not have to pay lands and buildings taxes.

6.05 p.m.

Mr. Valley: For avoidance of doubt, where the Senator is saying "apart from", I wonder whether he would make it clear that those concessions are there since 1980 and that "apart from" does not suggest that we are giving those concessions in this Bill. The same applies to the lands and buildings taxes.

Sen. W. Mark: The point I am making is: What will it cost the national Treasury? What will happen to the Exchequer account when one calculates all these concessions which are being granted by Trinidad and Tobago?

Mr. Valley: The Senator started off by making the point that this Bill is giving additional concessions and I wondered whether he could point to those additional concessions being given by this Bill.

Sen. W. Mark: I cannot recall because I have not been able to find them, but maybe my good colleague can help me.

[MR. VICE-PRESIDENT *in the Chair*]

Mr. Valley: Would you then say that—

Mr. Vice-President: Will you continue.

Sen. W. Mark: I did not know you were there, Mr. Vice-President.

Mr. Valley: On a point or order, Mr. Vice-President. I am saying that the Senator is misrepresenting the facts if he claims that more concessions are being given in the Bill and is now not able to point to those concessions. I would kindly ask him to withdraw that statement.

Sen. W. Mark: No, Mr. Vice President. I am not withdrawing that statement. The hon. Minister has not given me an opportunity to develop my argument.

Can the Minister point out to the Senate where in the parent Act there are exemptions from any tax and duty, levy or surcharge relative to the importation of goods into and exportation of goods out of the country, whether imposed under the Customs Act or any other written law?

Mr. Valley: If the hon. Senator would look from section 32(2) to section 34 of the parent Act, he would see all of those exemptions. I thought the Senator knew what he was talking about.

Sen. W. Mark: The Minister is saying one thing and the Act indicates something else. The Act says in section 33:

"An approved enterprise engaged in manufacturing in a free zone shall be exempt from corporation tax, withholding tax, unemployment levy, national recovery impost and business levy in respect of profits or gains earned from such manufacture."

Mr. Vice-President, I will read what is written in clause 23 of this Bill:

"33(2) The Company and an approved enterprise engaged in exporting services from a free zone to a territory, other than the customs territory shall be exempt from income tax, corporation tax, business levy, or any other tax or levy, on sales, receipts, profits or gains in respect of those services."

Free Zones (Amdt.) Bill
[SEN. W. MARK]

Tuesday, June 06, 1995

This is not contained in the parent Act. The Government has gone beyond the concessions which have been granted in the parent Act. I hope you understand where I am coming from in terms of this matter.

Mr. Valley: Mr. Vice-President, this Bill goes no further than the parent Act.

Sen. W. Mark: We have to amend what we have here then because it is certainly a contradiction between what is contained in the parent Act and what is here.

Mr. Valley: The basic principle in the phrasing is that no tax is paid. Senators would remember that VAT and business levy, for example, came into being after 1988 and the principle of no tax is maintained in the Bill.

Sen. W. Mark: I am not convinced by what the Minister has said. All we are saying is that when we assess the concessions that are being granted to foreign investors as against the benefits which will accrue to us, the Minister cannot provide us with any reasonable account of the net benefits which will accrue to this country as a result of these concessions which have been granted and which people will take up.

There is this advertisement which was brought to your attention earlier about a company called Intercontinental Business Park Limited, which will be entering the free zones business and which is engaged in private sector warehouse complexes. They will enjoy all these concessions. What is disturbing and painful is that the Minister of Finance has just told the country that some of the biggest tax evaders in our land are businessmen. He said to us at a tax seminar that every year some businessmen submit their accounts which show lower profit levels while at the same time, one sees more yachts on the high seas. The Minister of Finance told the entire country this. He also told the country that we have to brace ourselves as a nation for higher taxes in 1996. He said, that we have to find more creative ways and means of financing Government's social programmes. So, we are giving concessions to foreign investors. Corporation tax went down from 45 per cent to 38 per cent recently. So whilst some people are getting incentives to enhance production and to generate more employment, the poor and ordinary working man and woman in this country are being called upon to prepare themselves to pay more taxes. So there are no concessions for the working people and the middle class in this country, but in this instance the concessions in the main are going to foreign investors.

My colleague also referred to a certain clause of the Bill which referred to the question of retroactivity. I hope that the hon. Minister would give us some

clarification on this matter. This is clause 3(7) of the amendment Bill, which states:

"An Order made under subsection (2), may take effect at any time within a period of ninety days prior to the effective date of the Order."

I agree with my colleague that it suggests retroactivity, but we on this side would like to find out why the Government of this country has not acted with the same speed and efficiency in addressing the problem of amendments to the Retrenchment and Severance Benefits Act. Why does this Government not do something, in the face of a Privy Council judgment that says if a company goes into liquidation and dismisses all its employees, it does not have an obligation to pay those workers severance benefits. Any company in Trinidad and Tobago can set up with their bankers, trigger some mechanism, go into liquidation and if a person worked with that company for 30 years, he does not have a cent to get in severance benefits. This is a judgment that came out of the Privy Council last year, and the Minister of Labour has not moved on that issue. With all the promptings coming from the National Trade Union Centre to amend the Severance Benefits Act, that Act is still lying idle.

6.15 p.m.

I would like the hon. Minister of Trade and Industry to move with that same speed, and bring to the Parliament such legislation to ensure that the rights of workers in this country are protected.

With respect to minimum wages, Mr. President—it is giving concessions to the poor. Recently it brought a Minimum Wages Order to this Senate to give private security guards minimum conditions of employment. One week it was minimum, the next week it was a mistake and the Government took it back. This Government is violating, and promoting violence against workers and ordinary people in this country. This Government is guilty of undermining the collective bargaining process. It is operating hand-in-glove with certain forces to destroy and to virtually get rid of the trade union movement, and to bring the whole work force into a casualized kind of arrangement.

Mr. Vice-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: Mr. Vice-President, all we are saying on this side is that the Government must be able to give certain guarantees if it is serious about protecting workers' rights. Mr. Vice-President, you were probably not here in the Parliament at that time, but the then Opposition Leader in 1988 was Mr. Patrick Augustus Mervyn Manning. Mr. Vice-President, you would not believe what the *Hansard* record would reveal on the PNM's position on the free zones in 1988. The Manning administration said one thing when it was in Opposition and when it got into power it did the exact opposite.

Mr. Vice-President, let me quote a section so you would understand what we are dealing with. At that time the NAR Government was touting and shouting about the importance of the legislation in respect of job creation. This is what Mr. Patrick Manning, representative for San Fernando East said on July 8, 1988.

"The difference of course, lies in the question of dignity and let me straightaway deal with a point that has been raised by the Member for Pt. Fortin. The hon. Minister said that to go against the Bill..."

Because PNM had voted against the Bill.

"Is to go against an attempt to provide jobs for a large number of unemployed in this country. In the perception of the hon. Minister—and I am sure he has been speaking on behalf of the Members on that side of the House—all that matters is the creation of jobs, with complete disregard for one of the planks and platforms that they have been pursuing very early in the game, the question of human dignity. If it is purely a question of job creation, then may I suggest to the hon. Minister that he can advise his Government to take this country back to slavery and indentureship because in the days of slavery there was total employment; there was no unemployment problem whatsoever."

This is what Mr. Patrick Manning said on the Free Zones Bill that was being heavily debated in the Parliament. At that time Mr. Manning was a stout defender of trade unions, as Mr. Valley was. They have now become an enemy of the trade union movement. *[Interruption]* I continue to quote:

"We are dealing with people who are becoming increasingly desperate. We know that in these circumstances, when people feel that they are not in a position to do otherwise they tend to accept what is available to them. It would be a pity if what they accept does not conform with the aspirations of

the population because the Government did not see it fit to take steps to ensure that those aspirations were appropriately met.

Mr. Speaker, important in the EPZs is the whole question of trade unions and trade union activities. It is not good enough to say that EPZs will exist in the context of the laws of the country. Even now—and I do not wish to go into the details—there are powerful unions in this country who have been seeking to unionize certain companies and notwithstanding the power of the unions they are unable to achieve it. In a market such as this, it is not a sellers market, it is a buyers market;..."

SITTING OF THE SENATE

The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith): Mr. Vice-President, I beg to move that the sitting of this Senate continue until the completion of the debate on this Bill.

Question, put and agreed to.

TRINIDAD AND TOBAGO FREE ZONES (AMDT.) BILL

Sen. W. Mark: Mr. Vice-President, I continue to quote from Mr. Manning's contribution:

"...You can imagine if a company is set up in an EPZ in Trinidad and Tobago and somebody goes for a job, they get that job and then they seek to join a union. What is to prevent the employer from terminating the employment of that particular individual? Especially when that employer recognizes that the person will not come under the Industrial Relations Act. Persons come under that Act only when they are associated with a particular trade union. That is the disadvantage."

I am saying that the PNM at that time was able to see through this particular Bill that was introduced by the NAR at that time. Mr. Patrick Manning went on to outline certain conditions if the PNM were to support the Bill. I want to tell this Senate, the conditions that were advanced by the PNM, under Mr. Manning at that time.

"...Mr. Speaker, we need assurances by way of legislation that the system of industrial relations and collective bargaining of the country will be scrupulously respected—condition number one. Condition number two, that there must be a meaningful transfer of technology and in particular there must be training associated with the setting up of industries in our export processing

Free Zones (Amdt.) Bill
[SEN. W. MARK]

Tuesday, June 06, 1995

zone—you must remember that the country is making concessions; the country is forgoing income that it might have obtained if it had not given the concessions that are being given; and therefore it is not entirely unreasonable to expect that the country will look forward to getting something from it, not something that is fleeting, but something that will last even if the companies that are set up..."

Mr. Manning went on to talk about all kinds of conditions that they wanted to have met. We come here today and the Minister of Trade and Industry appears to be very quiet, he appears to be very innocent, a virgin virtually, based on what he and his colleagues in Opposition were then committed to.

If the Government is serious about these matters, it has to recognize that there is a trade union movement in the country and that that trade union has an important role to play in monitoring developments, particularly in the export sector, and also guaranteeing the rights of workers. The trade union movement contributes towards national development.

We are also of the view that in any serious country, there has to be some institutional mechanism established to involve the Ministry of Labour and Cooperatives. We do not even believe the Ministry of Labour is involved in this whole process. The Ministry of Labour is understaffed, it does not have the kind of proper mechanisms to monitor these situations; the labour laws of this country are not being enforced adequately at the present time.

Therefore, if we are going to extend to foreign investors the kind of facilities and concessions that are being advanced under this Bill, we think it is necessary that the Government put in place certain measures. One of the measures that must be put in place is a national minimum wage. We need a national minimum wage in this country. That is an area that the Government has to address.

We are also advancing that we have to scrutinize these companies that come into this country and work in the free zones. We are calling for the establishment of a parliamentary committee to monitor the activities of these investors.

6.25 p.m.

Sir, we are saying that we have to be careful that we do not destroy legitimate business in this country. That is, see that domestic enterprises are not undermined and at the same time the sovereignty of the country is not compromised. We have not been convinced so far by the Minister of Trade and Industry and by the

Government that this Bill is absolutely necessary. It is a stopgap measure which does not offer any real solutions to the country's problems. We believe that the Government, as usual, continues to play games with the lives of the people. It probably would have made some commitment to the Hong Kong elite and also its friends in the Dominican Republic and it is now seeking to get approval from this Parliament.

We on this side would find it extremely difficult to support a measure that does not offer any serious hope for the people of this country. The Minister has come here and has not provided us with any kind of forecasting; he has not provided us with any kind of cost benefit analysis; he has not indicated to us how much we are going to lose, how much we are going to gain; what is the net benefit, and what is the net loss. We cannot continue to shoot in the dark. Until the Minister of Trade and Industry is able to convince us of the importance of this measure by providing us with all the necessary information and forecasts, it would be difficult for the Opposition UNC to give any credence to this measure that is before this Parliament. Unless he is able to do so we would not be able to support the Free Zones (Amdt.) Bill.

Thank you very much, Mr. Vice-President.

Sen. Everard Dean: Mr. Vice-President, I would really like to support this amendment, but having listened to the Senators during the debate I have my doubts, so I am caught between a rock and a hard place in making that decision whether to support. But Mr. President, when I see the homelessness around us I want to support this Bill; when I see people eating out of dustbins, I want to support this Bill; when I see people particularly our young people, pounding the pavements looking for a job, I want to support this Bill. When I read about the unemployment rate I want to support this Bill; when the destitute rings the gate bell on a Sunday morning, I want to support this Bill; but when I hear the cry of the trade union movement I have my doubts. Perhaps, it is a challenge to the trade union movement to get in there and do what is necessary in order to see that the workers get their just due.

When I read the paper circulated by the NGOs I have a problem—I do not want to support the Bill. Mr. Vice-President, when I hear about the dangers of a free zone company as against a statutory organization I have my doubts. When I hear all these different contributions made by the Opposition of 1988 and what is being said now I have my doubts. Mr. Vice-President, as lawmakers we are

Free Zones (Amdt.) Bill
[SEN. DEAN]

Tuesday, June 06, 1995

expected to use our best judgment when it comes to dealing with the people's business. I hope that after the Minister's response I would be in a better position to vote on this Bill one way or the other. We have had some amendments circulated, one is attempting to put a cap on the perpetual tax-free situation, and the other is attempting to deal with the whole question of conflicting interests.

Mr. Vice-President, I want to exhort the Government to look carefully at these amendments with a view to responding positively to them. I can assure them that if these matters are addressed I would be inclined to support the amendment. As I said, I am between a rock and a hard place, but I know I have my responsibility, but I think it is double jeopardy for the Government. In that, in opposition it said one thing and in Government it is saying another.

I have no doubts that the country is looking at the results of this amendment. I sincerely hope that with this amendment the kind of investment that we anticipate will take place. I certainly would not like to see the Hong Kong Mafia come to Trinidad and Tobago. We have to be very careful with free zones notwithstanding all the good things said about them, because there are also some bad and we must put mechanisms in place to deal with the bad side. I have read an article in one of the newspapers over the week-end that Canada is now reeling under this free citizenship which they gave the Taiwanese to go in and invest in Canada. We must learn by these examples. If Government would learn by these examples by putting the protective mechanisms in place to deal with this, I think that the country might be better off.

I want to close by saying that with the kind of destitution taking place in this country; the kind of problems that the young people are experiencing to find a job; even the heads of households with the recent spate of VSEPS and VTEPS, those who are not hanging themselves are living under the stores. I sincerely hope that this amendment together with the other proposals from my colleagues on the Independent Benches will help us to move forward with some degree of comfort.

6.35 p.m.

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Vice-President, when I came here on the first day I thought we would have been able to complete the matter on that day but, of course, there were other things taking place on that day. Perhaps, it was good that we did not conclude on that day because it appears that a number of my colleagues on the other side decided that, given the time, they would contribute to the debate.

I thank all Senators most sincerely for their participation in this debate, and I regret that they were not there with Sen. Prof. Spence and me in 1988 to voice their opposition so that the piece of legislation never might have seen the legislative books. It was clear to me that hon. Senators, other than a few, wanted to participate in the 1988 legislation, the Bill which set up the EPZ, rather than participate in the legislation which is before the Senate today.

Mr. Vice-President, I said in my opening remarks that the whole purpose of this legislation is to restrict the application. I did not come here to praise EPZ. I came to restrict the application of EPZ, and that is the whole purpose. The whole argument of the EPZ is that this legislation was supposed to cater for a certain type of investment; investment which would not otherwise come to Trinidad and Tobago. As I said in my opening, when we attempted to review the incentive framework early in 1992 we realized that that was not so, that given the different pieces of legislation, because this one offered all of these benefits, one would have chosen the EPZ rather than the fiscal incentive or export allowance. We had to make a decision. What do we do? Of course, one had the option of repealing the legislation. After giving consideration to a number of variables, which I would go into, we decided to leave it on the books but restrict its application.

I want to deal with the whole question of restricting the application of the legislation. Some Senators attempted to show that we were expanding the range. May I state categorically that is not so. We are taking out the whole energy sector. One cannot come now with energy sector companies and expect to benefit from the EPZ incentive regime. That is a big part of our economy. The fact that we are doing that is a major restriction. I think it was Sen. Persad-Bissessar who, may I add, was in the party that was responsible for this legislation—the record will show that Sen. Prof. Spence and I voted against the legislation in 1988, but every Member of her party at that time voted for the legislation. I cannot defend and I would never attempt to defend EPZ legislation but, in a while, I would deal with why we thought that it should be left on the books even though on a restricted basis.

The additions that the Senator spoke about. Let us see what we added. The First Schedule, Part I states:

"Prescribed activities which may be carried on in the free zone.

(11) Merchandizing, including international trading in products."

Free Zones (Amdt.) Bill
[HON. K. VALLEY]

Tuesday, June 06, 1995

We included international trading in products. Why? Because we want to use Trinidad and Tobago as a distribution centre. We are on record as saying that we want to position Trinidad and Tobago as a manufacturing, financial and distribution centre. If we want to take the opportunity up the Orinoco, we have to use the site as a distribution centre. It goes on:

- "(12) Constructing, altering, reconstructing, extending or repairing infrastructure or premises situated within a free zone and including the equipping of such premises.
- (13) Sale, lease, rental or management of the free zone land infrastructure, premises, plant, equipment, facilities and services."

Those are the changes. Given the fact that the Government now wants to back out from directly financing free zones, given that the Government is now interested in getting the private sector involved in developing areas to be used as free zones, hon. Senators would understand why that is necessary.

Let me come to the vexatious issue first raised by Sen. Capildeo. Section 3 (1) of the existing legislation states:

"The President may, by Order, designate such area as he thinks fit as a free zone and such Order shall name the free zone and define its limit."

There is already an Act under which one can designate an area as a free zone. If a free zone company wants to have a free zone other than Point Lisas one can do that and run it and get all the benefits. If another enterprise wants to go and start managing a free zone, acting as landlord, then that company has to wait until it is an approved enterprise, that is, after this legislation is passed. That investor can have an area designated a free zone because that permission can be obtained under the existing legislation. I just wanted to deal with that matter.

I was making the basic point that there has been no expansion in free zone activity. We are taking out the whole energy sector which accounts for roughly 30 per cent of our economy.

Mr. Vice-President, let me deal with the issue of why we did not simply repeal the legislation. I made the point, first of all, that we believe the free zone can be important if we want to develop Trinidad and Tobago as a distribution centre. Let us take a company that is doing what an approved enterprise will do in a free zone. It must be borne in mind that the benefits are tied to the fact that the exports must be extra-Caricom exports because the whole of Caricom is considered part of our domestic market.

If a firm in the free zone is exporting to, what is called, the customs territory—Trinidad and Tobago or the rest of Caricom—that firm has to pay customs duties just as though the firm was in the United States and exporting to Caricom or Trinidad and Tobago. Recently, there was a situation where Dunlop applied to go into a free zone but when they realized that if they were selling to persons in Trinidad and Tobago they had to pay customs duties as though the product is coming from outside of Caricom they decided not to go ahead. A firm in the free zone is limited to 20 per cent by an administrative order and if it is selling anything to Trinidad and Tobago or the rest of Caricom that firm has to pay customs duties.

6.45 p.m.

Under the export allowance concept a firm in the non-oil sector pays no tax on its sales extra Caricom. So that to that extent the firm in the free zone and the firm outside the free zone are on par. One gets an exemption from corporation tax by the Free Zones Act; the other is exempted via the export allowance. But there is a difference. A firm outside the EPZ, if it is selling to Caricom does not have to pay customs duties because it is a Trinidad and Tobago firm. So to that extent, the firm outside the EPZ gains a benefit. So that is the first minus of the EPZ.

Now dealing with the question of the tax in perpetuity—the export allowance. As long as the firm is selling extra-Caricom, that firm will not pay any tax on those sales in perpetuity. So that we take the same firm, one that qualifies under the rules, that firm has a choice. It can either go in an EPZ or outside the EPZ. If it goes outside the EPZ, it qualifies for the export allowance in perpetuity, as long as it continues selling extra-Caricom. The firm within the EPZ would get the same tax benefit, but if it sells anything in Trinidad and Tobago or in Caricom, not only would it not get the tax benefit on that, but it would also have to pay customs duties.

The real difference would be in the area of business levy, because even the Value Added Tax is recaptured for export. With respect to lands and buildings taxes, the firm outside the EPZ may have to pay.

Sen. Barrack: I would like to get some clarification, please. Mr. Vice-President, could the Minister explain to me how a firm outside the EPZ would gain a benefit exporting to Caricom when it was never subject to this Act or the amendment that we have before us here? How would it gain a benefit by this particular piece of legislation?

Hon. K. Valley: Mr. Vice-President, should I really go through the argument, or should I wait for Sunday morning?

Mr. Vice-President: Please, for Sen. Barrack's sake.

Hon. K. Valley: Let me make the point once more. A firm within the EPZ, whenever it sells to any part of Caricom—

Sen. Barrack: Gains a benefit.

Hon. K. Valley: If you would listen I would try to explain. The firm in the EPZ, if it sells to Caricom, has to pay customs duties. The firm outside the EPZ, when it sells to Caricom, does not have to pay customs duties on those goods going into the country. So to that extent, the firm outside the EPZ is better off.

Sen. Barrack: But it does not gain a benefit. He is misleading the Senate.

Hon. K. Valley: So that I am making the point that when we consider that, the differences were small relating only to the rates and taxes and business levy. As a matter of fact, I think we are taking steps to be on par. A firm that qualifies for export allowance will also qualify. We are taking steps to do that to avoid the business levy on those sales, so that, again, one would be on par.

Now of course, lawyers who I understand are paid by the number of words used may not understand the importance of a psychological "yes" instead of using a thousand words, but marketing people—and I consider myself a good marketing man—understand how important it is to answer, "yes" rather than have to go into a long explanation of some thousand words.

So that we know as a fact that when some investors ask you—some of them do not even know where Trinidad and Tobago is—whether you have an EPZ regime; you say, yes, and you get a tick. If you say, no, and start going into an explanation they will not even listen to you. That is the reality of the situation. So that when we weighed everything, we said that, yes, we would leave the EPZ but we would restrict it.

There was another reason, which is that attraction of technology to the extent that we could so use it. The Senator was asking whether it was stated in the Bill. It is not stated in the Bill. It is a policy issue that would most likely be taken up in the bye-laws, and so on. I want to read from a document here: "Standing Committee Non-Oil Sector—Criteria to be used by the Trinidad and Tobago Free Zones Company for the approval and designation of new Free Zones."

I would just read a bit out of this which states:

"On Friday, September 17, 1993, the Standing Committee considered document SCNO7/2 re: 'Report of the team appointed by Cabinet to review incentive legislation' and the issue of 'The locus of responsibility for the designation of free zones' was raised. The matter was referred to the Committee on Fiscal Incentives, chaired by the Honourable Kenneth Valley,..."

That is why I am reading it. It goes on:

"...to develop criteria within which the Free Zones Company could designate a free zone. These criteria would require the approval of Cabinet and any issues falling outside of these criteria must be referred to Cabinet for consideration. The committee reviewed the matter and recommends to the Standing Committee, that the Trinidad and Tobago Free Zones Company adopt the following policy objectives when considering applications for designation of a free zone:

1. The promotion of employment and generation of foreign exchange.
2. The establishment and stimulation of export-oriented enterprises for the generation of foreign exchange earnings by ensuring that enterprises that are granted free zone status, export a significant portion of their output.
3. The attraction of industries and enterprises that would not otherwise find it attractive to locate in Trinidad and Tobago; and
4. To facilitate the transfer of technology, by creating a conducive and facilitatory investment environment for enterprises that possess pioneer or other technology, that can ultimately prove beneficial to the Trinidad & Tobago economy."

It went on to other things, making the point quite clearly that they saw this regime, as one of the objectives, to attract cutting edge technology to Trinidad and Tobago.

Sen. Hosein: Mr. Vice-President, I listened attentively to the Minister and I think he has his notes a little mixed up and I want him to clarify the question of those firms that are outside the EPZ and exporting to third countries as against the EPZ. I think it would be very instructive if he will say to the Senate that he intends to remove all of the impediments and to make the EPZ and those

Free Zones (Amdt.) Bill
[SEN. HOSEIN]

Tuesday, June 06, 1995

companies equal, as far as taxation is concerned. Because he has left out quite a few of the taxes that are now being paid by those companies. I do not know whether he intended to do that or not.

6.55 p.m.

Hon. K. Valley: Mr. Vice-President, in that respect he is correct. I forgot to add that the firms outside the EPZs would qualify for import duty exemption under section 56 of the Customs Ordinance—the normal concessions they would apply for, and which the Parliament approved, in January of this year. That is why we have section 56.

Sen. Hosein: Categorically, they would be on par?

Hon. K. Valley: Mr. Vice-President, as I said, other than at this time, lands and buildings taxes—and I think, the business levy because I do not think that amendment has gone through as yet—but we are working on it—they are on par. The firms exporting to Third World countries; extra-Caricom.

Sen. Hosein: What I am trying to get you to say, categorically, is that you intend to make them on par. Is that what you intend to do? They are not on par now.

Hon. K. Valley: Mr. Vice-President, I am saying that as far as I am concerned, a firm that would qualify under EPZ would be on par with respect to the extent that it qualifies for the export allowance, as they would for Third World countries with an EPZ firm. Does that satisfy the Senator? I do not know what tax he is talking about.

Sen. Hosein: Mr. Vice-President, I think the Minister ought to be careful because if those companies that are now operating outside the EPZ, exporting to Third World countries, do not have the same concessions as EPZs the Government is likely to find them closing down and going into the EPZ.

Hon. K. Valley: Mr. Vice-President, first of all, the Government would not allow that. Remember the EPZ concept is to attract investment that would not ordinarily come here. *[Interruption]* That is for new operations. Secondly, if a firm were to go into the EPZ, that firm has to remember that to the extent it wants to sell to Trinidad and Tobago, or to Caricom, it is subject to customs duties. It may find itself in the Dunlop situation.

Sen. Daly: My question is about the criteria. I was a little disturbed when the Minister read the criteria. The phrase that was used was "a substantial portion". Is

the 20 per cent barrier in those criteria? May I ask whether those criteria are going to form the basis of the bye-laws about which the Attorney General spoke?

Hon. K. Valley: Right now the 20 per cent is administrative. As a fact, for example, in the case of Dunlop, they wanted 35 per cent and we were looking at 35 per cent on a sliding scale. We have to make a decision—and that is where we are. If one exports to the customs territory remember it is taxable. If a firm, therefore, wants to go into an EPZ and export 100 per cent to the customs territory, then it pays tax. It makes no difference.

Sen. Daly: It does to the other company.

Hon. K. Valley: Why would it? I got a note from Sen. Mansoor only to the extent that it is exempted from the lands and buildings taxes, but it is paying customs duty and income tax. Where it falls on that portion of its sales, it is deemed to be non-EPZ sales, so everything applies: income tax, corporation tax, business levy, lands and buildings taxes, *toute monde* and *toute bagai*. That is what it is.

All I am saying is that the discussions right now is whether we ought to leave the sliding scale or apply a fixed 10 or 20 per cent and allow, for example, the EPZ companies to export into the customs territory or to Caricom without paying the duty. That is where the debate is, quite frankly.

I wanted to make that point and say categorically, therefore, as far as I am concerned, there has been no change—first of all, the classical type of EPZ, I still feel a certain way about that—with respect to the lack of enthusiasm on my part as a whole, but I am saying that, yes, it can fill a gap and because it can fill that gap we ought to leave it on the books.

More than that, I am saying that a government has to make decisions on the margin. When we came into power we had difficulties not only with the EPZ; we had difficulties with other things, but we had to take practical decisions because a government has to be extremely careful concerning the messages it sends to the investing public, both domestic and foreign. Business needs a certain level of certainty under the law. That is the fact. A business wants to know that if it is setting up shop in Trinidad and Tobago, things would continue, as governments come and governments go.

That is the overriding consideration in these things. If, God forbid, the Opposition were to come into government tomorrow, there will be a number of things they will say that on the face of it they do not like, but on margin, because

Free Zones (Amdt.) Bill
[HON. K. VALLEY]

Tuesday, June 06, 1995

of messages and so forth, they would have to fix to live with. That is what we are doing with the EPZ legislation; restricting it, putting it back where it should have been in the first place and moving forward. I make no apologies for that. None whatsoever.

Sen. Prof. Spence: Mr. Vice-President, there are two points I would ask the Minister to address. Firstly, if he is arguing now, as he did in 1988, that there should be a restriction on time, it seems to me that it would not be logical just to say that the restriction does not occur if you let the concession outside the EPZ. What he should do is to put a limitation on that as well. If he is convinced that there should be a limitation of time on these things as he certainly seems to have been in 1988.

The other point is that if he is now saying that there should be continuity, then it seems to me that he should not be making this restriction because I understand that at least one company is coming from the energy sector expecting this concession and now it is not going to get it.

Hon. K. Valley: No, that is not true. Mr. Vice-President, let me deal with the second issue first because I assume the Senator is talking about Nucor. Nucor qualified for the EPZ status. More than that, it is debatable. *[Interruption]* It qualified. It was at the time and the plant qualified for EPZ status. It is not a question that it is not going to get it. At that time it allowed for that.

Sen. Prof. Spence: So, they are going to get it.

Hon. K. Valley: Yes. I shall leave the other part to lawyers because they are arguing on a different issue.

On the first issue, the logic of the position. The Government is interested in Third World countries export and it has a regime that at present says that to encourage firms to export to Third World countries, we are saying that under current tax legislation we are not going to tax those exports.

Ten years from now, the Government may feel that it has really put in place the export economy—in fact, 10 years from now when we are an export platform, the Government may say from now on we would start taxing Third World countries' exports. At that time—that is going to be the appropriate time—to make any adjustment with respect to the in perpetuity rule in relation to the EPZ, we would come back to Parliament and change that, but at this time when we are busy looking for investment, trying to position Trinidad and Tobago for that export platform, I think it is going to be foolhardy to make that change, Senator. *[Interruption]*

I am saying that in 1988, one was unaware of the existence of that export allowance, sitting where I was. Now that I am aware of it, and I can compare it with what this is doing, I am saying I am no worse off; therefore, I am indifferent. That is the point I am making on that point with respect to the EPZ.

Sen. W. Mark: You have changed your mind; that is what you are saying!

Hon. K. Valley: But one must always change one's mind if new information is brought to bear on a situation. I make no apologies for that.

7.05 p.m.

Sen. Mansoor: If I could engage the Minister's attention for a moment. Is he saying that the profits that are made on sales to Trinidad and Tobago would be subject to the same taxes and all the other exigencies as profits made in Trinidad and Tobago? Is that the position?

I have read the new clause 33, which is 23 of the Bill, several times. I am not a lawyer, but it does not seem to make that precisely clear. I would also point out—I am not trying to make another speech—that if the Government is going to do that and say that the profits of companies operating with the free zone are subject to corporation tax, in certain instances, it would be putting a burden on the Board of Inland Revenue which it will find very difficult to carry. Mr. Vice-President, I think we are really creating a Pandora's box here. I did not understand the legislation to mean that. I do not know if you did.

Hon. K. Valley: As I understand it, the situation is that to the extent there are sales to the customs territory, those are not deemed to be EPZ fees. *[Interruption]* We would look at it, but that is my understanding.

Another issue raised on the Front Bench on the other side was the whole question of protection for workers in the EPZ. I think Sen. Prof. Spence also raised the issue coming out of 1988 also. Again, let me make the point that there is the comfort that trade unions are allowed in EPZ; that in fact already we have minimum wages in roughly five categories. We have minimum wages guidelines with respect to the catering industry, security services, domestic services, gas stations, dry goods and retail establishments. The Minister of Labour and Co-operatives informed this Senate some time ago that that procedure is continuing. We are moving to set the minimum wage guidelines with respect to the other industries.

Sen. Mahabir-Wyatt: Would the Minister be so kind as to let the Senate know until when those Minimum Wages orders are valid and if they are still valid at the present time? I believe they are for a limited period.

Sen. W. Mark: Could the Minister tell this Senate if the Government has any intention—as the Government of Jamaica did—to establish a Minimum Wages Bill in this country?

Hon. K. Valley: Let me deal with the second issue first. The national minimum wage issue does not seem to make sense to the majority of persons. The approach that we believe is correct is to look at the various industries and set minimum wages for those industries. Going through that procedure, obviously, you would come up with your minimum wage. For example, perhaps the household assistant order or domestic may turn out to be the minimum wage. I think if one were to set a national minimum wage, that would not favour the worker, because if we set the minimum wage on domestic help, then the gas station employer may want to use that as the minimum wage for the gas station attendant, while that minimum wage ought to be higher. We do not favour such an approach. We favour an approach that looks at minimum wage per industry. *[Interruption]* If I change my mind I change my mind. I am saying that today it makes no sense to me to set a minimum wage of \$150 that may be applicable to one category of employees, while we are talking about other employees.

Sen. Mahabir-Wyatt's question is more difficult. I would have to consult my people because I really do not know and I do not think I want to spend the time to look at when these orders would expire. I would expect these to be still in force because this is the information I got today.

On the issue of control of free zone companies, Sen. Mansoor was concerned about whether there is sufficient control. I know that the Attorney General dealt with that. I do not think I need to spend any more time on those issues. I would say simply that there are legal controls. The Free Zones Company is incorporated under the the Companies Ordinance. Act 19 of 1988 established a statutory company. It is incorporated by an Act of Parliament. What is a statutory company? The Trinidad and Tobago Free Zones Act of 1988 established a free zone company and set out the board of directors of a free zone company. Is that not a statutory company?

Sen. Mansoor: It just says the company should be managed by a board. That is my recollection.

Hon. K. Valley: This Act defines the company as the Trinidad and Tobago Free Zones Company Limited. *[Interruption]* That shows the extent of my law. It is incorporated under the Companies Ordinance and in the Act itself. Sections 6 to 13, I think, outline some of the controls which are to be exercised. For example,

section 7 talks about the transfer of property. Section 8 talks about funds and resources of the company. Section 9 limits borrowing powers and, of course, parliamentary control is there. The Attorney General has dealt with that and I do not think I need to spend much time on that issue. Is customs adequate? If it is not, I am sure the Minister of Finance would commit resources to ensure that revenues are not lost through any method.

There was also the issue with respect to banking and insurance in their free zone area. Again, the Attorney General has dealt with that. Those companies must first of all qualify under their respective legislation, the Financial Institution Act and the Insurance Act. They are merely providing services in the free zone area.

7.15 p.m.

Sen. Daly's contribution, of course, was based on a genuine misunderstanding of clause 6, and I think that the Attorney General dealt with that. Sen. Daly objected to my saying that his interpretation on the last day is wrong. On reflection, he would see that it is wrong. I should tell him that his amendment, which deals with the conflict of interest provision, is acceptable and my people are looking at that.

Sen. Daly: I think it is important that the Minister allow me to clarify the record. At all material times, my objection was the suggestion that I was knowingly putting forward a wrong interpretation. Let me just get that clear for the record.

Hon. K. Valley: Let me just take that back because I feel that it was a genuine misunderstanding. The approved enterprise that is managing or acting as a landlord in the free zone will not have the regulatory powers of the Free Zones Company. There is one Free Zones Company and that company can approve an enterprise to act as a landlord for a particular area, but all the regulatory powers and so forth will reside in the Free Zones Company.

Sen. Merritt's contribution was based on sexual harassment charges in EPZs, but Mr. Vice-President—

Sen. Merritt: Mr. Vice-President, my contribution was not based on sexual harassment charges; it was based on the protective mechanisms not being in place in the EPZs.

Hon. K. Valley: I am sorry. Mr. Vice-President, that is what I understood her contribution to be based on and therefore I have to respond to that. I would like to

Free Zones (Amdt.) Bill
[HON. K. VALLEY]

Tuesday, June 06, 1995

make the simple point that it seems as if sexual harassment takes place outside of EPZs also, if one listens to recent occurrences.

Sen. Wade Mark wanted to know whether there was some connection between the visit of the Dominican Republic delegation to Trinidad and Tobago and that of the Hong Kong delegation. I should tell Senators that there were two Hong Kong delegations. There was an advanced team looking at investment and another team from the Chinese University whose task was to assist us in some strategic thinking to attract investors from Asia and so forth.

There was no connection between that visit and the one from the Dominican Republic. The Government had nothing to do with the visit from the people from the Dominican Republic. First of all, the Vice-President visited to speak at the Caribbean Association of Industry and Commerce, and he brought a delegation, on the invitation of the Trinidad and Tobago Manufacturers' Association, which has now taken the lead.

The Government has been at the forefront looking for third countries with which to negotiate trade agreements. In this instance, it is the Trinidad and Tobago Manufacturers' Association which identified the Dominican Republic. They said that they have been doing quite a bit of work in the Dominican Republic and wished their Government to negotiate a market access agreement with them. The Government was so inclined and signed a declaration of intent to negotiate that market access agreement with the Dominican Republic over the next six months.

Sen. W. Mark: Could the Minister tell us who is underwriting the cost of the Hong Kong visit? Is it Mr. Lau who was the one who arranged it? Is it the taxpayers of Trinidad and Tobago?

Mr. Vice-President: Minister Valley, before you respond, your speaking time has expired.

Motion made, That the hon. Minister's speaking time be extended by 15 minutes [*Sen. Dr. L. Saith*]

Question put and agreed to.

Sen. Merritt: Mr. Vice-President, on a point of clarification, before the Minister continues, seeing that he only remembers one aspect of my contribution, can he tell us who were the advisers to the Government in 1988 in setting up the EPZ company?

Hon. K. Valley: I do not know. Ask Sen. Persad-Bissessar that. She might know. She was in that party, not me. *[Interruption]*

Mr. Vice-President: Two Senators cannot speak at the same time. Mr. Valley will you continue.

Hon. K. Valley: Thank you very much, Mr. Vice-President. I would really like to deal only with one or two issues.

I made the point that the Bill before this Senate is not expanding the concessions granted. This is in keeping with the philosophy that there would be no tax with respect to EPZs. Senators would see that the sections which I have quoted are on page 141 of the existing legislation. These are from section 32A. of the parent Act. I do not know whether Senators have that amendment because there were certain amendments. For example, there was a 32A. in the parent Act which says that:

"An approved enterprise shall be exempt from lands and buildings taxes in respect of an interest held by it in lands or buildings in the free zone."

And there is a new section 34A. so that the current Bill does not go further than the existing concessions.

Sen. Persad-Bissessar: There was the point of retroactivity of certain sections. I would be grateful if, before that 15 minutes is done, the Minister would answer.

Hon. K. Valley: Again, if the Member would look at the old clause 15(3) in the Act of 1988, it says:

"Every Order made under subsection (2) shall specify a date on which the relevant approved enterprise is deemed to begin that approved activity for the purposes of this Act."

Mr. Vice-President, the purpose of such a clause is to allow for bureaucratic delays. There might be a difference between the approval time and the time of publication of the order. All we are saying is that the order will be dated at that time. We thought that was too wide. In other words, one could have gone back a year or any time and we intended to limit it so that one could go back to a period of only three months—90 days. If the Senator is not happy, we are prepared to substitute in the new Bill this clause because it makes no difference. We thought it was wider and we were limiting it to a period of three months. If the Senator wishes, we are willing to accept this formulation in the existing Bill.

With these few words, I want to thank Senators most sincerely for their contributions this evening and to ask for their support on the Bill.

7.25 p.m.

Sen. Merritt: Mr. Vice-President, before the hon. Minister takes his seat, I would like him to clarify an issue. Was it not appropriate for the Minister of Trade and Industry, going in to amend the EPZs Act, to find out who was the advisor in formulating the EPZ company? Was it a company coming from Hong Kong by the name of Dunnings and Company Limited? *[Interruption]* The Minister took over the portfolio and it was incumbent on him to know. What kind of Minister is he?

Question put and agreed to.

Bill accordingly read a second time.

Motion made, That the Senate do now adjourn to Tuesday, June 13, 1995 at 1.30 p.m. [*Sen. Dr. The Hon. L. Saith*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.27 p.m.